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ANNUAL REPORT

OF THE

AMERICAN HISTORICAL ASSOCIATION

FOR

THE YEAR 1893.

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WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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FIFTY-THIRD CONGRESS, SECOND SESSION.

MARCH 5, 1894.—In the Senate of the United States. The Vice-President presented the following Annual Report of the American Historical Association. Referred to the Committee on Printing and ordered to be printed.

LETTER OF SUBMITTAL.

SMITHSONIAN INSTITUTION,
Washington, D. C., March 3, 1894.

To the Congress of the United States:

In accordance with the act of incorporation of the American Historical Association, approved January 4, 1889, I have the honor to submit to Congress the annual report of said association for the year 1893.

I have the honor to be, very respectfully, your obedient servant,

S. P. LANGLEY,
Secretary of the Smithsonian Institution.

Hon. ADLAI E. STEVENSON,
President of the Senate.

Hon. CHARLES F. CRISP,
Speaker of the House.

ACT OF INCORPORATION.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Andrew D. White, of Ithaca, in the State of New York; George Bancroft, of Washington, in the District of Columbia; Justin Winsor, of Cambridge, in the State of Massachusetts; William F. Poole, of Chicago, in the State of Illinois; Herbert B. Adams, of Baltimore, in the State of Maryland; Clarence W. Bowen, of Brooklyn, in the State of New York; their associates and successors, are hereby created in the District of Columbia a body corporate and politic, by the name of the American Historical Association, for the promotion of historical studies, the collection and preservation of historical manuscripts, and for kindred purposes in the interest of American history and of history in America. Said association is authorized to hold real and personal estate in the District of Columbia, so far only as may be necessary to its lawful ends, to an amount not exceeding five hundred thousand dollars, to adopt a constitution, and to make by-laws not inconsistent with law. Said association shall have its principal office at Washington, in the District of Columbia, and may hold its annual meetings in such places as the said incorporators shall determine. Said association shall report annually to the Secretary of the Smithsonian Institution concerning its proceedings and the condition of historical study in America. Said Secretary shall communicate to Congress the whole of such reports, or such portions thereof as he shall see fit. The regents of the Smithsonian Institution are authorized to permit said association to deposit its collections, manuscripts, books, pamphlets, and other material for history in the Smithsonian Institution or in the National Museum, at their discretion, upon such conditions and under such rules as they shall prescribe.

[Approved, January 4, 1889.]

LETTER OF TRANSMITTAL.

AMERICAN HISTORICAL ASSOCIATION,
Baltimore, Md., February 24, 1894.

SIR: In compliance with the act of incorporation of the American Historical Association, approved January 4, 1889, which requires that "said association shall report annually to the Secretary of the Smithsonian Institution concerning its proceedings and the condition of historical study in America," I have the honor to transmit herewith my general report of the proceedings of the American Historical Association at their ninth annual meeting, held in Chicago, July 11-13, 1893. In addition to the general summary of proceedings, I send also the inaugural address of Dr. James B. Angell, president of the association, and some of the papers read at the Chicago meeting. In order to show the condition and progress of historical study in America, I append to the report of the association certain contributions toward a bibliography of American history, from 1888 to 1892, adapted from reports to the *Jahresbericht der Geschichtswissenschaft* of Berlin, by Dr. John Martin Vincent.

Very respectfully,

HERBERT B. ADAMS,
Secretary.

Prof. S. P. LANGLEY,
Secretary of the Smithsonian Institution.



AMERICAN HISTORICAL ASSOCIATION.

Organized at Saratoga, N. Y., September 10, 1884.

OFFICERS FOR 1894.

President :

HENRY ADAMS,
Washington, D. C.

Vice-Presidents :

EDWARD G. MASON,
Chicago, Ill.

HON. GEORGE F. HOAR,
Worcester, Mass.

Treasurer :

CLARENCE WINTHROP BOWEN, PH. D.,
Fulton and Nassau Streets, New York City.

Secretary :

HERBERT B. ADAMS, PH. D., LL. D.,
Professor of History in the Johns Hopkins University, Baltimore, Md.

Assistant Secretary and Curator :

A. HOWARD CLARK,
Curator of Historical Collections, National Museum, Washington, D. C.

Executive Council :

(In addition to the above-named officers.)

HON. ANDREW D. WHITE, LL. D., L. H. D.,
Ithaca, N. Y.

JUSTIN WINSOR, LL. D.,
Cambridge, Mass.

CHARLES KENDALL ADAMS, LL. D.,
President of University of Wisconsin, Madison.

HON. WILLIAM WIRT HENRY,
Richmond, Va.

WILLIAM F. POOLE, LL. D.,
Librarian of Newberry Library, Chicago.

HON. JOHN JAY, LL. D.,
New York City.

JAMES B. ANGELL, LL. D.,
President of University of Michigan, Ann Arbor.

G. BROWN GOODE, PH. D., LL. D.,
Assistant Secretary Smithsonian Institution, in Charge of the National Museum.

JOHN GEORGE BOURINOT, C. M. G., LL. D., D. C. L.,
Clerk of the Canadian House of Commons.

J. B. McMASTER,
Professor of History in the University of Pennsylvania, Philadelphia.

GEORGE B. ADAMS,
Professor of History in Yale University, New Haven.



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I.—REPORT OF PROCEEDINGS OF NINTH ANNUAL MEETING OF
THE AMERICAN HISTORICAL ASSOCIATION.

CHICAGO, ILL., JULY 11-13, 1893.

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REPORT OF PROCEEDINGS OF NINTH ANNUAL MEETING OF THE AMERICAN HISTORICAL ASSOCIATION.

By HERBERT B. ADAMS, Secretary.

The American Historical Association held its ninth annual meeting July 11-13, 1893, in the city of Chicago, with morning and evening sessions at the Art Institute. This meeting was held in conjunction with the World's Historical Congress. The Chicago committee representing this congress, or the historical section of the department of literature, are members of the American Historical Association and cooperated efficiently with its officers and its committee on programme. Dr. William F. Poole, of the Newberry Library, was the chairman of the Chicago committee, and to his personal efforts is largely due the success of the Chicago meeting. A brief report of the exercises was prepared by him and was published in *The Independent* July 20, 1893.

On Monday evening, July 10, members of the Historical Association and others visiting Chicago for the purpose of attending the various congresses, were given a social reception at the Art Institute. On the following morning the historical congress was called to order by Dr. Poole, who nominated Dr. James B. Angell as temporary president and Dr. Herbert B. Adams as temporary secretary. Hon. William Wirt Henry afterwards moved that the two be made the officers of the congress during its session in Chicago.

The programme for the ninth annual meeting of the American Historical Association was practically identical with that of the World's Historical Congress, and comprised 33 papers, 23 of which were read. Others were contributed to the proceedings and were read by title.

President Angell in his inaugural address spoke of "The inadequate recognition of diplomatists by historians." Mrs.

Ellen Hardin Walworth, of Saratoga, read a paper at the first morning session on "The value of national archives to a nation's life and progress." This paper gave rise to a discussion upon the desirability of a department of national archives in Washington, and remarks were made by Dr. W. F. Poole, President Charles Kendall Adams, and others. Dr. Poole, in his report of the Chicago meeting published in *The Independent*, says:

The historical papers in the State Department are not accessible to the historical student except as a special favor, and they are not arranged, classified, and calendared. The State Department has no space for historical archives and no archivist who understands their management or has time to give to the needs of historical investigators. Indeed, these are not the functions of the State Department. At Ottawa, however, Canada has a department of archives; it is an excellent one, and under the charge of a most competent archivist. American historians, when they need to consult the original documents relating to our own history, often go to Ottawa to see papers which should be in Washington.

A resolution was offered to the effect that a committee be appointed to memorialize Congress to establish a department of archives. It was moved by President Charles Kendall Adams that this committee should consist of nine persons, with President Angell as chairman, and that his associates be named by him. This motion was carried, and the committee subsequently appointed was as follows:

President James B. Angell, Hon. William Wirt Henry, Dr. J. L. M. Curry, Hon. Geo. F. Hoar, Dr. Justin Winsor, President C. K. Adams, Dr. James Schouler, Dr. W. F. Poole, Mrs. Walworth.

A paper on "American historical nomenclature," by Hon. Ainsworth R. Spofford, Librarian of Congress, was read at the Tuesday morning session by the secretary. This paper was an earnest plea for the retention of native American names for American places. Mr. Spofford gave an interesting statistical summary of the influence of Hebrew, Greek, Roman, and other foreign names upon American local nomenclature.

At the Tuesday evening session Dr. James Schouler, of Boston, read a paper upon the "Methods of historical investigation." After alluding to the liberal fortune expended by Mr. Hubert H. Bancroft in his recent history of the Pacific States, and to the corps of literary assistants employed by him in exhuming the contents of his large library of 20,000 volumes, Dr. Schouler considered the value of such organized

methods of historical research as compared with the efforts of an individual scholar, who conducts systematically his own studies into the period which he means to describe, and who uses an amanuensis only for strictly clerical work. His own personal experience favored the latter method, as capable, under suitable self-training, of very extensive and satisfactory results. The trained assistance which one employs with only a mercenary interest in the study can accomplish little after all as compared with one mind inspired for its task and concentrating its powers upon what it seeks.

Prof. Charles J. Little, of Northwestern University, discussed the "Historical method of writing the history of Christian doctrine." Prof. Ephraim Emerton, of Harvard University, contributed a paper on the "Historical doctorate in America," advocating higher standards of graduate work and academic requirement. William Henry Smith, of the Associated Press, spoke of the "First fugitive slave case in Ohio," and Dr. Frederic Bancroft, of Washington, presented an essay on "Mr. Seward's position toward the South at the outbreak of the civil war."

Wednesday morning James Phinney Baxter, of Portland, Me., reviewed the "Present status of pre-Columbian discovery," and Prof. Edward G. Bourne, of Adelbert College, emphasized the work of Prince Henry, the navigator, in persistently and systematically promoting the exploration of the west coast of Africa for over forty years (1416-60.) This work was of immense importance in preparing the way for Columbus, Diaz, Da Gama, and Magellan. The sailors of Prince Henry showed that the region about the equator was inhabitable and inhabited, and that the traditional terrors of the ocean had little reality. An examination of the contemporary accounts of Prince Henry's work, especially a series of documents recently published by the Portuguese Government, and the papal bull of Nicholas V, (1454) shows that it was carried on for four purposes—to explore unknown parts of the world, to spread Christianity, to reach the Indies by sailing around Africa, and to promote commerce. Much of his success was owing to his unflinching persistency in spite of temporary failure, and to the enthusiastic devotion which he inspired in his followers. If Columbus had never lived, it seems inevitable that America would have been discovered by Portuguese seamen following out the work begun by Prince Henry.

Prof. Bernard Moses, of the University of California, discussed "The economic conditions of Spain in the sixteenth century," and Prof. Lucy M. Salmon, of Vassar College, showed the historic importance of the Union of Utrecht. At the Tuesday evening session Dr. George Kriehn read a short paper on "English popular uprisings of the Middle Ages." Prof. George P. Fisher, of Yale University, contributed a suggestive essay on "The social compact and Mr. Jefferson's adoption of it." Prof. Jesse Macy, of Iowa College, presented a careful study of "The relation of history to politics." Reuben G. Thwaites, secretary of the Wisconsin Historical Society, read a paper on "Early lead mining in Illinois and Wisconsin," and Prof. F. J. Turner, of the University of Wisconsin, explained the "Significance of the frontier in American history." Up to our own day, he said, American history has been in a large degree the history of the colonization of the great west. This ever-retreating frontier of unoccupied land is the key to our development. The settlement of the problems that arose at one frontier served as guides for the next frontier—for example, in matters relating to land policy and the Indians. There are various kinds of frontiers which passed westward in successive waves—for example, the Indian's frontier, the trader's frontier, the miner's or rancher's frontier, and the farmer's frontier. The methods of advance and the characteristics of each were traced, showing how the Indian was pushed back and how each frontier affected its successor. It was found that the successive frontiers revealed the progress of society. At the same time the United States could show the hunting stage, the pastoral stage, the agricultural stage, and the manufacturing stage, as the traveler crossed the continent from west to east.

At the Thursday morning session Dr. Lewis H. Boutell, of Chicago, read a paper on "Roger Sherman in the National Constitutional Convention." Prof. Charles H. Haskins, of the University of Wisconsin, discussed the "Eleventh amendment of the Constitution." This amendment was introduced into Congress in 1794 and declared in force in 1798. It provides that the judicial power of the United States shall not be construed to extend to any suit in law or equity begun or prosecuted against one of the United States by citizens of another State or by citizens or subjects of any foreign state. Its judicial construction involves important and intricate questions of

constitutional law, and earlier opinions have been somewhat modified in the recent cases, many of them arising from the repudiation of debts in the Southern States, which have been persistently forced on the courts. Thus, in 1890, in the case of *Hans v. Louisiana*, the Supreme Court decided that a sovereign State could not be sued, even by her own citizens, and that the decision in *Chisholm v. Georgia* was incorrect. The term "sovereign State," however, as here used denotes financial rather than political independence and differs widely in meaning from the use of one hundred or even fifty years ago. The free repudiation of public contracts in many States, and the impossibility of enforcing many of the constitutional restrictions upon States, have led some to propose a repeal of the eleventh amendment, though there has been as yet no general movement in that direction.

Prof. James A. Woodburn, of the Indiana State University, described the "Historical significance of the Missouri compromise." Hon. William Wirt Henry, of Richmond, Va., presented a paper on the "First legislative assembly in America." Although Virginia, the oldest English colony in America, was at first under military government, it was allowed the privilege of a legislative assembly in 1619 under the commission of Governor Yeardeley. This, the first legislative assembly in America, met at Jamestown July 30, 1619, more than a year before the sailing of the Pilgrims. It was composed of the governor and his council and two representatives, chosen from each plantation, making twenty-two burgesses. The place of meeting was the Episcopal church at Jamestown. This building, the manner in which the assembly was constituted, and its personnel, were sketched by Mr. Henry, and the proceedings of the legislative body were fully given. The Virginia assembly as early as 1623, and continuously afterwards, claimed the sole and exclusive right to tax the colony and boldly took issue with parliament in 1765, on the passage of the stamp act, declaring that, as it imposed the tax upon the colonies without their consent, it tended to destroy British as well as American freedom. This brought on the Revolution, which established the independence of the United States, with the grand results which have followed.

Miss Cora Start, of Worcester, Mass., read a valuable monograph on "Naturalization in the English colonies of America." Prof. B. A. Hinsdale, of the University of Michigan, showed

the importance of the "Thirty-first parallel in American history." At the Thursday evening and closing session Prof. Simeon E. Baldwin, of Yale University, described "The historic policy of the United States as to annexation." This paper is printed in full in the *Yale Review*, August, 1893. Prof. J. Franklin Jameson's paper on the "Origin of the standing-committee system in American legislative bodies" was read in part by the secretary.

Prof. F. W. Blackmar, of the University of Kansas, read an interesting sketch of the "Annals of an historic town." He showed that, by the passage of the Douglass bill, Congress removed the battle field of slavery from Congressional halls to the plains of Kansas. National issues were referred to a local community for final settlement. Lawrence was the first Free-State town of any importance and it became the center of the Free-State movement in the Territory of Kansas. The municipal life of Lawrence is instructive as illustrating the development of free institutions. The town was settled by New Englanders, sent out by the Massachusetts Emigrant Aid Society, and they brought with them New England institutions. They came to establish religious and political liberty in Kansas, and in this respect they partook of the spirit of the Puritans and Pilgrims of New England. But they sought the freedom of others as well as their own improvement, and were not obliged to leave their own country on account of oppression. The people who settled Lawrence were not abolitionists, but they intended to make Kansas a free State according to the legal act of Congress. They respected and obeyed Federal authority and desired to avoid open conflict. Their steady, persistent determination to abide by Federal law, and at the same time to oppose false local legislation, made Kansas a free commonwealth.

The auditing committee appointed by President Angell on behalf of the American Historical Association congratulated that body upon the favorable condition of its finances. The Association now owns a bond and mortgage for \$5,000, representing accumulations made during the early years of its history.

Mrs. Walworth called the attention of the Association to the fact that the year 1894 would be the decennial of our organization at Saratoga Springs, September 10, 1884. On behalf of the citizens of Saratoga she cordially invited the Association to hold its next meeting there. The committee on the time and place of the next meeting of the Association reported in favor of accepting this invitation.

The Association passed a vote of thanks to Charles C. Bonney and Dr. W. F. Poole for courtesies extended to the historical congress. Thanks were also voted to Mr. William E. Curtis for his invitation to visit the historical collections in La Rabida.

REPORT OF THE TREASURER.

The American Historical Association in account with Clarence W. Bowen, treasurer.

1892.	To paid						
Jan. 6	H. S. Chandler, voucher 1.....	\$100.00	1892.	Jan. 1	Balance from last account.....	\$42.90	
6	Jno. Murphy & Co., voucher 2.....	37.05	Jan. 11	By loan H. B. Adams.....	1,000.00		
11	Geo. P. Putnam's Sons, voucher 3.....	682.36	18	Interest on bond and mortgage.....	125.00		
11	L. P. Powell, voucher 4.....	35.00	Mar. 9	Geo. P. Putnam's Sons publications.....	105.87		
11	A. H. Clark, voucher 5.....	25.00	July 7	Interest on bond and mortgage.....	125.00		
11	E. M. Bouldin, voucher 6.....	50.00	Sept. 10	Jno. Gray publications.....	10.78		
11	H. B. Adams, voucher 7.....	10.00	1893.				
13	Geo. P. Putnam's Sons, voucher 8.....	49.30	Jan. 4	A. Howard Clark publications.....	224.50		
5	Alice M. Clark, voucher 9.....	24.00	6	Interest on bond and mortgage.....	125.00		
5	People's Dispatch Co., voucher 10.....	60.66	July 5	Interest on bond and mortgage.....	125.00		
14	Dobler & Mudge, voucher 11.....	121.25	5	6 life memberships, at \$50.....	300.00		
7	A. P. C. Griffin, voucher 12.....	500.00	5	625 annual dues, at \$8.....	1,875.00		
30	The Independent, voucher 13.....	23.00					
Aug. 2	J. E. Watkins, voucher 14.....	3.00					
7	Public Printer, voucher 15.....	163.43					
Nov. 10	Dobler & Mudge, voucher 16.....	203.96					
2	H. B. Adams, voucher 17.....	50.00					
5	The Friedenwald Co., voucher 18.....	8.95					
19	Jno. Campbell & Co., voucher 19.....	8.05					
31	The Friedenwald Co., voucher 20.....	45.45					
1893.							
Jan. 4	A. Howard Clark, voucher 21.....	203.59					
5	H. S. Chandler, voucher 22.....	100.00					
5	Jno. Murphy & Co., voucher 23.....	50.00					
5	On loan, annual interest, voucher 24.....	569.00					
31	The Independent, voucher 25.....	239.80					
Mar. 21	Public Printer, voucher 26.....	353.50					
May 11	Jno. Murphy & Co., voucher 27.....	6.55					
1	Jno. Murphy & Co., voucher 28.....	2.00					
5	H. B. Adams, voucher 29.....	50.00					
July 3	Balance loan and interest, voucher 30.....	513.00					
	Balance, cash on hand.....	20.95					
		4,069.05					4,069.05

I have to state that my report covers the period from the last annual meeting of the Association, December, 1891, to the present. The Association has assets, bond and mortgage, drawing 5 per cent, \$5,000; cash in bank, \$20.95. Total assets, \$5,020.95. Respectfully submitted.

CLARENCE W. BOWEN, Treasurer.

CHICAGO, July 12, 1893.

Messrs. E. W. Blatchford and James P. Baxter were appointed to audit the accounts of Mr. Clarence W. Bowen, treasurer of the American Historical Association from January 1, 1892, to July 6, 1893.

They beg to report:

They find statements of the following receipts:

January 1, 1892, balance from last statement.....	\$42. 90
Loan made by secretary.....	1, 000. 00
Interest on bond and mortgage for \$5,000.....	500. 00
From sale of publications, \$105. 87 + \$10.78 + \$224.50 =	341. 15
From 6 life memberships, at \$50 each.....	300. 00
From 625 annual dues, at \$3 each.....	1, 875. 00
	<hr/>
Total receipts.....	4, 059. 05

They find 30 vouchers for expenditures as stated (inclusive of 1,075, being the loan and interest paid) of	4, 038. 10
July 6, 1893, cash on hand.....	20. 95
	<hr/>
	4, 059. 05

The statement is accompanied by a certificate of John A. King, of date February 2, 1892, of the possession of the bond and mortgage for \$5,000, at 5 per cent.....	5, 000. 00
Which, with above statement of cash on hand of.....	20. 95
	<hr/>

Makes the assets of the American Historical Association at date,
July 6, 1893..... 5, 020. 95

Your committee would express to the Association their congratulation upon the favorable condition of the finances of your society at this date. The bond and mortgage for \$5,000 represents accumulations during the very early years of its history. The present economical arrangements for publication of the Association's papers will increase the fund. Special thanks are due to the officers of the Association, whose constant and efficient services make this report possible.

Respectfully submitted.

E. W. BLATCHFORD,
Chairman.

LIST OF COMMITTEES, 1893-'94.

1. *Auditing committee*: E. W. Blatchford, esq., James Phinney Baxter, esq.
2. *Finance*: Hon. John A. King, Robert Schell, esq., Dr. C. W. Bowen.
3. *Nominations*: Hon. William Wirt Henry, Dr. William F. Poole.
4. *Time and place of meeting*: Dr. William F. Poole, Mrs. Ellen H. Walworth.
5. *Programme*: Prof. Justin Winsor, Prof. A. B. Hart, Prof. F. J. Turner, Dr. J. L. M. Curry, Prof. H. B. Adams.
6. *Resolutions*: Prof. H. B. Adams, Reuben G. Thwaites, Dr. C. H. Haskins.

OFFICERS FOR 1893-'94.

President: Henry Adams, Washington, D. C.

Vice-presidents: Edward G. Mason, president of the Chicago Historical Society; Hon. George F. Hoar, Worcester, Mass.

Treasurer: Clarence Winthrop Bowen, PH. D., 130 Fulton street, New York City.

Secretary: Herbert B. Adams, PH. D., LL. D., professor in the Johns Hopkins University, Baltimore, Md.

Assistant secretary and curator: A. Howard Clark, curator of the historical collections, U. S. National Museum, Washington, D. C.

Executive council (in addition to the above-named officers): Hon. Andrew D. White, LL. D., Ithaca, N. Y.; Justin Winsor, LL. D., Cambridge, Mass.; Charles Kendall Adams, LL. D., president of University of Wisconsin; Hon. William Wirt Henry, Richmond, Va., William F. Poole, LL. D., librarian of the Newberry Library, Chicago; Hon. John Jay, LL. D., New York City; James B. Angell, LL. D., president of University of Michigan; G. Brown Goode, PH. D., LL. D., assistant secretary Smithsonian Institution, in charge of the National Museum; John George Bourinot, C. M. G., LL. D., D. C. L., clerk of the Canadian House of Commons; J. B. McMaster, professor of history in the University of Pennsylvania; George B. Adams, professor of history in Yale University.

II.—INADEQUATE RECOGNITION OF DIPLOMATISTS BY HISTORIANS.

INAUGURAL ADDRESS BY DR. JAMES B. ANGELL,
PRESIDENT OF THE AMERICAN HISTORICAL ASSOCIATION.
READ AT THE ANNUAL MEETING, JULY 11, 1893.



INAUGURAL ADDRESS OF PRESIDENT JAMES B. ANGELL, LL. D.,
JULY 11, 1893.

THE INADEQUATE RECOGNITION OF DIPLOMATISTS BY HISTORIANS.

The scholars of our time have often congratulated themselves that historical writers have in these later years been giving a wider scope to their work than the older historians gave to theirs. These later writers, in describing the history of a nation, have not confined themselves to the records of battles and of court intrigues and of royal genealogies. They have deemed it proper to give us some idea of the progress of the nation in letters, in art, in science, in economic development, in religion, in all that makes up what we call civilization. They have attempted to give us a vivid and accurate conception of the forces and the processes which have made nations what they are. And they have had in mind the true ideal of the historian's task.

But in the course of my studies I have been led to the conviction that most of the general historical narratives have failed to set forth with sufficient fullness the important features of great diplomatic transactions, and have failed even more signally in specific recognition of the signal merits of many of the gifted negotiators of epoch-making treaties.

The work of international congresses, which have remade the map of Europe or the maps of other continents, which have extinguished the life of proud and ancient states or have created new states, which have given larger freedom to commerce and wider liberty in the use of the high seas, which have mitigated the cruelties of war and have swept the slave trade from the ocean; this work, so wide and far-reaching in its influence, of the diplomatic representatives of powerful states has been often passed over altogether by historians of renown or dismissed with the most succinct summary which was possible. Even where the results of negotiations are given it is rare that one finds any fairly complete account of

the processes by which these results were reached. May we not fairly ask whether to the reader of ordinary intelligence the important details of the discussions and deliberations in the congress at Münster are not of as much consequence as the details of any battle of the Thirty Years' War? Are not the particulars of the debates between Franklin and Jay and John Adams on the one side, and Oswald and Strachey and Fitzherbert on the other, in framing our treaty of independence, of as much interest and consequence as the details of battle the of Trenton?

But even when the results of negotiations are given with some fullness and estimated with justice, for the most part little or none of the credit which is due is given to the men who have brought the negotiations to a successful issue. Generally not even their names are mentioned. The consequence is that no class of public servants of equal merit is so inadequately appreciated even by those who are pretty well read in history. Our very school children are so taught that the names of great generals, Wallenstein and Tilley, Marlborough and Prince Eugene, Turenne and Condé, Washington and Greene, are familiar to them. But if you will try a simple experiment, as I have done several times, upon persons of cultivation, I venture the guess that you will find that scholars of considerable familiarity with European history can not tell and can not say that they have ever known who were the principal negotiators of the Peace of Westphalia, or of treaties of such historical importance as those of Nimeguen, Ryswick, Utrecht, or Paris of 1763, or Paris of 1856. And the reason is not far to seek. It is because most of the general histories of the periods, to which those treaties belong, have little or nothing to say of the envoys, who, with much toil and discussion, wrought them out. To learn the names of those neglected men, and especially to learn anything of their personality, one must have recourse to special diplomatic histories or personal memoirs, when such can be found.

If my impression of the treatment which important diplomatic work has received in most of our general histories is correct, I think we shall all agree that they are seriously deficient in this regard. If any events in European history for the last two centuries and a half have been of vital importance, the negotiation of some of the treaties I have named must be ranked as such. When we recall how the Peace of

Westphalia weakened the German Empire, strengthened France, adjusted the relations of the three great branches of the church in Germany, and practically established the modern state system of Europe; or how the Treaty of Utrecht permanently separated the crowns of France and Spain, added to England's possessions Newfoundland, Hudson Bay, Acadia, St. Kitts, Gibraltar and Minorca, and fixed the Hanoverian succession, enlarged the power of Savoy and recognized the King of Prussia; how the Treaty of Paris of 1763 gave Canada and the Floridas and the navigation of the Mississippi to England, and how the Treaty of Paris of 1856 abolished privateering and established new guarantees to neutral trade upon all the seas; who shall say that the framing of these treaties and of others, hardly less important, does not deserve ample treatment, and that the talent and skill of the men who negotiated them does not deserve generous recognition in our more important general histories as well as in the special diplomatic histories?

The distinguished publicist, Pradier-Fodéré, has well said that a good minister is sometimes equal to an army of a hundred thousand men. Pyrrhus is credited with the remark that his envoy, Cyneas, had given him more cities than any of his generals. John Adams, who filled so many high offices with honor, was apparently, and justly, prouder of his treaty with the Netherlands, which he procured in the face of well-nigh insuperable obstacles, than of almost any other achievement of his life. His no less distinguished son, John Quincy Adams, declared that he considered his signature of the so-called Florida treaty with Spain in 1819 the most important event of his life.

It may be said in answer to my plea for the ampler recognition of the services of great diplomatists that they only register the results which the great soldiers have really secured, and therefore deserve less fame than the generals. To this two rejoinders can fairly be offered: First, while war may decide that one nation is to gather the larger part of the fruits of a negotiation with another, it does not decide the details of the settlement to be made. And in fixing these, in determining with large foresight the consequences of particular adjustments, in felicity of statement, in cogency of discussion, in knowledge of international law, in weight of personality, the representatives of the conquered nation may, and often do, win back much of what seemed to have been wrested away

by the victorious sword of the antagonist. The skillful diplomatists of Louis XIV repeatedly enhanced the value of his victories and diminished the losses incurred by his defeats. The American victory at Yorktown determined the fact that we should somehow have our independence, but we owe it to our commissioners at Paris, especially to Jay, rather than to the generals in command of our armies, that Great Britain was constrained to treat with us as an equal and independent nation, that we did not accept independence as a grant from the mother country, that our treaty was a treaty of partition, and not of concession. The important results of that fact are familiar to us all. By no means is the work of the negotiator done by the military commander.

And, secondly, some of the most important negotiations are not the consequence of war, are not preceded by war. Rather they serve to prevent war. Take as an example the treaty of Washington of 1871, popularly known as the Alabama treaty. It was drawn to remove the dangerous causes of dissension between us and Great Britain. Few events in our national life have been of more consequence than the negotiation and execution of that treaty. It belongs to so recent a date that most of us remember distinctly the meeting of the high joint commissioners who framed it. Does any one now question the supreme importance of their work? And yet how few even of the well-informed citizens of Great Britain or of the United States can repeat the names, I will not say of all, but of the most prominent members of that commission. Do our school children find them given in any of the manuals of United States history which are placed in their hands?

It is then far from true that the value of the services of diplomatists is wholly dependent on the deeds of the soldier. In some cases it is not true that they are at all determined by military achievements. There is no good reason why the historian should with emphasis dwell on the skill of generals, and be silent concerning the genius and the work of great masters of the diplomatic art.

Let us now notice briefly what we do find in some of our histories concerning a few important treaties and the men who drew them. Take the great treaties negotiated at Münster and Osnabrück, to which as a whole the name of The Peace of Westphalia is generally given. All will agree that it is one of the most important events in the history of modern Europe. Of

course no history of the great continental states in the seventeenth century can altogether omit reference to it. But if we turn to Dyer's *Modern Europe*, or Russell's *Modern Europe*, or Crowe's *France*, or among German works to Kohlrausch's *History of Germany* or to Menzel's, the subject is touched very lightly or not at all, and nothing can be learned from them about the negotiations. Coxe's *House of Austria*, which gives a good succinct summary of the treaties, is silent about the men who made them. One might suppose that Gindely's *Thirty Years' War* would at least have had a closing chapter on the treaties. But it has not a word, though the American translator has added a chapter in which some attention is given to the subject. And apparently the call upon the author by readers, who were surprised at his omission, led him to publish a little supplemental brochure to supply it. Martin, the French historian, treats the subject, as he does other negotiations, with considerable fullness, and gives his readers an idea of who the negotiators were.

But if one would learn much of the details of the transactions or of the traits even of the leading negotiators, one must turn to such special histories as Bougeaut's *Histoire des Guerres et des Négociations qui précéderent le Traité de Westphalie*, and Le Clerc's *Négociations Secrètes*, or Garden's *Histoire des Traités de Paix*. He could there find that France was represented by the Count d'Avaux, who had, on an embassy to Venice, settled a difficult question about Mantua, that he had secured a truce between Poland and Sweden, that he had negotiated a treaty at Hamburg, which prepared the way for the Peace of Westphalia, and that he was a man of large skill and experience; also by Servien, the Count de la Roche des Aubiers, who had been secretary of state under Richelieu, had seen diplomatic service, and had by his brilliancy become a favorite of Mazarin; and finally by the renowned Duc de Longueville. He could see that Sweden had sent to the congress the son of the great chancellor Oxenstiern, a man of large learning and capacity, and Salvius, who had won the favor of his Queen Christina. He would learn that the empire had in Dr. Volmar and Count Trautsmendorf envoys who were in ability and good sense peers of any in that great assembly, and that Venice was represented by Contarini, who had rendered conspicuous public services at the principal courts of Europe, and that the mediator sent by the Pope was

Fabio Chigi, afterwards raised to the Holy See by the title of Alexander VII, and that he was one of the shrewdest and most experienced diplomatists present. Not to mention any of the one hundred and forty others whose names are given by Garden, surely these dominant men, who shaped the great settlement from which in an emphatic sense what we call modern Europe may be said to date its life, might well have their names recalled and their work recognized as theirs by any historian of the seventeenth century.

If we pause to notice the three principal treaties of the reign of Louis XIV, those of Nimeguen, Ryswick, and Utrecht, we shall find a very slight treatment of them in several histories of repute. From Dyer and Russell and Crowe the reader will learn little or nothing. Green's larger work on England has the briefest possible notice of these treaties. Even Philipson in his volume on the Age of Louis XIV, forming a part of Oncken's great Historical Series, while giving the results of the treaties, says hardly anything of the men who negotiated them. Martin gives some of the names, but not all; and does not dwell on the merits of the men he does name. Lecky says he omits any detailed account of the treaty of Utrecht because it is fully described elsewhere, as, in fact, it is in Stanhope's Queen Anne. Hume is reasonably full on the negotiations at Nimeguen, Macaulay on Ryswick, and Capefigue on both. In general the French historians as a class have given more attention to diplomatic history than either the Germans or the English.

When we remember that in the making of the treaties referred to such men as Colbert-Croissé, Caillères, De Harlay and Polignac of France, and Sir William Temple and Hyde and Sir Leoline Jenkins of England, and Van Bevening of the Netherlands were engaged, may we not fairly ask whether some special attention might not have been given to them by the historians of their period?

With the single exception of the great treaty of Vienna of 1815, we shall find the case much the same in more recent European history. The names of any of the negotiators of the treaty of Paris of 1856, which summed up the results of the Crimean war and introduced perhaps the most important changes in maritime affairs ever made by a single treaty, are not so much as mentioned in Justin McCarthy's interesting History of our Time.

It is but just to say that the American historians, especially Hildreth and Bancroft, have set a better example in writing of the treaties made by the United States in the period covered by their works. But the authors of our school manuals of American history give the children little or no information concerning the diplomatic labors of the men who, by their skill, helped win in Europe those victories in the council chamber which were as influential in securing our independence as the battles of Saratoga and Yorktown.

If we can not justify the neglect of many historians to treat with sufficient fullness the work of diplomatists, we can perceive some of the causes of that neglect. That work does not appeal to the imagination and excite the passions of men like the battles of the warrior. The processes by which it is accomplished are often, perhaps generally, guarded by governments with more or less secrecy. Even when the French and Spanish ambassadors used to make their entry into a capital with great display, their discussions in a congress and their dispatches were not given to the public. Flassan (I, 37) well says "the lot of negotiators is less favorable for celebrity than that of generals. Their works are often buried; if recent, they can not be made public; if they have become a little old, they lack interest, unless the pen which has traced them has such a superior style that we can regard them as models of logic and of human wisdom."

But if the reader is more dazzled by the description of battles than of even the most important negotiations, is it not the duty of the historian to correct his bad taste or to disregard it by setting forth in due proportions what is really important, and by giving to great negotiators the credit which is really their due for promoting the interests of their country and of humanity?

While general histories should give more attention to the important features in diplomatic work, it seems desirable that the diplomatic history of each nation should be written by some one of its own citizens. It is due to each nation that its diplomatic relations be set forth in such a special work in more detail than the general historian can properly resort to in his narrative. The custodians of the archives can give more liberty to one of their fellow-citizens in examining papers than they sometimes are free to grant to foreigners. But more lib-

erality in the use of documents, and at the same time more care in preserving them, may well be exercised by governments.

So impartial an editor as De Martens complains in the preface to his *Nouveau Recueil de Traités* that he has been unable to procure many important documents which he needed, because they had not been published or because governments were unwilling to communicate them to him.

In some countries, notably in England, a large part of the most valuable material for diplomatic history is carried off by the foreign secretaries as they leave office. This material consists of the confidential letters from the ministers who are representing the country abroad. These letters are regarded in Great Britain as the private property of the foreign secretary. They contain often more valuable information than the formal dispatches. Being carried away, they are sometimes lost. Sometimes they appear in the publication of family papers of the secretaries, divorced from the documents which should explain or modify them. It may be a question whether in that country and in ours some provision should not be made for preserving in the archives even these personal letters to the secretaries, or such parts of them as concern public business, so that the Government may have all the facts within reach and may permit them to be used by the historian when the proper time comes for a full diplomatic history.

Several nations have published or have permitted the publication of their treaties. In addition to Barbeyrac's *Collection of Ancient Treaties*, and the vast *Corps Diplomatique Universel* of Dumont, we have the *Acta Foedera Publica* of Rymer, the *Regesta Diplomatica* of Georgisch, the *Codex Italiae Diplomaticus* of Lunig, the collections of Abreu for Spain, the *Codex Diplomaticus* of Leibnitz, the great *Recueils of Modern Treaties* by Dr. Martens and his successors, the *British Treaties* of Hertslet, the *Collection of the United States*, the *South American Treaties*, edited by Calvo, and other collections. We have also Koch and Schoell's *History of Treaties*. But of diplomatic histories, which give us full accounts of the origin and details and results of negotiations, and make known to us the personality and the influence and merits of the men who conducted them, and enable us to understand the living forces which accomplished the results attained, of these we have but few. The French, with the

renowned works of Flassan and Garden and Lefebvre, have outstripped all other nations.

Flassan, in speaking of such works as the *Histoire des Traités* by St. Preux, Mably's *Du Public de l'Europe*, and Koch's *Abregé des Traités*, well says: "In speaking of events they have said nothing of persons, although these lend great interest to a diplomatic work. It is not sufficient to give the principal articles of a treaty of peace and to add a sketch of the events which have preceded it. One should as far as possible make us acquainted with the negotiator, indicate the forces brought into play on either side, the principal debates in the conferences, the obstacles overcome, and sum up in impartial conclusions the results of the treaty or of the action of the cabinet which they are discussing."

Mr. Trescot in his two little volumes on the earlier chapters in our diplomatic history; Mr. Lyman in his more extensive work; Mr. Schuyler in his monograph on certain chapters in our history; the former president of the American Historical Association, Mr. John Jay, in his chapter in Winsor's *History on the Negotiation of the Treaty of Independence*, and Mr. Henry Adams in his *Administrations of Jefferson and Madison*, have well supplemented Hildreth and Bancroft, and Mr. Rhodes in his recent work has given long-neglected recognition to the services of Secretary Marcy. But a full and connected history of American diplomacy, in the light of present knowledge, is still a desideratum.

It has seemed to me eminently appropriate to discuss this theme now in this age of arbitration, and here where the world is holding its great industrial congress of peace. It is meet that we should emphasize the importance of pacific negotiations as the desirable method of settling international difficulties by giving the deserved place to the histories of diplomatic labors and by asking that historians should place on the heads of great diplomatists the laurels which they merit, and of which they have too long been robbed, and should give them as honorable a position upon their pages as they assign to great admirals and great captains. Let history do what she can to perpetuate the fraternal relations of nations by glorifying the council chamber and the arbitrator at least as much as the field of battle and the warrior.

OPENING OF THE HISTORICAL CONGRESS.

It is with peculiar pleasure that we assemble here to-day to take part in this historical congress. Some of us make no higher claim than to be regarded as earnest and sincere students of history. We are fortunate in being honored with the presence of others, whose contributions to historical research and literature are honored throughout the world. We Americans are very grateful for the opportunity of meeting and hearing some distinguished visitors from other lands whose writings we have long held in the highest esteem. We should have been glad to see more of them. If there is any study which makes men catholic and cosmopolitan, it is the study of history. If there is any pursuit which lifts us above the narrow prejudices and conceits of provincialism and helps us to understand man in his essential characteristics, it is that of the historical scholar whose vision sweeps over the whole career of the race and whose inductions are made from facts as broad as the life of the race. In this large and hospitable spirit, worthy of this great concourse of nations, we assemble here to-day and take up our work.

III.—THE VALUE OF NATIONAL ARCHIVES.

By MRS. ELLEN HARDIN WALWORTH
OF SARATOGA, N. Y.



THE VALUE OF NATIONAL ARCHIVES.

By ELLEN HARDIN WALWORTH.

“To know the old era you must search with a lantern; to know the new era you must winnow.”

Archives hold the evidence of facts; what the Bible is to the theologian and what the statute law is to the lawyer the state archive is to the historian. We have a history like the common law, which consists of facts known by tradition and long established usage, if we may apply such a term to historical data. These long-standing traditions can not be ignored, nor even be treated lightly. Many of them stand on the same basis as the common law, which began in tradition and finally found its way to the statute books.

There are unwritten archives which may be consulted by the historian. These are found in the rude and imperfect monuments with which the people of a nation have from time to time endeavored to perpetuate the memory of events and of persons; and there are unwritten archives to be found in the customs and habits of the people who are the subjects of study. These sources of investigation with the well-known historical bibliography of each nation and age are the open fields in which the historian wanders at will, gathering such facts and narrative as suits his need or his taste. Here the superficial student may spend a life-time gathering material and drawing conclusions. In biography and local history valuable work may be done in these open fields; but when the earnest student or writer gives his attention to public affairs and individuals as connected with governments and nations he must authenticate his facts with greater care, and seek the official evidence that will prove his statements. To accomplish this he turns with confidence and hope to the archives of the nation whose history he would investigate or bring forth. If it is in the old era that he would

seek knowledge he takes his lantern and explores the musty volumes and difficult manuscripts before him, and he turns over the unclassified mass of documents in search of the paragraph or sentence that may throw light on his fact or supposition. These failing him, he gropes his way in other directions, still searching for a clue to the few words that will verify his statement or lead to other discoveries. These documents, still inspiring confidence because they have the sanction of the Government, the instinct of the hunter or the miner is aroused in the historian, and he pursues his game as eagerly as if the wily pheasant or the golden nugget would be the reward of his pursuit.

If it is of the new era that he would gain information he will find thousands of documents printed by the Government, from which he must winnow and select the precious sentence that may authenticate his gleanings in the open field. In either case his reference from the national archive is a guaranty, at least, of the faithfulness of his work, and, while these archives are by no means infallible, they are made up of that cumulative testimony that counts for evidence in human affairs.

Thus it is that the archives of each government are a great storehouse from which the facts of history are authenticated even when not drawn directly from them. If, as Mr. Schouler has recently said, "The grand results and the grand lessons of human life are ours in retrospect, and in retrospect alone," then must we look with reverential and anxious eyes toward these repositories of the records which make retrospection possible.

We, in this country, are fortunate in inheriting the English characteristic that sets a value on all official and family records. Perhaps no nation has been more careful than England in the preservation of her archives, and perhaps no nation has been more careless in this direction than the United States; yet I reaffirm my statement that we do inherit the English pride of country and ancestry which is possibly the impelling motive in an unusual care for Government and family statistics. We have been careless because life with us in the past was too experimental and too intense to admit of very definite record and painstaking protection of such rapid records as were made. Like children, too, we had not learned the relative value of the things not purchasable, as compared with money and the things that money will buy; a natural mistake

for a people suddenly emerging from the stress of poverty and war, as in the Revolution, into the possession of great and unexpected fortunes as followed in the succeeding years. Questions vital to the life of the nation involved in the war of 1812, and in the late war, have agitated even the most quiet students of the land. Questions of policy and finance involving the Louisiana purchase, with control of the mouth of the Mississippi River, and the war with Mexico, bringing its grand acquisition of territory, have stirred the whole people to a degree that allowed little time to consider the history they were making from month to month and year to year.

The form of our Government, too, has been detrimental to an early collection of historical records; the separate States have had a desire to retain all records relating to each one within its own borders, even while they were all more or less careless of the safety of the most important documents. The beginnings of the Government being located in the various colonies, the history of that early period is to be sought in many places. The result is that partial and incomplete histories of the establishment of the country have prevailed, and some colonies, as New York, have had scant justice in the histories of the nation. It may be said with some fairness that these colonies and states are in a measure at fault, as they have not furnished the material nor the encouragement to historians that would stimulate them to overcome the difficulties to be encountered. A thought of these difficulties leads us back to the general subject of archives.

The earliest literary effusions of the Anglo-Saxons, even while metrical in form, were historical in matter, and among their first efforts in prose was the Saxon Chronicle. This, like our own early history, was made piecemeal in the various counties and convents. In the reign of King Alfred, the Primate Plegmund appears to have conducted an official collection of the different parts. The frequency with which the Saxon Chronicle is quoted by historians proves its value. In the old era the professions of law and theology established official records of inestimable value. The ecclesiastical claim to make a record for every Christian of his baptism, marriage and death; to try him for crimes and misdemeanors, and to protect him from both private and judicial vengeance was a means of preserving the history of individuals and communities, for the noted events of the Government were also celebrated and

recorded in the churches. As the courts of law gradually developed, they took the people and the government, of which they formed a part, under their supervision; thus the records passed slowly from the churches and convents into a final independence of them. The decrees of the kings, like that creating the Domesday Book, from time to time established a special collection and preservation of archives. By the conservation of family records they have in many cases become official archives. In England they grew into great importance through the "Visitation" as it was called of the King-at-arms, begun possibly in the reign of Henry VIII and intended at first only to decide the disputed question as to which families were entitled to bear a coat of arms.

In the preservation of her archives and an appreciation of their value England has a rival in Spain. There the details of every transaction of the past seems to be cherished with a reverential spirit. Our own historians have availed themselves of the almost unlimited treasures preserved by the Spanish Government. There is little need to speak of the debt we owe to Spain in the department of history at this time and in this place, where on every side there are evidences of her care for her archives, and her generosity in lending them. Yet I can not refrain from mentioning a striking illustration of the fullness and accuracy of these records, and the facility with which they can become available. The old Spanish fort at St. Augustine, Fla., is, I believe, the only work of its peculiar kind on this continent. One of a similar interest, and closely resembling it was a few years ago among the historical relics of New Orleans; our Government allowed it to be sold and converted into a beer garden, losing every trace of its ancient dignity. A retired army officer, visiting St. Augustine, heard that the picturesque Fort Marion there was in imminent danger of like degradation. He appealed successfully to the engineer on inspection duty, and induced him to recommend the renovation of the old fort instead of its destruction. The proposition was accepted by our Government, and the officer who was to supervise the work was authorized to write to the Spanish Government and ask for any information they could furnish in regard to the original plans of the fort, now so dilapidated as to be difficult of restoration. To the astonished gratification of the officer he received, in a very short time, a full case of the original plans and drawings of the fort and the surrounding country,

with a complete account of the expense of building, the number of men employed for the work, the provision for them, etc., and all this after an interval of about three hundred years.

In contrast to this may be mentioned the loss, so far as I know, of all record of the plans and drawings of Kosciusko for the fortified camp at Saratoga in the Burgoyne campaign in 1777, little more than one hundred years ago. There are many maps and drawings of the British engineers of the opposing camp. From these British records and remains of the American defenses and reports of officers, the American works have been located and tablets erected to mark them. Had the patriotic work been deferred, even to the present time, all indication of military occupation would have been obliterated. Thus are we indebted to other nations for the preservation of our own historical relics and records.

France has been generous and painstaking in the preservation of her archives, but they have suffered many vicissitudes in the fluctuations of her government, and it has been said that her historians copy and quote from them with a free hand; that they have not the same regard for accuracy and the disregard for a revelation of disagreeable facts that distinguishes the Englishman.

The Italians have, in the Vatican, still an unexplored wealth of historical treasure that will continue to unfold for ages its hidden narratives, some of them, perhaps, as remarkable as the discovery of the Cicero de Republica. You remember how Cardinal Mai picked up an old manuscript in the Vatican written in a clear bold hand; reading it he was impressed only with the indifferent style and folly of the writer, but as he read he observed some strange characters of a different kind from this bold writing; he traced this hidden lettering into words that made a quotation from Cicero used by an old writer; his curiosity still further excited, he pursued his investigation which resulted in the discovery of the long lost literary treasure, the Cicero de Republica; by the application of chemicals the later writing was obliterated and the ancient one restored.

The Government of the United States, with all the excuses which have been presented, still appears to have been culpably negligent in the collection and preservation of the national archives.

That the Saxon instinct to hold on to all that is of value in the past, for utility if not for veneration, is strong within us

is proved by the quick awakening of the country to the memories of this historic year, and to the appeals of various associations having in view the restoration of historical records, and the veneration of ancestors. The people are always in advance of their legislators; these last are held back by motives of policy, but the people strike out for what they want, and in time they bring their legislators to their way of thinking.

Would not the vote of the people on any day decide that the few thousand dollars necessary to print the Revolutionary papers now lying, in their single original copies, in the State Department, should be expended promptly and generously for that purpose?

On the tables of the State Department in Washington I have had piled up before me, for reference, dozens of these precious volumes of manuscript, many of them torn and worn; and as I handled them gently, thankful indeed for the privilege accorded me by the officials in charge, I was almost moved to tears in the thought that by a single accident the nation might be stripped of these treasures of the past.

Such valuable papers are not only on the shelves of the public Departments; they are scattered all over the country. Would not a vote of the people, if taken to-day, be in favor of the appointment of officers of the Government whose duty it should be to collect and preserve these documents?

Would it not be well that we, who are gathered here in the interest of historical research, should make our opinion and desire heard concerning the Revolutionary records, by means of a strong resolution addressed to the Congress soon to convene; this resolution to embody a petition for the collection and preservation of the Revolutionary and other national archives?

IV.—AMERICAN HISTORICAL NOMENCLATURE.

By AINSWORTH R. SPOFFORD,
LIBRARIAN OF CONGRESS.



AMERICAN HISTORICAL NOMENCLATURE.

By AINSWORTH R. SPOFFORD.

The names of places may be said to present a subject of historical and world-wide interest. Local nomenclature, while more immediately related to geography, is also intimately and indissolubly connected with history.

Although it is not true, as sometimes asserted, that the whole history of a country's settlement and growth can be constructed from its map, still the progress of different immigrations, as traced in the peculiarities or the language of the appellations bestowed upon new places, forms a constant subject for the historian. The States of our Union are written all over with names which reveal the composite character of our population. At the same time, the most notable and most deplorable feature in the naming of places is the endless reduplication of the most common-place names without regard to euphony or appropriateness.

In this commemorative year of America's greatest discoverer, I have thought it not inopportune to ask the attention of this association first, to the errors already widely committed in our local nomenclature; and, secondly, to the possibility of avoiding, by organized and intelligent effort, the indefinite continuance of such monstrosities as now disfigure the map, distress the judicious mind, and become the despair of postmasters. One shudders at the possibility of the fiftieth repetition of "Elk Ridge" or "Enterprise," while there are thousands of fit and euphonious names, all unused, or but little used, waiting to be adopted. The neglect of the names of American discoverers and explorers, and the failure to preserve and to extend the use of the great vocabulary of beautiful and euphonious aboriginal names, are among the primal wrongs which call for redress. While the mischiefs already done can not be undone, it becomes us as historical inquirers jealous of the fame of the early voyagers and explorers of our con-

continent, and sedulous to preserve the only traces likely to remain of the aborigines whom we have dispossessed, to interest ourselves in arresting the tide of boundless monotony of nomenclature, which is sweeping over the land. We should take pride enough in our country to save what we can of it from further desecration, remembering what a heritage is ours of a continent stretching from ocean to ocean, whose flag floats thousands of miles further than the Roman eagles ever flew.

Names of places are very rarely created. They are preponderantly borrowed from foreign countries, or else transplanted from the older settlements to new regions. Some (but unhappily they are comparatively few) are expressions of some inherent quality, association, or historical event. What names, for example, can be at once more appropriate and more euphonic than Sierra Nevada, or Blue Ridge, or Rocky Mountains? No doubt all proper names had originally a peculiar and appropriate meaning. Multitudes of towns and villages, as well as estates, have been named from early owners or residents. This is evinced in the everywhere-found affixes to family names like *town*, *ton*, *ville*, *burg*, and *borough*, which form such countless combinations in the local nomenclature of every State in the Union.

The new world, so far as its nomenclature is concerned, may fairly be termed for the most part but a renaissance of the old. Take out of the map of most of our States all names of foreign derivation (including, of course, the British) and surprisingly few native names will remain. Names which were fossilized on the banks of the Euphrates and the Jordan three thousand years ago are found on the banks of the Susquehanna and the Mississippi to-day.

Some of our early nomenclators appear to have thought that the farther they could fetch a name from remote antiquity, the better it would sound. New York State, especially, suffered from the classic craze in the person of a surveyor-general named De Witt, who was enamored of "the glory that was Greece and the grandeur that was Rome." So he baptized a multitude of towns with the names of ancient cities, and not content with that, hitched to others the names of Greek and Roman poets, philosophers, and statesmen, about as appropriate to New York villages as would be a sculpture of Romulus and Remus in the Capitol at Washington. The banks of the Genesee and the Mohawk, instead of being permanently

adorned with the beautiful indigenous names abounding in that region, were made to echo ancient history as old and as dead as Julius Cæsar. The misfortune followed (as all bad models always have hosts of imitators) that the classic epidemic spread, until we have among American towns 5 Ciceros, 3 Tullys, 6 Catos, 7 Ovids, 6 Virgils, 9 Horaces, 10 Milos, 7 Hectors, 7 Solons, 10 Platos, 15 Homers, and 4 Scipios.

From classical geography we have borrowed without rhyme or reason 16 Uticas, 20 Romes, 5 Marathons, 19 Spartas, 9 Atticas, 5 Ithacas, 8 Delphis, 18 Athenses, 13 Corinthians, and 25 Troys. Fabulous mythology contributes to our local nomenclature 7 Neptunes, 8 Minervas, 3 Jupiters, 5 Junos, 5 Ulysseses, 4 Dianas, 22 Auroras, and only 1 Apollo.

But the Greek and Roman hobby, though well ridden, yields to scriptural geography in the number, if not in the variety of borrowed appellations for places. The leaven of Biblical lore lay profoundly working in the souls of many early settlers all through the North and South. So we have (among many more) 22 Bethels, 10 Jordans, 9 Jerichos, 14 Bethlehems, 22 Goshens, 21 Shilohs, 11 Carmels, 18 Tabors and Mount Tabors, 23 Zions and Mount Zions, 26 Edens, 30 Lebanons, 26 Hebrons, and 36 Sharons, and compounds.

From the local nomenclatures of other countries of the East we have not borrowed largely. Still, we have 11 Egypts, 14 Cairos, 15 Alexandrias, 5 Bagdads, 11 Damascuses, 19 Palmyras, 14 Carthages, 9 Memphises, 11 Delhis, 4 Ceylons, 5 Chinass, and 25 Cantons.

The most copious vocabulary of our local names is of British origin. This is readily accounted for by the extensive immigration from that country in the seventeenth century, when the first settlers instinctively took the readiest means of finding names for each new settlement in the wilderness. New England and the southern colonies were thickly sown with appellatives transplanted from England, and at a later period from Scotland and Ireland. Of American towns duplicating from ten to thirty times over the names of British cities and boroughs, the number is surprisingly large. Taking eighty of the more familiar English cities and towns, we find that these eighty have sufficed to name more than a thousand American places.

As to foreign names other than British, while reduplication is more rare, certain European names have been prime favorites.

While London has but 13 American namesakes, Paris has 22, and Geneva, owing partly to the euphony of the name and partly to its historic associations, has 18. Some European countries are widely duplicated—witness, 17 Denmarks, 12 Norways, and 19 Hollands. Of foreign languages the French is the most widespread in our geography, the French explorations and occupation from 1525 to 1763 having bestowed hosts of names still retained in our states adjacent to Canada, from Maine to Wisconsin, and along the Mississippi from its sources to its mouth, besides the fragmentary survival of Southern Huguenot emigration in such names as Beaufort, Port Royal, etc. Spanish nomenclature is very widely prevalent in New Mexico, California, and other regions adjacent to the Pacific coast, while there is a survival of the former dominion of Spain in the local nomenclature of Florida. The early occupation of New York by natives of Holland has left permanent records in the many Dutch names of streams, localities, and villages in eastern New York and a part of New Jersey.

In more recent years the heavy immigration from Germany has helped to spread German names, though to a very moderate degree, in the Western States, while a very few Scandinavian names of places are to be found in the Northwest. Switzerland has its little commemoration in Vevay and other names on the banks of the Ohio.

Tracing the origin of the names of our 44 States, we find that 6 are Spanish—California, Colorado, Florida, Montana, Nevada, and Texas; 3 French—Louisiana, Maine, and Vermont; 11 British—Delaware, Georgia, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia; 3 of English manufacture or individual—Indiana, Rhode Island, and Washington; and 21 aboriginal or Indian, viz: Alabama, Arkansas, Connecticut, Idaho, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Wisconsin, and Wyoming.

It is highly creditable to our national taste, as well as to the average good sense of Congress, that so large a number of names native to the soil and appropriate, as well as euphonic, have been preserved in the designations of our States. But it is deplorable that one newly created State should have been admitted as Washington, instead of Takoma, or some

other aboriginal name. It has already created endless annoyance and loss in correspondence by its confusion with the capital of the country. What is still more to be regretted is that so few, comparatively, of the great and attractive vocabulary of Indian names have been applied to the naming of new towns throughout the Union. While many rivers and lakes (including happily a large share of the most important) bear aboriginal names, bestowed long before the United States became a nation, and several States (notably New York, Pennsylvania, Virginia, the Carolinas, Georgia, Alabama, Florida, Ohio, Oregon, and Washington) have done themselves honor by calling some of their counties by these handsome names, instead of after so-called statesmen whom nobody remembers, very few towns and villages, even in these States, bear Indian names. Yet witness what a prodigality of fine melodious names remain, the best legacy which the unlettered red man could leave us before he vanished forever before the march of civilization. I can cite but a few—a very few—only, out of hundreds equally eligible.

Wallula, Wyandotte, Winona, Wyoming, Venango, Tioga, Towanda, Tallula, Tuscarora, Toronto, Tallapoosa, Shawnee, Shenandoah, Suwanee, Scioto, Saranac, Sandusky, Seneca, Saginaw, Saratoga, Rappahannock, Roanoke, Pemaquid, Potomac, Ponca, Patapsco, Powhatan, Penobscot, Oswego, Onoko, Ottawa, Osceola, Ontario, Nanticoke, Nottoway, Niagara, Nantucket, Mohegan, Merrimac, Minnehaha, Mackinaw, Muskingum, Meenahga, Minnewaska, Miami, Mohawk, Maumee, Mingo, Lackawanna, Kennebec, Kanawha, Juniata, Hoboken, Hiawatha, Huron, Horicon, Genesee, Erie, Accomac, Allegheny, Alachua, Aroostook, Ampersand, Chesapeake, Catawba, Chipewewa, Cayuga, Chenango, and Chicago.

Such names as these roll trippingly off the tongue with liquid harmony. They unite the three leading requisites for good local names—euphony, simplicity, and appropriateness. If it be objected that the etymology of the Indian languages shows all their names to have had merely local application, thus unfitting them for transplanting to other regions, the answer is twofold: First, there is no such advanced stage of knowledge or of agreement among ethnologists versed in the signification of Indian names as can give adequate basis for the assertion; and, second, the transfer to any part of this continent of any aboriginal names whatever is infinitely more logical and appro-

priate than the wholesale importation ever going on of foreign appellations representing remote nations, and ages still more remote. Why boggle over a few uncertain Indian etymologies when we have been swallowing for generations the most astounding, incongruous, and inappropriate combinations which the ignorance or the misapplied ingenuity of man could apply to designate our towns?

If it is said that Indian names mean nothing to us, we may reply that neither do the old English names, in nine cases out of ten, mean anything in America. Norfolk and Suffolk, widespread names as they are among us, are not apprehended by Americans, who pronounce them, as meaning North folk and South folk—their primary signification. Nor, even if they were, would they have the slightest applicability to any of the towns and counties they here represent. Is it any more inapposite or misleading to diffuse these aboriginal names over our new States and Territories, than to keep on forever creating the fiftieth Brownsville or the hundredth Johnstown, or the thousandth Jonesboro? How much better would it have been to name New York City, "Manhattan," than to perpetuate in that great metropolis the ignoble name of a graceless royal English duke!

As between names native to the soil, and euphonious in speech, but with only partial fitness, and foreign names with no fitness at all, we may well prefer the former.

One of the most prolific sources from which our names of places have been drawn is the Biographical Dictionary. Beginning with the line of Presidents of the United States, each of whom has from three to thirty-two towns called after his name, we have a long catalogue of statesmen, politicians, military and naval officers, authors, inventors, and men of science who have given names more or less widely distributed. Alexander Hamilton is commemorated by no less than 30 cities or towns, Clinton by 30, Webster by 24, Benton by 20, Calhoun by 13, Clay by 7 (besides many compounds), Quincy by 19, Douglas by 21, and Blaine by 20.

In many cases of places named after minor politicians, we are left to wonder whether the chief object might have been to give to some local celebrity of the hour his sole chance of being remembered at all.

Of all Americans, the illustrious Dr. Franklin has the honor of leading in the choice of his name for places all over the land.

His list (including compounds of the name) numbers 63. Andrew Jackson comes next with 61 towns, then Washington with 49, Jefferson with 47, Madison with 44, Monroe with 43, and Garfield with 24.

Among generals of the Army, Marion heads the list with 30 towns, Warren 25, La Fayette (in various forms) 55, Montgomery 17, Stark 14, St. Clair 11, De Kalb 10, Knox 10, Pulaski 11, Sheridan 22, and the various Lees 24. Of naval officers, 20 towns are named for Commodore Perry, 17 for Decatur, 16 for Elliott, and 8 for Bainbridge.

In the list of authors, it is interesting to note that the British take the lead in the adoption of their names, there being 31 towns named Milton, 18 Byron, 14 Addison, and 10 Burns, while Irving names 21 towns, Cooper 13, Bryant 11, Emerson 9, Bancroft 9, and Hawthorne 6. The great scientist Humboldt has 12 towns called after his name, Newton 19, and Darwin 5.

The early American discoverers and explorers have been, with the sole exceptions of Columbus and Americus Vesputius, almost wholly neglected. The former is commemorated in 20 towns named Columbus, and 27 Columbias. Five places are named Americus and 3 America. While Raleigh and De Soto, La Salle and Marquette, Hennepin and Hudson, are remembered, Champlain has but a single place called after his name, while Roberval, De Monts, Argall, Iberville, Frobisher, Gorges, Cartier, Balboa, Dablon, Bressani, Baffin, Bering, and Gosnold have none. What could be more appropriate than to render some measure of historical justice, however tardy, to these and many other explorers and voyagers, by bestowing their names upon some part of the country which they helped to throw open to civilization? The early history of the continent, concerning which new and profound interest has lately developed, would thus be suggestively connected with names worthy of remembrance, and the young would learn geography and history, biography and the annals of discovery, by being put upon inquiry into the origin of such names of places.

There is one excuse for the universal duplication of the most common-place names throughout the United States, and that is, the unexampled rapidity of its settlement. Emigrants into a new and undeveloped region experience as one of their first wants that of a name for each new place or settlement. Thus it is that the westward-moving wave of population bears with

it a whole vocabulary derived from the region it left behind. The emigrants naturally bestow names long familiar, whether commemorative of families, natural features, or abstract qualities, upon the settlements which they found in the wilderness. These names, once fixed, generally remain unchanged. Hence the importance of giving a broader and better scope to our local nomenclature, and by the diffusion of wide intelligence as to the rich field of neglected names, aboriginal and other, opening a way for radical improvement.

In the good work of reform in this direction, what more appropriate agency could be invoked than our historical societies, national and local? It is theirs to watch with sedulous care every phase of the country's development, and to conserve whatever is best and most important in the past for the benefit of the present and the future.

Our institutions of learning also, as well as the local societies, now so numerous, devoted to history, should foster the study of local antiquities and early explorations in their neighborhood, and thus, each from its own center of influence, contribute to enlighten public opinion on the subject of a better local nomenclature. This association might do much to diffuse information by digesting tables of suitable names of historic or native significance, or, in due time, recommending to the postal authorities lists of proper designations for new post-offices. Already much has been done by the exercise of wise discretion by successive Postmasters-General. We have got rid of such names as Hardscrabble, Buzzard Roost, and Yuba Dam, in favor of better and more decent appellations. Let the good work go on, and many more ridiculous and inappropriate names be reformed out of existence. Good names, once bestowed, are among the most lasting of things earthly. They may change in form, but they rarely perish. They outlast dynasties, they outlive generations and ages of men—they are in a word, perennial. So much the more important is it that their survival should be, so far as it can be made to be, a survival of the fittest.

V.—THE DEFINITION OF HISTORY.

By COL. WILLIAM PRESTON JOHNSTON,
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THE DEFINITION OF HISTORY.

By WILLIAM PRESTON JOHNSTON.

It is with diffidence that I make my answer to the invitation to address this Congress of Historians. What I shall attempt is a more accurate and scientific definition of history. If it effects no more than to elicit judicious criticism even that will be a gain. My task will be fulfilled if I can add some small increment in the way of exact thinking to the body of historical knowledge.

That there is a necessity for such a definition seems evident. There can be but small addition to knowledge without exact thinking, and the first step in that direction is definition. I believe that in a very casual examination of dictionaries, encyclopedias, and formal treatises it will be discovered that the definitions given of history are inaccurate and inadequate. So, when we turn to the writings of the historians, philosophers, and essayists to learn what history is, its scope and limits, what do we find? Eloquent outbursts, pregnant passages, and sparkling epigrams that arouse the imagination and quicken the intellect, that stir and illuminate, but do not define. They tell us much about history, but not what it is. The epigram, with its electric flash, lights up a point in the intellectual horizon or photographs a picture in the memory; but it does not enable us to measure boundaries and set landmarks. This humbler and more prosaic task is left to the definition. In 1872, in a public address, I ventured the following definition: "History is man's true record of whatever is general, important, and ascertained in the living past of humanity." Without withdrawing this definition, I shall endeavor to restate my idea more exactly, and now propose the following definition, which I think includes the former: "History is man's formal record of actual human phenomena, as consecutively manifested in the past, both in the individual

and in society, in so far as they have been ascertained to be general, important, enduring, and true, with the legitimate deductions drawn for the pleasure and education of mankind."

Before examining this definition in detail let us consider what history is as conceived by our great thinkers. Carlyle calls it "a looking before and after;" "the message, verbal or written, which all mankind delivers to every man; it is the only articulate communication which the past can have with the present, the distant with what is here." Emerson, condensing this thought, says that history is the record of the works of the universal mind. Kingsley says that "history is the history of men and women, and nothing else." Dionysius Halicarnassus originated the phrase, "a philosophy from examples." Sismondi regards it as "an essential part of the great system of moral and political science." Gervinus says, "History was always understood to be political history;" and Seeley says, "History is past politics." Dr. Thomas Arnold calls history, "the biography of a society;" and Herbert Spencer says, "the only history of practical value is what may be called descriptive sociology." Grote and Macaulay, with a host of followers, aim to represent the picture of national life. Sir James Stephens views history as a divine drama; and Bunsen, as "that most sacred epic, or dramatic poem, of which God is the poet, humanity the hero, and the historian the philosophical interpreter." To these might be added any number of sparkling and suggestive sentences from the same and other eminent writers. They each illustrate some phase or aspect of the purpose or province of history, but they are not definitions because they do not define. None of them include all that is essential to the idea and exclude all that is accidental. Yet it is by a comparison of such dissimilar views, from such varying standpoints, that we may attain a more adequate conception of this question, since it is in the correlation of many partial truths that we arrive at a larger truth.

A great philosopher, Sir William Hamilton, went near the core of the matter when he said, "History is properly the narrative of a consecutive series of phenomena in time." This touches very near the core indeed, but surely it does not give to history its full scope, or limit it by its well recognized restrictions. When Sir William Hamilton defines history as the record of phenomena in time merely, he leaves it open to the abuse of the term which Carlyle presently employed.

Does he mean time present, past or future, or all of these? Do these phenomena include prophecy as well as accomplished fact, the foretold as well as the aftertold, as Carlyle not vaguely adumbrates? Does it embrace the potential alike with the real, as his fellow seer, Emerson, tells us? Possibly in some transcendental sense, but not in the terms in which language ordinarily measures meaning. A thousand years are as one day in the eye of the Eternal, looking down from the immensity of Omniscience around and beyond the milestones that mark the process of human thought; but inside the limits of time humanity is held fast to the sequences of past, present, and future, and history belongs to the past. We must dismiss from it that coming time which, Carlyle tells us, "already waits unseen, yet definitively shaped, predetermined and inevitable in the time come," except in so far as its antecedent phenomena may be causative and provide deductions, teaching and a philosophy which it offers the future as legacies of the past. History is the record of what has been, though it seeks with its half worked problems to solve the equation of the future.

Again, Hamilton has omitted from the definition of history that its phenomena occur in space as well as in time. And yet all our thinking is conditioned by space; or to say the least, the reality of history depends on its transactions occurring in space. History is a man's record of the self-consciousness of the race in concrete process, producing what we call events, and viewed with reference to his environment and actual relations. It is in emphasis of this fact that the Encyclopedia Metropolitana defines it as "a narrative of *real events*." Its phenomena are conditioned by space as well as time. A phenomenon outside of human consciousness has no place in history. Inside human consciousness it belongs to organic man and the material world, as well as to the realm of spirit. Hamilton only implies man as the teller of the narrative and yet man must also be considered as the cause, or the vehicle, or the actor of these phenomena, their subject or object, or both. Man is the first postulate of history. He is the beginning and the end of it. He enacts it; he tells it; he accepts it as a message or gospel for guidance and self-realization. Man, mind, phenomena, memory, narrative—and history is born.

But while we should recognize that the phenomena belonging to history are conditioned by space as well as time and are

organic in man, we must keep constantly in view that the material universe, which we call nature, except in its relation to the sentient spirit of man, does not belong to the province of history. Science is the register of nature; history, the record of man. The fundamental difference we find in our thinking is between man and nature; man, the image of the Ego, and nature, the image of what is external and alien to the Ego. When man records what he knows about the stars we give the science a distinctive name, we call it astronomy; about the earth, we call it geology, geography, etc. Why confuse meanings by introducing the word history into these ideas? The term Natural History is outworn and effete, and should be dispensed with in scientific language. The realm of nature belongs to science, not to history.

The world, which constitutes man's environment and is the house, or dwelling place, of the human race is the theater of man's action, the stage on which are presented all those phenomena we name historical. Hence history must represent it as the frame of the picture, the setting of the jewel, possibly as the shirt of Nessus that clings to his corporeal existence with fatal embrace. History draws upon all the sciences that record or explain nature for its infinite material, but it is the record of phenomena, which, while modified and influenced by the environment, have their own independent sphere of action in the self-consciousness of organic man. So that what relates to physical man merely ought properly to be called anthropology, instead of trying to group universal knowledge under this vague term.

That this caution is not unnecessary is exemplified by Diesterweg and a school of thinkers who include the universe in whatever point they have under discussion. Diesterweg says, "The domain of history may extend to everything that has ever transpired on earth. Just as the life of an individual, of a nation, of the human race, belongs to history, so do the processes of inanimate nature." It is against such unphilosophical uses of the word that this paper is offered as a protest. Such an expansion of meaning must result in equivocal and worthless terminology. All is not history that is in aid of it, that tends to it, that is valuable or even precious to it. It is a misnomer to designate as history treatises on bugs and cats and clothes and wine, on diseases, trades and arts, on literature, or even on philosophy. A chronological narrative of events

about the lives and writings and tendencies of authors and philosophers is entitled history only by courtesy, or, as we might say, by brevet. It is but amplified biography.

But I have cited the passage from Diesterweg to point out another error. He says, "The domain of nature may extend to everything that has ever transpired on earth." And yet this does not go as far as Emerson, who tells us that history is the record of the works of the universal mind. Is this not, after all, only playing with words? There is, indeed, an unblotted record of all the acts, thoughts and aspirations of every human soul, unimpeachable, ineffaceable. It is self-registered in the Book of Life by the processes of the omniscient, self-conscious verity, that is and was and is to come. This is absolute history. But this World Book shall not be read by finite eyes, and we must narrow our views of history to man's record of man. What a difference is here! What a torn and blotted leaf is this from the great volume of the past—of the all! With what feeble fingers have the race scrawled in this brief and abstract chronicle the things done and said by its foremost men, its crude guesses and beliefs, its experiences and visions. But after all it is humanity's little horn book from which it hopes to puzzle out the Great Book, or Bible, of the Totality, and to this pursuit we are urged by all that is noblest in us. Yet fragmentary as is the record, small and mean as it is compared to the full and unblotted register of human action, think what a mass of information has been heaped up in those cemeteries of thought, the great libraries of the world! No mind can master it. And how little of this great body of fact, of this record of human action, belongs properly to history; how much of it must be relegated to other spheres of knowledge, or to the limbo of inutilities!

The first and most essential criterion of history is its truth. It is the representation of the real. In the nature of things, all forms of the unreal, whether of fiction, of falsification, or of fable must be rejected from the limits of history. The principal business of the historian is to discover and eliminate from the record whatever is not true: and this, although absolute truth is impossible and language merely approximate fact, and fact itself is true only in its relations. History, therefore, must partake of the error and fallibility of man's nature; and its problems do in fact present a multitude of unknown, unascertainable, variable, and complex data. The Encyclopedia Bri-

tannica defines it as, "the prose narrative of past events as probably true as the fallibility of human testimony will allow." And yet in its ultimate decisions it is as credible and trustworthy as the human testimony on which we build our faiths and guide our lives. There are many facts, which, under every test and mode of proof, may be pronounced certain. So certainty—a moral certainty—is one of the canons of genuine history. The fact, or transaction, must be an actual or real fact, and it must not only be true, but ascertained, verified, and firmly substantiated, before it can properly be called historical.

Again history is only concerned with the important, with what Herbert Spencer has denominated "organizable facts." The trivial must be eliminated. It is only the important, vital, enduring facts and ideas that go to make up history. To know, to remember, to understand much, we must be content to ignore, to omit, to forget much. We must reject whatever can not be used as an element, or factor, in the development of the individual or of society, or as the symbol of some great moral fact, or as an element in the evolution of final truth. Fossilized fact, mummied truth, petrified thought belong to archæology. Palæology, or the science of antiquities, hoards in its junk shop whatever is old, odd, or curious, the perishable, unorganizable facts that it imagines are, or may become, organizable. From these cabinets the historic muse selects here and there a fact to illustrate or elucidate an event, or to verify a statement or hypothesis. But mere fact without moral significance, with no spiritual life, no continuity of existence, binding present, past, and future in rational process, is not history. History tells what men have thought and done. I say thought and done, because the deed without the underlying thought would change history from a festival of the reason to a funeral, and men would turn from it and leave the dead past to bury its own dead.

We must accept with Hegel that reason is at once the infinite material and infinite formative power of history, and history the objective development of the divine idea of reason, which is free and self-conscious. History defines itself by the standard of the vital, the important, the true. This alone is imperishable. Eliminating, symbolizing, and formulating the body of universal fact, and interpreting it in conceivable forms and methods, history may be termed the algebra of spiritual man.

If these thoughts in regard to history, which I have found most easily presented in the way of criticism of other writers far abler than myself, be correct, we have the following data for a definition established: That history belongs to the past, and that it is man's record or narrative of human phenomena, which have been ascertained or verified, as general, important, enduring or vital, and true. In the definition I have proposed to you I have qualified this general statement by certain limitations that seem to me necessary, or at least proper. The reason for adopting Hamilton's limitation of the record of history to "a consecutive series of phenomena" seems evident enough. An unconnected series of phenomena or events would be as idle as the babble of the waves on the beach. It would serve as a mere mental kaleidoscope to amuse the eye of grown up children with its glitter and deceptive symmetry, but with no function to enlist reason, which sustains itself on causation as its constant pabulum and requirement.

The limitation of history to the "formal record" of human phenomena may not be so imperative, but it seems to me correct. The infinite material of which history is composed is found everywhere. As I have said before, it is found in science—the record of nature. It is found in the stores of archæology, those legacies that humanity and nature, joining hands, have treasured as keys and clues to the unrecorded past. It is found in antiquities, those buzzing flies, which, when they swarm, reveal the presence of organic remains. All human documents, false, fabulous, or frivolous, may serve a purpose in history, though they are not historical. A series of truths, mathematical truths for instance, is not historical, for truth, though essential to the idea of history, is not its only limitation. Call things by their right names. The place where history is to be found is in histories. The unconscious effort to tell the narrator's thoughts may furnish abundance of material for history; but conscious effort to perpetuate a record of real, actual events, of consecutive human phenomena, is a necessary condition to the production of that which can alone be correctly designated as history. The purpose must be in the writer, and that purpose must be plainly evinced in the form of the document. Hence the use of the word "formal" in the definition.

Another point that the definition brings out is that the phenomena of history are "manifested both in the individual and

in society." This is not said, however, of individual phenomena unless as qualified by the words that follow, "general, important, enduring, and true." We must not take Kingsley's saying, that "history is the history of men and women and nothing else," as excluding from its scope those generalizations that give it its chief value. It is, in addition, as has been so often said, "philosophy teaching by examples." History must be clearly differentiated from biography. The moral purpose of a biography may be as lofty and its methods as accurate as those of history, but this does not make it history. It is particular, not general. Biography narrates the events of one life in its manifold and interesting relations; it is the record of individual life and character; history is the biography of a race, or of a nation, or of mankind. Biography may not inaptly be called the Mother of History. Yet no number of individual lives, not even a universal encyclopedia of biography, would constitute history. A polygon becomes a circle only when the number of its sides is infinite. No one man's life can mirror the race, nor, indeed, can any number of persons, viewed as individuals, afford a true picture of humanity. History is not made up of a multitude of biographies, by aggregation or multiplication. The individual is, indeed, the unit of all human phenomena, but he can not exist outside of his relations to other individuals and to society, and hence it is that history, which regards the actual, does not concern itself with him except as part of the social organism. It is said that "history is the essence of innumerable biographies;" and properly conceived, this is true, but the essence is very different from any of its various manifestations.

An individual life is a single ray, but in the white light that constitutes the totality of a historical phenomenon, every significant figure, every intellectual activity, every modifying relation and condition must blend. Individual man is a simple cell, but the social organism composed of such units is a very complex body. If this be true of the state, or autonomous community, how much more so is it of that aggregation of social units we call mankind. Dr. Arnold called history "the biography of a society." This is, in effect, the point of view of Sismondi, who treats it as a branch of moral and political science, and of Gervinus, who limits it to political history, and of Seeley, who calls it "past politics," and of a whole school, indeed the great multitude, of systematic historians,

who confine their attention to the ethical and political problems of their narrative.

History is the biography of a society, and, more, it is the biography of mankind. It is not a compound, but a resultant of manifold physical, intellectual, and moral forces. History finds its materials in the individual data of biography; and the methods and aims of philosophy are the tools with which it provides a chart for human conduct. History considers the individual, not from an interest in himself, but for that in him which has relation to all outside of him. It is because he stands as a type, mirrors a fragment of the universal, and, by the exercise of his will, influences the totality that he comes within the scope of history. And yet, to accept Herbert Spencer's view, that "the only history of practical value is what may be called descriptive sociology," is to rob it of its highest functions. If it is only valuable in its scientific deductions, and we are to learn nothing from the warnings and examples of its simple narrative, nothing from the oracles that speak in human voice from its pages, then it must be relegated to the closet of the statistician and cease to be the message of all mankind to every man. History treats of the phenomena of the individual man, because it is written for the edification and entertainment of individual men and women. It is only thus that it can speak to mankind. It propounds its legitimate deductions from its phenomena for "the education and pleasure of mankind." I have used these words instead of those employed by the *Encyclopedia Metropolitana*, "for the instruction and amusement of mankind," because they are fitter and more comprehensive to describe the pith and moment, the power and effect, of the great message of the past to the present. It is needless to dwell upon them, however. Let them go for what they are worth.

I shall not in this paper attempt further to define the meaning of history, an idea so central, so vast, so comprehensive that we may well be satisfied if in any degree we approximate it. If this paper shall not prove to contain all that this distinguished body has a right to expect, it yet will have accomplished its purpose if it directs the thought of the members of this Congress to the subject under consideration.



VI.—HISTORICAL INDUSTRIES.

By JAMES SCHOUER, LL. D.,
OF BOSTON.



HISTORICAL INDUSTRIES.

By JAMES SCHOULER.

Historians are sometimes said to be a long-lived race. To historical students, at all events, this is a comfortable theory. Recent examples of a productive old age, such as Ranke so long supplied, and our own illustrious George Bancroft, may have lent strong force to the supposition. History herself, no doubt, is a long-winded muse, and demands of each votary the power of continuance. But I doubt whether statistics would bear out strongly this theory of a long-lived race. Among modern historians, well known, who have died a natural death, neither Niebuhr, Gibbon, Macaulay, nor Hildreth reached his sixtieth year; both Prescott and Motley died at about 63.* On the other hand, to take poets alone whom many of us may have seen in the flesh, both Longfellow and Lowell passed well preserved the bounds of three-score years and ten; while Bryant, Whittier, and Holmes, the last of whom still vigorously survives, enjoyed life much beyond four-score; and of English composers the most famous, both Tennyson and Browning mellowed long before they dropped.

Undoubtedly, however, steady and systematic brain-work without brain worry conduces to health and long life, whatever be the special occupation; and who may better claim that precious condition of mind than the average historian? For of all literary pursuits none on the whole appears so naturally allied to competent means and good family. Public office and influence, the making of history, have belonged in most epochs before our own to the aristocracy—superior station being usually linked in the world's experiences to wealth; and it is the scions and kindred of those who have been actors and associates in events, if not the actors and associates themselves, whose pens

* Francis Parkman has recently died at the age of 70, longer spared for his work than any of those above mentioned.

describe past exploits most readily. These have gained the readiest access for their studies to the public archives—ransacking, moreover, that private correspondence of illustrious leaders defunct, which family pride guards so jealously; and with mingled urbanity and scholarship they maintain the polish of easy intercourse in the courtly circles of their own times. One ought to be a man of letters and liberal training for such a life; a close student, and yet, in some sense, a person of affairs. It costs long leisure, and money too, to collect materials properly, while the actual composition proceeds in comparison but slowly. Nor are the royalties from historical writings, however successful and popular, likely to remunerate one greatly, considering his aggregate outlay; but rather than in any enhanced pecuniary ease, his reward must be looked for in the distinguished comradeship of the dead and of the living—in the satisfaction that he has performed exalted labors faithfully for the good of his fellowmen, and found them in his own day fairly appreciated. Happy the historian, withal, whom fame or early promise has helped into some collateral or congenial employment of indirect advantage to his task.

Calmness and constancy of purpose carry us on steadily in work of this character, with powers of mind that strengthen by habitual exercise. It is not brilliancy of assault; it is not the pompous announcement of a narrative purpose, that determines the historian, but rather silent concentration and perseverance. The story one begins will never be thoroughly finished while the world stands; and on the one hand is the temptation of preparing with too much elaboration or fastidiousness to narrate rapidly enough, and on the other of trying to tell more than the circumscribed limits of preparation and of personal capacity will permit. Men who are free from financial anxieties will be tempted aside from the incessant laborious work by the seductions of pleasure. Thus Prescott, the blind historian, with excuses much stronger than Milton ever had for social ease and inaction, found himself compelled to overcome his temptations to sloth by placing himself habitually under penal bonds to his secretary to prepare so many pages by a given time.

More, however, than the gift of time and income the world will scarcely look for in a literary man. It is the publisher, rather, who projects encyclopedias and huge reservoirs of useful information and who embarks large money capital in the

enterprise. A few celebrated authors, to be sure, have figured, some in a dormant sense, as publishers of their own works, like Richardson, the English novelist, for instance, the Chambers brothers, and most disastrously for himself, Sir Walter Scott. Many literary men of means own their plates, while putting firms forward to print and publish for them notwithstanding.

But it is reserved, I believe, to America and to the present age to furnish to the world the first unique example of bookseller, book collector, historian, and publisher, all combined in one, whose fortune is devoted to the fulfillment of a colossal pioneer research. We must count, I apprehend, the living historian of "the Pacific States" among the wealthy benefactors of our higher learning, for that prolific brood of brown volumes such as no other historian from Herodotus down ever fathered for his own can hardly have repaid their immense cost and labor of preparation, even with the ultimate sale added of the famous library whose precious contents gave them substance.

Mr. Bancroft's "Literary Industries," a stimulating and well-written book, recounts fully the methods he employed, with a corps of literary writers under his personal direction, in ransacking the contents of that huge library which he afterward sold, to furnish forth his own compendious treatises upon the archaeology, history, and ethnology of our Pacific coast, hitherto but little illustrated by its latest race of conquerors. And he felicitates himself that an enterprise otherwise beyond any one man's power of execution was brought by his own organized efforts within the compass of some thirty years.

I will not undertake any direct criticism of such comprehensive methods as his, nor seek to disparage labors so generously and so successfully rounded out to a close. But this present age runs very strongly, as it seems to me, and perhaps too strongly, to vast executive projects in every department of human activity. We are apt in consequence to sacrifice high individual thought and mental creativeness to feats of technique and organized mastery; while our trusts, our syndicates, and combiners of capital seek so constantly to monopolize profits both moral and material for themselves, by welding and concentrating the lesser resources of individuals, that single endeavor faints in the unequal rivalry. Such a development artfully conducts the human race back, sooner or later, to a species of slavery; it hands over the many to the patronage

of the powerful few; and, unless checked, it must prove eventually fatal to the spirit of manly emulation. Just as the surf of property accumulation breaks fitly at each owner's death upon the broad bulwark of equal distribution among kindred, so would it be wise, I think, could public policy contrive by some indirection to limit in effect the achievements of a lifetime in every direction to what fairly and naturally belongs to the scope of that single life in competition with others; and at the same time that it lets the greatest prizes go to the fittest, could it but encourage each member of society to achieve still his best.

At all events, if you will, let huge engineering, let the products of organized exploit go to increase the material comfort of the race; but for art, for scholarship, for literature and religion, for whatever appeals most to imagination and the moral life, I would keep the freest play possible to the individual and to individual effort. One forcible preacher reaches more hearts than the composite of a hundred preachers. And, furthermore, in gathering historical facts we should remember that what may be convenient for simple reference is not equally so for consecutive reading. There is a natural progression, coincident with the stream of time, in all history, all biography, all fiction; and to attempt to read backward, or on parallel lines, or by other arbitrary arrangement, produces nausea, drowsiness, and confusion of ideas. In Washington Irving's grotesque dream in the British Museum, the bookmakers at their toilsome tasks about him seemed suddenly transformed into masqueraders, decking themselves out fantastically from the literary clothespresses of the past about them.

Cooperative history, or the alliance of various writers in one description of past events, is a favorite device of publishers in our later day for producing volumes which may give each talented contributor as little personal exertion as possible. Of such enterprises, that which assigns to each author his own limited period or range of events is the best, because the most natural, and here it is only needful that each should confine his labor to his own portion, avoiding the dangers of comparison. Less satisfactory, because far more liable to contradiction and confusion, is that cooperative history which distributes topics, such as the progress of science, education, religion, or politics, for a general and detached review, and instead of any proper narrative at all, supplies a mass of heterogeneous

essays. The latest plan of the kind which publishers have brought to my notice is history upon an alphabetical arrangement, resembling a gazetteer, which proposes, of course, the use of scissors more than pen or brain. Mr. Hubert Bancroft's plan is finally that of a literary bureau, with salaried workers more or less trained over whom presides the one nominal historian.

In this nineteenth century you may thus see historical chasms bridged and jungles once impenetrable laid open to the sunlight. But where can one safely define here the limits of original authorship? At what point does the elucidation of facts rise above the dignity of manual labor? And how far, in fine, may you trust the chief executive of such an enterprise, for his responsible scholarship, rather than merely as the editor of a vast compilation, or as one who rubs into shape and gives a literary gloss to materials of doubtful authenticity?

Let me address myself rather to the encouragement of that great majority of historical students and writers whose purpose it is to accomplish, and to accomplish conscientiously, results which may fairly be comprehended within the space of a single and unaided human life. Even they who plead most forcibly for cooperative investigation in history distinctly recognize the advantage of unity in research and expression; and they concede that, where one may master his own subject seasonably enough, the single skilled workman is preferable to the many. For my own part, not meaning to boast, but to encourage others, I may say, that legal and historical works, the one kind by way of relief to the other, have fairly occupied me for twenty-five years, with no inconsiderable ground covered in their publication. Another writer may produce better solid books than I have done, but he will hardly be moved to produce a greater number within the same space of time, or to preempt a wider range of research. Whether it be from an innate distrust of hired subworkers, or for economy's sake, or from the pride of responsible authorship, or because of habits which I early formed in life of concentrating and warming into interest wherever I personally investigated, or whether, indeed, from all these considerations combined, I never employed literary assistance of any sort, except for sharing in the drudgery of index making, for copying out my rough drafts in a neat hand for my own convenient revision, and for

transcribing passages from other books which I had first selected. And once only, when engaging my amanuensis (a very intelligent man) where historical controversy had arisen upon a minor point, to examine and collate the accounts of various old newspapers, I found, upon reviewing his work, that he had overlooked a single circumstance among these numerous descriptions which was almost decisive of the issue.

In fine, every real research, where I have published, and every page of composition, has been my own; and having regularly contracted with my publishers to create a book, instead of hawking about its manuscript when completed, and having always been permitted, when ready, to hand my copy to the printers without submitting it to any mortal's inspection, I have pursued my own bent, in shaping out the task as I had first projected it. I have shown my manuscript to no one at all for criticism or approval, nor have I received suggestions, in any volume, even as to literary style or expression, except upon printed sheets from the casual proof-reader, as the book went finally through the press.

The counsel of genuine and disinterested literary friends, if you are fortunate enough to have them, is doubtless sweet and stimulating; and for the want of it a book will often suffer in matters of expression, as well as of fact. But the recompense, on the other side, comes after a time, in one's own confirmed skill, self-confidence, individuality, and the power to dispatch; and often as I have reproached myself for little slips of language (revising and even altering my plates, upon opportunity), I have seldom seen reason to change the record or coloring of historical events, and never an important deduction.

Instead, then, of employing other persons, trained or untrained, to elaborate or help me out with the responsible task of authorship, I have sought, as the most trustworthy of expert assistance, where such aids were needful, the labors of accomplished scholars who had gone through the ordeal of authorship before me. Books and authors, in fact, I have employed for special investigators, and an amanuensis for amanuensis work alone. Original records and information are preferable to all others; but secondary sources of knowledge I have largely accepted as a labor-saving means, where I could bring my own accumulated knowledge and habits of verification to bear upon them, so as to judge fairly of their comparative worth. I have not disemboweled nor redistributed their contents; but I have

learned to dip into them for the quintessence of information they could best impart. To all authors, to all earlier investigators, I have applied diligently whatever materials of consequence were inaccessible to them, or derived from my own later more advantageous study.

Special assistance, I admit, may be very valuable when of an expert character. Eminent historians who have university pupils—eminent barristers as patrons of the shy and briefless—often employ junior minds, well-trained young men of poverty and ambition, upon the drudgery of their own more affluent investigation. In lawsuits the judge will often put out the analysis of complicated facts at issue to some member of the bar, to investigate as auditor and make a report which shall stand as *prima facie* evidence of the truth. Much the same confidence may you repose in the published monograph of some reputable historical scholar, if you desire economy of labor. Such assistance is trained already for your purpose, and one obvious advantage of employing it is that you may cite the author and throw the responsibility of your assertion upon his shoulders.

Yet, after all, one should be prepared to do most of his own drudgery, for nine-tenths of all the successful achievements in life, as it has been well observed, consist in drudgery. Whatever subordinate or expert assistance, then, may be called in by the responsible historian, let him always reserve the main investigation to himself. In no other way can he rightfully blazon his name upon the title-page of his book, or approach the true ideals of excellence and thoroughness. The trained assistance one employs with only a mercenary interest in the study accomplishes but little, after all, as compared with the one mind inspired for its task, which concentrates the best of its God-given powers upon precisely what it seeks, and gains in skill, quickness, and accuracy by constant exercise.

Judgment and intuition may thus move rapidly forward and seize upon results. The student absorbed in his subject brings to bear at every step of preliminary study his own discrimination, analysis, and comparison, qualities which he can never safely delegate; even in crude facts he is saved the alternative of accepting promiscuous heaps from journeymen at second hand, or of verifying personally their labor, which is the worst toilsomeness of all. And it is by thus throwing himself into the very times of which he treats and becoming enveloped in

its atmosphere that the narrator may hope to kindle his own imagination and grow deeply sympathetic with his subject. Fiery phrases, pictorial hints, startling details, suggestions of effect meet here and there his quick, artistic eye, which a subordinate would never have discovered among the dull rubbish of surrounding circumstances. Pen and memory learn to aid one another in the exploration; one needs to abstract nothing from the books which serve him as a basis, nothing, indeed, anywhere, but what may best aid his immediate purpose. The drift of long correspondence, speeches, and documents of merely subsidiary value, he gathers at a glance and a few trenchant passages will serve for his quotation.

What self-directing scholar has not felt his pulse quicken and his heart beat high when in such close communion with the great actors and thinkers of the past, or as he reads contemporary reports of the event, and lives transactions over again amid their original surroundings? And, if in such personal exploits among the buried cities, new pregnant facts, new points of view are revealed corrective of prevailing misconceptions, if some sudden insight into motives, public or personal, lights up his lonely induction, how does the soul dilate with that greatest of all the triumphs of research—the triumph of discovery.

Nor let it be said, as an objection to such expenditures of time, that an economizing historian ought to reserve his best strength for the loftier task of arrangement and final composition. Let us not turn literary skill to meretricious uses; let us beware how we steer blindly among conflicting statements, or accept for facts what only our paid pupils have collected. Due preparation is no less essential to the historian than the art of telling his story; for he has never of right the free range of his imagination. There should be a time to study and a time to compose; the one task should aid and alternate with the other. Nothing, I am sure, so relieves a laborious literary life as to diversify its pursuits—to change the subject or the mode of occupation. And in historical literature, if we would save ourselves the excessive strain which soon exhausts, let us turn the pen which has been vigorously employed for a sufficient time upon the narrative to prosaic annotation and abstracts. Let us leave the recital of results for one chapter or volume to gather material and study for the

next. We need not fear to roam the broad fields of investigation over, if we hold fixedly to our purpose. The bee culls sweetness from the flower-cups before treading out the honey; and the indolence which every investigator should chiefly guard against is that of subsiding into the intellectual pleasure of filling and refilling his mental pouch for his own delectation, while never setting himself to manufacture that others may derive a profit.

As a most important means of economizing time and personal labor, we should fix clearly in advance the general scope and direction we mean to pursue, and then adhere to it, limiting the range of investigation accordingly. Authorship in history requires resolution and an intelligent purpose besides, in the development of the original plan throughout its entire length and breadth. For as the area of mental research is of itself boundless, the individual should fence off for himself only a certain portion. Chance and opportunity may unquestionably lead us on from one task of exploration to another. We may, like Gibbon, carry our work purposely to a given point, and then leave a still further advance to depend upon health and favoring circumstances. Or, as Prescott, Motley, and Parkman have done, we may let one dramatic episode when fairly compassed and set forth conduct to another and kindred one so as eventually to group out the life's occupation, whether longer or shorter, into one symmetrical whole. But to attack mountains of huge material blindly without a just estimate of life and physical capabilities, can bring only despair and premature exhaustion.

It is not strange at all if, after announcing and planning a work of so many pages or volumes, you find the burden of materials increasing on your hands; but you are a novice in book architecture, if, nevertheless, you can not build according to the plan; and you are certainly the worst of blunderers if you throw the superabundant materials blindly into form as they come and still strive to erect by contract as a cottage what should have been only undertaken for a castle. In all literary workmanship, or at least in historical, there should be specifications, and the specifications should correspond with the plan; the rule and compasses should be applied so as to give due proportion to every part of the work. In the lesser details one must be prepared to compress, to sacrifice, to omit, and no reader will miss what is judiciously left out as does the author himself.

By thus keeping within one's intended space, as carefully mapped out in advance—and I would advise every projector of a book to get practical suggestions from his publisher, and then clearly settle as to size and subject before he tackles to the task—by thus doing we circumscribe at once the field of investigation; and by apprehending well that in which we mean to be impressive or original, by conceiving fitly our main purpose in authorship, we are prepared to apply ourselves to the real service of our age. Some writers set their minds to work upon manuals, upon abridgment of what they find at hand for a certain period and country, some upon amplifying; but no one should undertake to narrate history with the same fullness as one who has told the tale before, unless he is confident that he can truthfully put the facts in a new light or add something really valuable, which has not been already set forth elsewhere.

Let it be admitted, in fine, in all historical writing, that much patient and minute study must be bestowed for one's own personal gratification alone; that one may spread the results before his readers, but not the processes. Whatever the historian may print and publish for the edification of the public, let him endeavor to make the result apparent for which he prospected; let him tell the tale, unfold the particulars, and inculcate the lesson, with the pertinence and force which best befit the character of his undertaking; and let him show his essential excellence precisely where the public has the most right to expect and desire it.

VII.—THE HISTORICAL METHOD OF WRITING THE HISTORY OF
CHRISTIAN DOCTRINE.

By PROF. CHARLES J. LITTLE,
OF GARRETT BIBLICAL INSTITUTE.



THE HISTORICAL METHOD OF WRITING THE HISTORY OF CHRISTIAN DOCTRINE.

By CHARLES J. LITTLE.

“Gibbon’s Decline and Fall of the Roman Empire,” wrote Dean Stanley, “is in great part, however reluctantly, the history of the rise and progress of the Christian Church. His true conception of the grandeur of his subject extorted from him that just concession which his own natural prejudice would have refused; and it was remarked not many years ago by Dr. Newman that up to that time England had produced no other ecclesiastical history worthy of the name.”

I place these words at the head of this brief paper because, in the first place, the notions of intelligent men (excepting, of course, clergymen and historical students) concerning the development of Christianity are derived, so far as they are drawn from books at all, almost exclusively from secular history; and because, secondly, the striking historical productions of the nineteenth century have either reluctantly or willingly tended more and more to include religious phenomena in their descriptions and discussions. Now “it is not,” as Bacon says, “the lie that passeth through the mind, but the lie that sinketh in and settleth in it that doth the hurt.” And the lie that sinketh in and settleth in the mind is the lie that is insinuated rather than uttered, the lie that is suggested sometimes in the candor of innocent but unwarranted belief, and sometimes with the rhetorical subtlety of consummate partisanship rather than the lie of brute ignorance or sectarian spleen. When, for instance, Mr. Buckle published his famous examination of the Scottish intellect of the seventeenth century, most readers accepted his conclusions touching the character of the Scotch clergy because of the multitude of his citations, hardly thinking of the existence even of the facts that he did not state. In like manner, when one reads that skillful and adroitly insinuating book, Jansen’s “Geschichte des Deutschen Volkes,” one

is aware, at the last, of a bad taste in the mouth which is not easily traceable to particular pages or even to particular statements.

This effect is most to be deprecated in the minds of the young, for impressions thus almost insensibly acquired lie in their memories latent but indestructible, yet coloring stealthily all their future thought. Histories of the church, whether histories of structure or histories of doctrine, when written from sectarian points of view and avowedly to accomplish sectarian ends, are easily dealt with by intelligent men. They can be read with suspicion; their citations can be verified with scrupulous care; the facts forgotten and omitted by their authors can with industry be supplied. But the ecclesiastical portions of a secular history are more difficult to deal with, for these seem to be merely incidental or at most collateral to the main trunk of the narrative. Only slowly does the reader become aware that what seems incidental is really the lifeblood of the book, for when he takes a secular history in his hand he is expecting nothing of the kind. Indeed, the impossibility of writing European history, in the true sense of the term, without dealing with the development of Christian ideas, without dealing, on the one hand, with their progressive conquest of a succession of alien environments, and, on the other hand, with their occasional submergence, with their frequent transformations, and their surprising modifications under the influence of these alien surroundings, seems curiously enough never to have dawned fully upon anyone until it forced itself upon Gibbon's powerful mind. Gibbon's influence worked, however, both directly and indirectly in a variety of ways. It inspired scholars like Guizot to a closer study of Christian ideas and Christian institutions upon the development of European society; it inspired broad-minded churchmen like Arnold, Milman, and Stanley to a closer study of secular society, to a more careful examination of the external conditions amid which the Gospel of the Galilean was compelled to live and to develop its colossal and divergent forms. It led men like Buckle and Lecky and Draper to their elaborate and splendid defenses of a rational skepticism, while it stimulated in its ultimate effect men like John Richard Green to the writing of histories in which "more space should be given to a Methodist revival than to the escape of a young pretender."

This influence of Gibbon, combined with that of the great

movement in Germany begun by Lessing and by Herder, has so changed the character of historical writing that now, whenever any large portion of Christian society is treated of, there is involved implicitly some theory of the development of Christian doctrine and Christian life. And it happens often that these theories are more effective (sometimes unintentionally so) than they would be if stated openly and urged aggressively. But since this broadening of the lines of secular history, like the corresponding broadening of the scope of ecclesiastical history, is not only proper but highly valuable and even necessary, the only right conclusion to draw in the premises is this: The scientific study of the development of Christian doctrine is now essential to the training of a historical scholar. It is no less absurd for him to depend upon a fortuitous concurrence of impressions for the phases through which Christian teachings have passed than it is for him to accept, without conscious and protracted investigation, the sediments of his reading touching the political transformations or the political institutions of a people whose history he affects to study. Walter Bagehot pointed out, with the touch of genius, the striking contrast between the accepted literary theory and the actual working of the English constitution. But such contrasts of literary theory with existing reality are not confined to the political aspect of historical literature; its religious aspect is marked quite as conspicuously with them. And there is but one way to avoid them—the way of all science—a continual returning to the reality. And the realities of history are the documents and remnants of the past, together with the abiding physical environment within the limits of which these antiquities and monuments and records were at first produced. In spite of Mr. Froude I venture to believe that there is a science of history; and a correct definition of scientific history, it seems to me, is not so hopelessly difficult. The science of history has for its object the discovery and verbal representation of the necessary antecedent phases of existing social phenomena. The laws of social phenomena are operative always; to find these is the work of the sociologist. But to make out from the data that exist in the present so much of the past as is necessary to the explanation of the society of the present is the work of the scientific historian. If, now, this be true, then surely his first business is to know thoroughly the phenomena that he seeks to explain, for his reconstruction must be regressive,

not progressive; it must be a movement backward from the the known data at hand to the discoverable fact no longer visible and tangible; albeit for purposes of intelligible and vivid exposition he may be permitted to invert this order of investigation when he comes to set forth his conclusions.

Now, I venture to ask, have religious phenomena in our modern historical writing been always treated in this scientific spirit? Would it be altogether impossible to name books of even great reputation in which religious phenomena are explained that never had an existence, or books in which the part is given for the whole, or books in which fact and conjecture are interwoven so inextricably that the total impression is quite misleading, or books in which the chronological sequence of events is so neglected or so disordered as to disturb hopelessly their causal relations? Moreover, have we not been and are we not continually exposed to the perils of a very arrogant subjectivity? Gibbon and Carlyle are surely not the only sinners of their kind. If none appear able to bend the bow of Ulysses, many indeed appear to try it. Then, again, is there not a tendency in a multitude of writers to assume without special study the possession of an acquaintance with the great phases of the development of Christian life and Christian ideas? With what easy presumption do they not express opinions upon the early church and the development of its beliefs, upon the struggles, intellectual and political, which led up to the creed formations of the œcumenical councils, with the speculations of mediæval philosophy, and with the varied mental and spiritual life that issued in the creeds of the reformation periods? And yet how inadequate a knowledge have they too often of the complex environment within which these creeds and this philosophy were produced! How slight an acquaintance even with the chronology of their antecedents! Nevertheless, we hear them passing judgment upon the character and motives of those who contributed to these marvelous constructions and repeating judgments upon the society, in the midst of which they were produced, such as make the conscientious historical scholar reflect with reluctant approval upon Napoleon's definition of history as "*une fable convenue*." I know how much I am demanding. Scratch any man of intelligence and you soon discover a religious animal. Men betray their interest in religion even by their opposition to it. To ask the student to

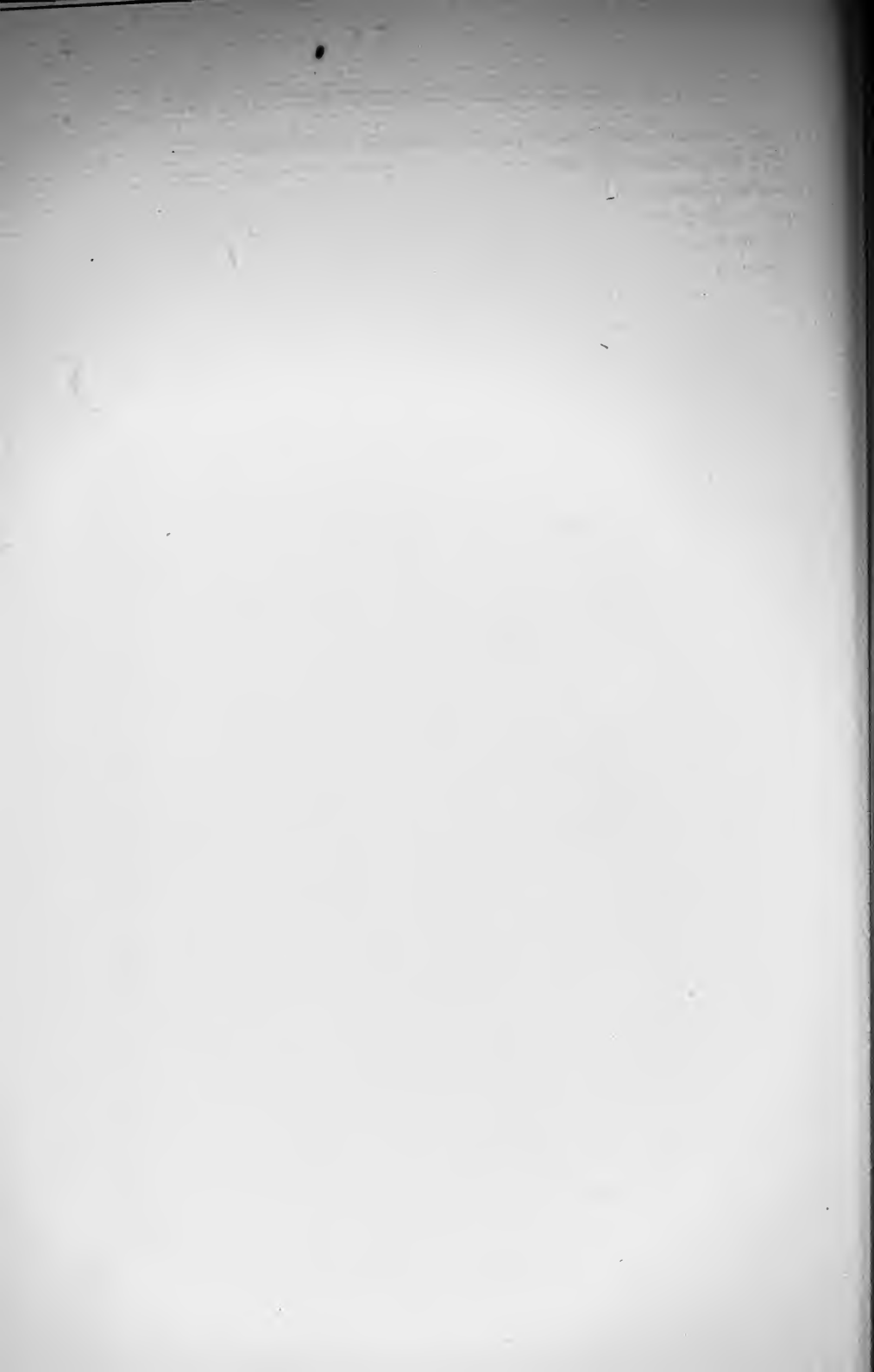
strip himself of inherited religious tendencies or of acquired religious convictions, positive or negative, as a preparation for the candid study of historical phenomena is like asking him to take off his flesh and to sit in his bones. It is asking him to take off his emotions and to sit in his intellect. Few, indeed, are those who can lay aside even the training of the school and the influence of the social medium. In fact, for men to act as pure intellect has proved almost impossible in those departments of investigation where the emotions are least involved; yet, difficult as it is, science, who is a jealous divinity, requires of her servants precisely this achievement; nor is the altar of history less worthy of the sacrifice than any other altar in her mighty temple. To this end the scientific historian must return again and again to the realities of history, to the documents and monuments by which alone he can rectify his impressions and nowhere are these impressions of greater importance than when they relate to the religious life and the spiritual beliefs of civilized mankind.

And I repeat it is impossible in our day to treat historically of any large section of Christian society without involving oneself in the discussion of some phase of Christian doctrine and Christian belief. Nor is it enough for the writer to designate his point of view and thus absolve himself calmly from the duty and necessity of personal investigation. Hypotheses, frankly stated and severely tested, are as admissible in historical as they are in physical science. But the aim of science is truth, not the preservation of tradition; the discovery of what is and what has been, not the perpetuation of *points of view*; it is the ultimate concord of opinion upon all great subjects, not the consecration of discord by high-sounding names.

Now I know that the secular historian upon whom the incidence of this paper seems to bear has an easy retort for his ecclesiastical brother—" *Tu quoque,*" "Thou art even worse than I," rises easily to his lips. I shall not attempt any defense. In many instances it would, I fear, be impossible to defend the ecclesiastical historian with success. For, in many instances, he is not only sadly ignorant of the secular environment, without which it is impossible for him to interpret properly the documents that he studies, but, such have been the defects of his training, that he is ignorant often of the details of their genesis, and, consequently, of their real significance. It is perhaps too much to say, with the late Edwin Hatch, "That the

study of Christian history is almost wholly virgin soil," and yet the paradox contains, I fear, a grain too much of truth. "There are," he continued, "thousands upon thousands of histories; there have been hundreds upon hundreds of historians; but for all that, the fields of Christian history are new, as until recently all fields of history were new, because they need new research and the application of new methods. The past of Christianity has been studied for the most part so far as a collection of antiquities or a collection of biographies. Ecclesiastical histories are for the most part either museums or biographical dictionaries. But that which lies before the earnest and candid student, as an object of supreme and absorbing importance, is the discovery of the nature of Christianity; its relation to the whole mass of contemporary facts; the attitude of mind in which successive generations have stood to this original Christianity; and the causes of those attitudes. This is a study as vast as it is interesting; the final results are not for us or for our time. But there are general results which may come to us in our time apart from the final results which are yet on an unseen horizon." If, in quoting these words of Dr. Hatch, I seem to concede that those whose special province it is to discover and to disclose the successive phases through which original Christianity has passed, are only at the beginning of their tremendous task, I feel compelled to add that this is all the more reason why those who deal from the secular side with phases of Christian belief should be both humble and wary, and to add further that the reproach of the ecclesiastical historian is rapidly passing away. This is the age of scholars, like Lightfoot and Hatch and Harnack. The latter have taught us—the Englishman by the minuteness of his observation; by his scrupulous anxiety to overlook nothing of importance; by the more than human industry with which he sought out fact; and by the almost divine calmness with which he accepted truth; by the swift and steady movement of his reason and by the fullness of his charity; and the German by the vastness of his knowledge; by the swiftness of his insight; by the grandeur and accuracy of his combinations; by his sympathy with every age and every form of earnest thought—that the historical writer of the future need not be, unless he is willfully so, ignorant any longer of the crises through which Christian belief has passed in its progress to our time. For these and many others with them have worked, not as iconoclasts, but as discoverers; not as apol-

ogists, but as investigators; not to preserve or to destroy traditions or institutions, but to discern the ways of God in human history, leaving these ways to justify themselves to mortal men. They, in the beautiful language of one who carried gloriously the spirit and "substance of a passing system into the forms of future power—they have obtained a good report, but have not obtained the promise, for without us they can not be made perfect." Only as we who believe in a science of history avail ourselves of their results to complete our training and our studies, only as we enlarge our minds by breathing their spirit, only as we increase our skill by applying their methods and our power by making use of their discoveries, shall we see wisdom justified of her children and make it appear that the masters have not wrought in vain.



VIII.—THE REQUIREMENTS FOR THE HISTORICAL DOCTORATE
IN AMERICA.

By PROF. EPHRAIM EMERTON,
OF HARVARD UNIVERSITY.



THE REQUIREMENTS FOR THE HISTORICAL DOCTORATE IN AMERICA.

By EPHRAIM EMERTON.

The degree of doctor of philosophy is to the scholar by far the most important of our academic distinctions. The bachelor's degree has long ceased to have any distinctive meaning. The master in arts was until recently the object of deserved ridicule and, in spite of all efforts to restore him to respect, he still remains an ill-defined being, of whom nothing in particular can be predicated. The term "doctor of philosophy" alone represents, at least to the mind of scholars, something tolerably definite and worthy of preservation. It owes this distinction partly to its newness. It is in the stage when an institution must justify itself or be lost. Unhappily the tendency to take the shadow for the substance, which has been so great an injury to all American education, is beginning to make itself felt here, and we are already forced into an attitude of defense if we would maintain for our only useful higher degree the meaning it ought to have.

This specific meaning of the philosophical doctorate should be that it represent at least two years of continuous study *after the attainment of the highest baccalaureate that can be got*, that this study be directed into some special field of scholarship, be conducted under the leadership of men who are themselves specialists in that field and be not interrupted by other occupations of any sort. Its method must be mainly that of research, in distinction from that of acquisition, and its aim must be the gain of power as well as the gain of knowledge.

The evils from which the degree has at present suffered are, the granting "*causa honoris*," the granting "*in absentia*," insufficient time for the study and insufficient equipment for its proper pursuit. In some quarters the granting of the degree for "independent" work done at a distance from

academic resources and by men engaged in the practice of other professions is openly advocated as the best means of extending the usefulness of the doctorate. In other cases it is given for a book written, or for other service rendered to the cause of learning, or, as in a case I heard of recently, to a man who might well have done some such service, if circumstances had not prevented. The source of all these evils may be summed up in the one vicious tendency to make as many doctors as possible, whereas our aim ought to be to keep our degree as high a distinction as possible, and to extend it only in proportion as the resources of our educational system supply a solid basis for it.

The danger from the evils I have mentioned, to the doctorate in general, is especially to be guarded against in the case of history. In the several departments of natural science, for instance, the importance of adequate laboratory facilities is so well recognized that a student is not easily deceived into accepting any but the best equipped teaching he can command. He goes naturally to the few great centers where large and expensive plants have been established and where men of distinction in their branch are gathered. In regard to history the same conditions do not exist. It is comparatively easy to impress young men early with the idea that history is to be got out of a few books, and that no especial equipment whatever is needed for its study. If one decides, at the close of a college course, that he would like to go into teaching, and that history is the subject which attracts him, he is all too easily caught by the offer of a degree on pretty easy terms, and may well fail to grasp the immense range and bearing of his chosen topic. Those who have the real interests of our higher education at heart can not apply themselves too earnestly to maintaining the standards here as elsewhere.

In determining the positive requirements for the historical doctorate in America attention ought first to be given to the preliminary training of the college. The great diversity in the bachelor's degree makes it quite impossible to accept this alone as the foundation for future study along any specific line. We are constantly forgetting this and acting on the assumption that one A. B. is not only as good but the same as another. We are involved in the use of the unfortunate terms "undergraduate" and "graduate," though a moment's thought shows us that these words have no real meaning whatever and

represent acquirements ranging, between minimum and maximum, over a variation of from one to three years. This variation in quantity is even less than the variation in quality and in variety of subjects. There are A. B.'s without Latin or Greek, without any modern language, without history, without philosophy, even without political economy. In setting our requirements for higher degrees we have been too much in the habit of overlooking these distinctions and assuming that our conditions were like those of Germany, for instance, where it is possible to assume that the graduate of the gymnasium, no matter where he come from, will have a certain well-defined equipment upon which later work may be based.

It will not do to say that our future doctor in history must be an A. B. We must prescribe certain studies which he ought to have followed before entering upon his specifically advanced historical course. In the first place he ought to have a good linguistic training. I have little sympathy with the notion that philology and history are the same thing, and might even hesitate to group them together as they have been grouped by the chief historical schools of Europe as the most natural yoke-fellows in the fields of scholarship. But, however one may think on this subject, it can not be denied that without a knowledge of languages no historical study can be anything more than elementary. It is idle to blind ourselves to the fact that the record of the life of almost all humanity, especially that record which is best worth the study of the historian, is written in languages other than English. If our doctor is to be a trained specialist in the use of this record in the sense in which the chemist is a specialist in the use of his material, and the economist in the use of his, and the theologian of his, he must be able to read the record as it was written, and the time for him to acquire this reading knowledge of the necessary languages is before he begins to specialize. Taking the languages in order of importance he ought to make himself able to read easily Latin, German, and French, and should have some knowledge of Greek. By far the best method is, after he has made a start under the direction of his college teachers, to spend his long vacations in the rapid reading of the modern languages, using such literature as will make him familiar with the best prose and at the same time be sufficiently amusing to keep up his interest. His teachers in college can not help him here beyond the start, and if he depends upon

their aid he is wasting valuable time which might be given to other things. By this plan a capable and vigorous youth (and for our doctorate we can use none other) ought, by the time he leaves college, to get enough linguistic training, so that he can handle without great difficulty materials, original and second hand, in a half-dozen languages. His advantage here is great beyond all question. He has taken the first steps toward becoming not merely a specialist in one corner of his field but toward achievement in any part of the vast domain into which his taste may lead him. He has gained an instrument which will serve him wherever his work may lie and which he can never again acquire so easily.

Next, our candidate should have some training in philosophy. The study of history is largely the study of evidence based upon human testimony. The chief defect of historians, the chief source of differences among them, and of uncertainty in our knowledge of the subjects they treat, has been their incapacity to understand evidence and to interpret it aright. Perhaps no people has illustrated this defect more thoroughly than the one which has done most in the cause of modern historical research. The student who should trust the inductive capacity of the most diligent and most highly trained German, without careful examination, would be putting himself in danger of endless error. The only safeguard against this danger is the cultivation of a habit of close and methodical thinking, and the best academic aid to this is the study of philosophy, especially of formal logic. On the other hand it should be remembered that the science of historical evidence is not an exact science. It does not proceed by the rules of mathematics; it deals only with high degrees of probability, not with certainties, and, therefore, the candidate for historical honors ought to practice himself in that kind of argument which brings in the element of human judgment and even of human error. It would be well for him if he could read and ponder carefully some treatise on the law of evidence, such as a special student of law might use. If it could be made clear to him early in his course that he is dealing with matters which will not let themselves be regulated by the laws of mathematics, nor even by the principles of formal logic, but have, nevertheless, a law of their own, which it is his business to interpret, he will be in a state of mind the most useful for the historian of the future.

Again an early study should be the elements of economic science. After all, the primary need of man is daily bread and underneath all the great combinations of political and national life which the historian is called upon to study, there lies the impulse of self-preservation and of advancement in material things, which form the subject of economic study. The principles of this study are not difficult. They can be comprehended in their outline by a bright schoolboy and the college student is capable of taking in a considerable deposit of this kind of information, which can not fail to be of use in historical work. If, for example, he would rightly comprehend the great movements of nations from one country to another, the decline of races remaining upon one spot of earth, the rise and fall of populations, by which the course of political history has so often been determined, he must be able to give its due weight to the economic element.

The last subject which I should urge as a fitting accompaniment to the early stages of historical work is that of the fine arts. It would be a lame historian indeed who should wholly have left out of his vision the most wonderful product, next to the great literatures, of the human mind. I do not forget that the American student is here hopelessly behind the European, not only in the absence of great works of art for his study, but also in that general depression of the æsthetic sense from which our community suffers. But, on the other hand, I know with what eagerness our youth catch the suggestions of the æsthetic progress of mankind, when they are offered to them, and how valuable the knowledge, even if it be mainly book-knowledge, of what man has done in this direction may be to the historical student. It offers him a key which unlocks the secret of many a period of history otherwise obscure, and these periods are among the most instructive, in every sense, with which he will have to deal. The resources of modern photography have put within the reach of every one reproductions, which, for purposes of instruction, are almost as valuable as the originals. The reaction of such study upon the more technically historical work of any student must be healthful in the extreme.

As to how much of this more distinctively historical study we may properly demand of the college student who is looking forward to the doctorate, I have thus far said nothing. I place it last, because it seems to me on the whole, the least

important. If I were required to take my choice between a candidate well equipped in language, in philosophy, in economic science, and in the history of the fine arts, and one who had spent the same time in reading history without any of these aids, I would take my chances with the former. But we are not driven to this alternative. The college course, resting upon a solid preparation in school and beginning at about the eighteenth year of a man's life, has room, besides the studies I have mentioned, for a good deal of actual acquisition in history. It may fairly be assumed that the youth who has gone through the normal process of an American student, will have a smattering of Greek and Roman history, and some knowledge of the history of his own country in school. If now he can add to this the work of one year in college, not an extravagant demand for a man who is going to be a specialist in this field, he can get a fair amount of purely historical knowledge with which to start on his course for the doctorate. This work would not, in the natural course of things, be taken all in the same year. It would include a considerable elementary knowledge of mediæval and modern history as a basis for further study. To this might be added one course in mediæval work, one in modern European, and one in American constitutional history, with one year's membership in some practice course, where the work should be directed mainly to the acquisition of method in the handling of historical documents, rather than to getting information about facts. It would be undesirable, as it would in fact be impossible, to prescribe at this stage of progress a precise course of study which every student ought to follow. The most that can be said is that he ought, during this preparatory period, to acquire a tolerably rounded knowledge of the critical periods of the history of civilized man. If it were possible at this time to learn something of archæology, as distinct from the fine arts and with especial reference to the development of man as a working and creating animal, the scope of the student's understanding of history would be effectively widened.

We come then to the period of special study looking directly toward the winning of the doctorate. Of the three pedagogical processes of acquisition, comprehension, and research, the student should now be led mainly into the last, but with a constant accompaniment of the two former. He should never cease to acquire; never for a moment can he venture to think

of himself as having enough knowledge of historical "facts." Especially in those fields of history which lie outside his main interest, he ought to do wide and thoughtful reading, searching there for the analogies and illustrations which will serve to connect his narrower study with the great course of human experience. The specialist in American history, for instance, can never afford to give up careful reading in the history of the great republican experiments of Greece and Rome and mediæval Italy and modern Switzerland, by which alone he can comprehend what the wonderful story of our American political experiment means. So also with the effort to comprehend the more obscure relations of constitutional and institutional life in which he may be helped by the work of experienced teachers. He should not cease to attend the lectures of skillful expounders of these things, since this time of his professional study is the precious opportunity, the last he will ever enjoy, of profiting by personal contact with men who have traveled before him the long road he is to follow. Only as he continues these two processes of acquisition and of an ever-widening comprehension is he in a condition to profit by the narrower work of research.

In mentioning two years as the period of special study for the doctorate, I should wish to be understood as indicating a minimum time. Experience shows that almost every candidate finds himself at the end of two years still hesitating to put into definite shape the results of his study and glad of another year before him which he may devote wholly to this purpose. As to how the two years of study should be filled no precise course can be laid down, which every candidate ought to follow. A few suggestions of experience may however be made. The future doctor is to be a specialist, but let him be guarded against being a too narrow specialist. If the phrase be intelligible, I should say, let us try to make him narrow in order that he may be broad. Let him be directed into a line of inquiry which shall be, in the stating of it, as limited as you please, but which shall, by the nature of the study into which it leads, tend to draw him on and out beyond the limits of the mere statement into ever wider and wider circles of interest and of possible future research.

If the too great narrowing of the scholar's vision is a danger in Europe,—and we are now beginning to be told that it is so—this danger is especially great in America. The work of the

European teacher of history is very closely specialized; that of the American teacher must long remain, greatly to his personal advantage, wide as the field of history itself. Even in Germany, the great teachers of the last generation, the men who led in the work of scientific development of historical instruction, were men of the widest interests. It was not at all uncommon to find among them one who lectured at the same time on the history of the ancient world and of the most modern times and there can be little doubt that this work was thereby made the more effective in both directions. We have been learning from Germany the lesson of specialization; let us beware lest it prove that we have learned it too well.

The remedy against this threatening evil is that the idea be constantly held before the mind of the youthful scholar that history is but one subject, within which there are indeed many branches, but that these have their value for him only as they are seen to depend upon the main stock. To do this most effectively, he should be helped into a knowledge of many things which apply to history as a science, without regard to its periodisation. Such for instance, is the instruction known in Germany as methodology and encyclopedia, a clumsy enough designation, but of great use to the historical specialist by bringing together under one point of view all that is best worth knowing theoretically about the history and method of his science. If it be objected that the best way to learn method is to use it, I reply that whatever tends to give the professional historian a sense of the unity of his subject, of its quality and its value as distinguished from other subjects, of his association as a member in a great community of scholars all over the world who are pursuing the same interests with himself all this helps him on toward higher conceptions of his life-work and makes him more effective in it. The time to get hold of these impressions is when he is taking his apprenticeship.

In the same line of usefulness I place all that group of studies which have as yet no fixed name in America, but which are known in Europe as the auxiliary sciences of history. These have reference to history as a whole, and are of use to any one who means to be a thorough student in it. They include chronology, geography, anthropology, numismatics, diplomatics, sphragistics, heraldry, and palæography. Others might be added, but these are subjects upon which every his-

torian of the future ought to know something. Indeed, it seems hardly to need argument that the specialist in a science which involves constant reference to the succession of time ought to know something of the ways in which that succession has been determined; that one who is continually dealing with the movement of events in place ought to know something of the science which tells how the theater of history was prepared for it, and that no one can be a passed master in a science resting almost wholly upon the evidence of documents who has not some information as to the process by which these documents were prepared, and of the language in which they were written. And yet, simple as this argument appears, I know of but one place in America where any systematic attempt has been made to instruct pupils looking towards historical honors in this group of auxiliary sciences, and that attempt has been allowed to fail by the indifference of trustees. As our discipline grows in favor we may hope ultimately to demand this kind of knowledge from every candidate for the doctorate in history.

In regard to one other topic of general value to the historian, I speak with more hesitation. The true place for any profound study of the philosophy of history is, in my judgment, not the early, but rather the later years of a man's professional life. It is so largely a speculative subject, its fascination is so dangerous to the untrained mind, that I should warn any one without a knowledge of history that might really be called profound from going very far into it. Yet with such warning, with the clear understanding that he is dealing with speculative matters and must not look for certainty, the candidate in history may very profitably venture upon a brief excursion into this field. It may do him the service of making it clear to him that there have been many very different theories as to the motive power of human society and save him from a one-sided conception of its underlying principles. At all events it is worth his while to know that all historical knowledge is but ill-assorted cram unless it be interpreted by a sound philosophy, however elastic this may be.

I come finally to the method of awarding the great honor we are called upon to administer and to guard. In the first place, we ought to insist that the preparatory study should be conducted under the close personal guidance of qualified instructors. The candidate for the doctorate should be a marked

man at the university. He ought not, however, to be called upon to do any considerable part in its work of instruction. How much of such work he may properly do should depend wholly upon the question whether it is likely to advance his professional interest. The utmost care should be taken on the one hand that his work be systematic, regular, and methodical; on the other, that he be not hampered by any of the petty restrictions as to times and places supposed to be necessary to the undergraduate period. His relation to the teachers of the department should be that of a personal friend, working with them toward a common goal. The knowledge of his work gained by this close personal intercourse makes the ordinary methods of academic test, by frequent examination or otherwise, superfluous in his case. If he be not capable of utilizing the freedom of his position to his advantage it would be better to exclude him at once from candidacy.

So much the more important, however, does it become that his attainment in power—the thing we are, after all, trying chiefly to give him—should be tested by more or less frequent pieces of work. I value such intermediate tests partly as a preparation for the final thesis and partly as diminishing the undue importance sometimes attached to that production. In many cases if the candidate were required to present several times in his course the results of less prolonged investigation, he would come to know his weak points and be spared the mortification of finding at the close that his one great effort is, after all his pains, only an attempt and a failure at that. Furthermore, in considering the question of the award such weight might be given to these preliminary tests that any undue prominence of the final thesis might be avoided.

As to the nature of the doctor's thesis, a very high standard ought to be set, but we are in danger of exaggerating one of the most useful demands usually made. It may safely be required that the thesis should be a contribution to the learning of the subject, and in that sense original. It is only in the interpretation of the word "originality" that I find a serious difficulty. Hardly anything has done more harm to the modern German scholar than a morbid craving for the kind of distinction which comes from finding some new thing. Now and again it has had great results, but it has begotten a feverish dread of the commonplace which our American scholars can not afford to imitate. The field of history is full of unsolved prob-

lems, and the honest attempt to enlighten any one of these, if it be accompanied with a wide study of the surrounding material, is all we can ask. The actual discovery of new matter can not be made a test of success, unless we desire to limit our students to the narrowest of all fields, the history of our own country.

As to the need of a final examination, oral or otherwise, upon the candidate's general command of historical knowledge, opinions differ. One view is that if the candidate has been frequently examined during his preparation, this is evidence sufficient as regards this part of his fitness for the degree. No man, it is said, can be expected to know everything, and an examination ranging over a very wide field must of necessity be superficial in its testing power. There is in this comment too much of that tendency to speak of academic work as "gotten off" and laid aside, which can not be too greatly deplored. Even though a man had been examined in the earlier stages of his course, the knowledge he had then ought not to have slipped away from him without result; it ought to have been enlightened and enlarged by all his later study, and it is precisely this final condition of his intellectual stock that the special examination for the doctorate is well calculated to reach. If such examination be oral, it may, without injustice, take the widest range and give to the candidate the best of opportunities for telling what he knows, not, be it well understood, of showing the results of a cram, but, of giving the orderly product of his thought on his chosen subject. If it be written, the candidate may be allowed such a wide option of questions that the result may to some persons seem even more satisfactory. In no case should such a searching final examination be dispensed with.

An experience of some years in the administration of the doctor's degree leads me to the conclusion that it has a very large part to play in the development of our American scholarship. There are those who despise all academic degrees as fictitious and valueless. Their value must depend wholly upon the strictness with which they are administered. There is no more impressive lesson in our educational experience than that making distinction difficult not only increases its value but actually incites a greater eagerness to get it. The American youth, easily deceived for a time by educational charlatanry, is yet able to take in this idea with considerable readiness, that whatever costs much is probably worth working for, and,

within reasonable limits, we need not fear to alarm him. He will only make another effort, and eventually, if he has the stuff in him of which scholars are made, he will reach his aim. Let us, in whose hands lies the future of the historical doctorate in America, see to it that our part in this endeavor be not wanting.

IX.—THE FIRST FUGITIVE SLAVE CASE OF RECORD IN OHIO.

By HON. WILLIAM HENRY SMITH
OF LAKE FOREST, ILL.



THE FIRST FUGITIVE SLAVE CASE OF RECORD IN OHIO.

By WILLIAM HENRY SMITH.

The immortal sixth article of compact of the ordinance of 1787, chiefly adopted by the votes of the Southern States under the lead of Virginia, undoubtedly reflected the sentiment of the majority of the people. The clause recognizing property in slaves is as mild as language could make it. There is nothing mandatory about it. The escaping fugitive "may be lawfully reclaimed and conveyed to the person claiming his or her labor or service." In the corresponding clause in the Constitution, then being framed, "shall be delivered up on claim of the party to whom service or labor may be due," was substituted, and this language is followed in the act of 1793. But this was construed in the spirit of the milder phrase in its execution for many years; and, indeed, the legislative act admitted of no aggravating process. If these early documents, the acts for the suppression of the slave trade and the compromise measures of 1850, were printed in parallel columns a striking contrast would be presented. The history of the evolution of the power that dominated the destinies of the Republic for over half a century would be displayed on a single page. Prior to 1808 slavery received only a shamefaced recognition on either side of the sectional line. Indeed, I might say 1819, for activity in its propagation was noticeable only after that date. The reason, which is well understood, need not engage our attention. Whatever of antagonism occurred on the border west of the Allegheny Mountains was due to the cupidity of a few, and did not involve the good people of Virginia, Kentucky, and the Northwest.

Among the papers of Governor Samuel Huntington, of Ohio, was found an incomplete account of the first fugitive slave case of record under the act of 1793 that occurred in the territory embraced in the ordinance of 1787. Research in Virginia has

enabled me to complete the story, which presents some striking features; and as the facts illustrate the operations of the laws regulating slavery, and show the sentiments of the people of Ohio and Virginia as regards that institution in the beginning of the century, I purpose briefly to recount them.

On the 22d day of October, 1808, in the pioneer town of Charlestown (now Wellsburg), Brooke County, Va., a called court was held for the trial of Jane, a slave of Joseph Tomlinson, jr., charged with entering the premises of a merchant in nighttime, and stealing goods exceeding in value \$4. James Griffith, an upright judge, presided, assisted by four citizens, gentlemen. Philip Doddridge represented the commonwealth and Alexander Caldwell the accused. The testimony was voluminous, but this brief transcript from the records of the court shall suffice:

The court, after hearing the prisoner's defence, are unanimously of the opinion that she is guilty of the offence wherewith she stands charged, and thereupon it is considered by the court that she be taken from here to the place whence she came, and be there confined until the tenth day of December next, and that on that day she be taken by the sheriff from the jail to the place of execution, and there, at twelve o'clock on that day, be hanged by the neck until she be dead. And it is ordered that a transcript of the warrant and proceedings be made out and certified in two different mails to the clerk of the executive council by the clerk of this court.

Ordered, that it be certified that the value of the said slave, in the opinion of this court, is \$350.

The papers in the case were received at Richmond by due course of mail, as the executive records show:

Friday, November 4, 1808. The governor laid before the board the proceedings of the county court of Brooke for the trial of Jane, a negro woman slave, the property of Joseph Tomlinson, jr., condemned to death by the said court for felony; whereupon it is advised that the said Jane be reprieved until the 1st day of November, 1809, for sale and transportation. And it is further advised that John Connell, clerk of the said court, be appointed agent to dispose of the said slave for the best price he can obtain, and take bonds from the purchaser for the amount of sale, and for carrying her out of the United States agreeable to law.

The full force of these records will be better understood when read in the light of the changes in the laws regulating slavery:

The act of 1692 for the trial of slaves charged with a "capital" offense, which the law of England required to be satisfied with the death of the offender, or loss of member, required the accused to be committed to jail laden with irons. The governor upon receiving notice from the sheriff of the arrest, issued

out a commission of oyer and terminer directed to fit persons of the county, who forthwith held a court for the trial, and took for evidence the confession of the party, or the oaths of two witnesses, or of one with pregnant circumstances, with the "sollemnitie" of jury, and the accused being found guilty, to pass judgment as the law of England provided in the like case, and on such judgment to award execution.

This law was amended in 1748 by the lieutenant-governor, council, and house of burgesses, so as to provide that in case the court should be divided in opinion, the accused should be acquitted; that in case of conviction there should be ten days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion; and that punishment should be without benefit of clergy. The minimum of loss justifying death was fixed at 20 shillings current money, but care was exercised as to the sufficiency of testimony.

In 1772 the act of 1748 was so amended as to provide that a slave convicted of housebreaking in the nighttime without stealing goods should not be excluded from benefit of clergy, unless a free man in like case should be so excluded. And it was further enacted "that sentence of death should in no case be passed upon any slave, unless four of the court, before whom such slave is arraigned and tried, being a majority, shall concur in their opinion of his guilt."

In 1786 a law was enacted constituting the justices of every county justices of oyer and terminer for trying slaves charged with treason or felony, which trial was required to take place within ten days after arrest. No slave could be condemned unless all of the justices sitting upon his trial should agree in opinion that the prisoner was guilty. It also provided that where judgment of death was pronounced thirty days should be allowed between the time of passing judgment and execution, except in case of conspiracy, insurrection, or rebellion. The justices were also required to fix the value of the condemned slave, which sum was paid to the owner out of the public funds before the day of execution. No person having interest in a slave was permitted to sit upon the trial of such slave.

Finally, in 1801, an act was passed authorizing the governor, with the advice of his council, to contract with any person for the sale or purchase of slaves under sentence of death for con-

spiracy, insurrection, or other crimes, the purchaser being required to enter into bond, with sufficient security, in the penalty of \$500, with the condition to carry out of the United States the condemned; such sale amounting to a reprieve from sentence of death. Provided, that in the case of the return to Virginia of such person, the original sentence should be carried into effect as if no reprieve had taken place. The owners of slaves transported were paid in the same manner as for slaves executed. The court in all such cases was required to certify the proceedings and findings to the governor.

Let us now resume our story. Before the action of the governor could be known at Charlestown, the door of the jail was left open and Jane walked forth unmolested by any. After spending two days in the village, which was known to the officers of the court, she crossed the Ohio river to Marietta where she found employment as a domestic in the family of Abner Lord. There is a charge in the bill of the jailer for "eighteen days' boarding of the negro slave Jane," which would make the date of her escape the 9th of November. There is no doubt but that public opinion was against the severity of the law, and even against the alternative of sale and transportation, which was pretty sure to result from the action of the executive in all such cases, and this feeling of humanity is what moved the officer of the law to connive at the escape of Jane before notice of the act of the governor and council could be received. It is certain that the woman was not regarded as vicious—the testimony of witnesses on her trial was favorable as to conduct—or the community would have regarded sale and transportation as a relief. After her escape no one interested himself in her further punishment, although her place of refuge was known to the sheriff and the citizens of Charlestown.

This friendly indifference was interrupted in time, when it became known that the escaped slave had given birth to a child at her new home, and slavery had a claim now on two souls instead of one. The year stipulated in the reprieve had expired without notice; Jane, who had married a free colored man soon after finding a new home, seemed to have no apprehensions of being disturbed, when cupidity in the form of Jacob Beeson appeared in Marietta and attempted under the act of 1793 to carry off by force the mother and child. There is no evidence that Beeson at any time represented the agent appointed by

the governor to sell and transport the woman, or, in fact, anybody in that section of the State but himself. He applied to the governor of Virginia for a letter to the governor of Ohio, "confessedly," so citizens of Marietta said, "for the purpose of procuring the woman and her child for himself." We shall see how he accomplished his purpose. This application revived the case and called for executive action, of which we find due notice:

Thursday, February 1, 1810. It is advised that the governor demand of the executive of the State of Ohio a negro woman slave named Jane, who was heretofore relieved for transportation by the executive of this Commonwealth, but escaped from custody, and is now said to be in the State of Ohio; and that Jacob Beeson, esquire, of Wood County, be employed as agent for this Commonwealth to apply for the said negro, bring her to the county of Wood, and retain her until the further order of the executive.

This demand was in the form of a letter, which reads as follows:

RICHMOND, VIRGINIA, *February 5, 1810.*

SIR: I have the honor to enclose you a copy of an advice of the council of this State duly authenticated, authorizing a demand for a slave, who, having been convicted of felony in one of the county courts of this State, has, under an act of the general assembly thereof, been relieved for sale and transportation, but who has escaped from custody, and is said to be in the State of Ohio. And in pursuance of the said advice I have to request your excellency will be pleased to cause the said slave to be arrested and delivered up to Jacob Beeson, esquire (of the county of Wood in this Commonwealth), the agent appointed on behalf of this State to receive her.

I am, with great respect, your excellency's obedient servant,

JNO. TYLER.

His excellency, the GOVERNOR OF THE STATE OF OHIO.

What befell Mr. Beeson is best related in his own words:

WOOD COUNTY, VIRGINIA, *Feb'y 24, 1810.*

SIR: I have the honor to enclose to you a demand made by the governor of Virginia of a slave who is now in your State, in the town of Marietta, in the service of Abner Lord. Governor Tyler did suppose that the citizens of Marietta would have had a sufficient respect for the rights of this Old Dominion, and that they would have delivered up its slave without your interposition. But I lament that we have been disappointed, for immediately upon my application to a justice of the peace for the delivery of the slave, she was secreted and put out of reach of the officer.

It is with great concern that the people of Virginia (who reside on its western extremity) look forward to the evils that will grow out of this course of conduct pursued by the people of your State residing on and near the Ohio. The idea of emancipation is propagated, and that such will fire the breast of every slave no one will doubt. The executive thought

it not necessary to forward the records of condemnation, as that circumstance was notorious in the town of Marietta.

Please inform me by the next mail of the course which I am to pursue, and direct to Wood Ct. House, Virginia.

I am, with great respect, your obedient servant,

JACOB BEESON.

His Excellency the GOVERNOR OF THE STATE OF OHIO.

On the same day that Mr. Beeson addressed the governor of Ohio, a number of the prominent citizens of Marietta signed a petition requesting him not to surrender the woman. "They feel no other interest," they say, "than that of insuring to an object of commiseration that justice which is her due." Thereupon they recite the facts which I have already related, adding that they had reason to believe that the conviction was improperly procured, that the woman was persuaded to leave the jail, and that word was sent to the sheriff early that she was ready to return if required. They say further that she had not sought to elude all search, "but would only desire to be kept from one whose avarice alone, it is believed, has prompted him to attempt to regain her." They believed that she was entitled to enjoy the liberty that had been thrust upon her.

The signatures to this petition are of men who have a place in the history of this country, men who carried forward what Manasseh Cutler had planned—Samuel P. Hildreth, the Putnams, Dudley and William Woodbridge, Caleb Emerson, Griffith Green, the Devols, Joseph Israel, Benjamin Ruggles, Gen. Buell, Obadiah Lincoln, Thomas L. and Charles Prentiss, J. B. Gardiner, Timothy E. Danielson, and Abner Lord. To these New England names should be added that of the English Quaker, John Brough, father of the John Brough who became a famous governor during the storm and stress period. These represented the principles embodied in the ordinance of 1787, which made Ohio the most interesting battle ground in the moral and political contest that quickly followed. This petition was the first of a long list of petitions having a common object, that were addressed to the executive of the State during a half century.

Governor Huntington ignored Beeson's impudent letter, but on the 22d of March he replied to Governor Tyler. That letter was destroyed by fire, but from his executive memoranda I find that he refused to comply with the demand, for the chief reason that the law of Congress concerning fugitives from

labor did not authorize the executive of a State to interfere with the apprehension of slaves.

The case did not end here. The original claim of Beeson for the rendition of a fugitive from service was abandoned, and a formal application made for the delivery of Jane as a fugitive from justice. The letter of Governor Tyler accompanying the papers is sufficiently formal and explicit:

RICHMOND, *April 26th, 1810.*

SIR: I have the honor to enclose to your excellency copies, duly authenticated, of the proceedings of the court of Brooke County, in this Commonwealth, on the trial of Jane, a negro woman slave, late the property of Joseph Tomlinson, jr., a citizen of the said Commonwealth, now said to be in the State of Ohio; and of an advice of the council of State, authorizing a demand of the delivery up of the said slave as a fugitive from justice; and an appointment of Jacob Beeson, esquire, as an agent on the part of this State to make of your excellency the said demand. I have therefore to request that you will be pleased to cause the said slave to be arrested and delivered up to the said Jacob Beeson, according to the Constitution and laws of the United States in such cases provided.

I am, with great respect, your excellency's obedient servant,

JNO. TYLER.

The GOVERNOR OF THE STATE OF OHIO.

The law under which this demand for the arrest and return of a fugitive from justice was made, Governor Huntington held, as did two other governors of the State of Ohio in subsequent years, left little discretion to the executive upon whom the requisition was made. He therefore directed a warrant to issue to John Clarke, of Marietta, on the 21st of May, who arrested and delivered the negro woman to the agent of Virginia.

The last Virginia executive record bearing on this case reads as follows:

Saturday, June 23rd, 1810. The governor laid before the board a letter from Jacob Beeson, esq., stating that he had reclaimed the negro woman Jane, late the property of Joseph Tomlinson, which negro had been convicted of felony, and by the court of Brooke County condemned to be hanged, but was reprieved for transportation by the executive, and afterwards escaped to the State of Ohio; and the said Joseph Tomlinson, having received payment from the Commonwealth, and released all his right to the said slave, and the executive taking the case of the said slave again into consideration, do advise an absolute pardon of her. And it is further advised that the said Jacob Beeson be authorized and requested to sell the said slave for the best price he can obtain, either by private or public sale on a credit not exceeding twelve months, and pay the proceeds thereof, when collected, into the public treasury.

Thus the law requiring the transportation of a condemned slave beyond the limits of the United States was negatived by an executive pardon, and a way was opened for Jacob Besson to acquire what he coveted. And in June, 1810, Jane and her child disappeared in the Cimmerian darkness of slavery.

X.—THE PRESENT STATUS OF PRE-COLUMBIAN DISCOVERY OF
AMERICA BY NORSEMEN.

By HON. JAMES PHINNEY BAXTER,
OF PORTLAND, MAINE.



THE PRESENT STATUS OF PRE-COLUMBIAN DISCOVERY OF AMERICA BY THE NORSEMEN.

By JAMES PHINNEY BAXTER.

A great deal has been written during the past few years respecting the pre-Columbian discovery of America by the Norsemen near the close of the tenth century; indeed, there has been a renaissance of mythical lore respecting this much bewritten subject, so that one may well shrink from venturing to rehabilitate these shadowy figures, which hover on the uncertain line which separates tradition from history.

When the sagas of Biarni, of Leif, of Thorvald, and others came to light, they were, indeed, a godsend to historical enthusiasts, who not only accepted them as veritable history, but, with remarkable facility, ascribed to Norse creation all archæological remains of doubtful origin, which they encountered.

Rude characters wrought upon rocks along the New England coast by aboriginal artists, altered not only by time, whose keen chisel is never inactive; but possibly, nay certainly, by mischievous hands, were easily seen to be Runic characters, and the lines of rocks piled along the beach by the fierce rush of stormy seas, were described as the handiwork of men, presumable Norse.

When one considers the failures of these enthusiasts, among whom were several able men, in their attempts to convince the world of the existence of Norse remains in New England, one can hardly wonder at Bancroft's contemptuous treatment of the subject. At the time when he wrote, these men were posing as the expositors of the sagas, and the proofs, which they adduced, were not of a nature to merit the serious regard of a man like our historian.

The objects to which they pointed with the greatest assurance were the stone mill at Newport, and the Dighton rock. Learned treatises were written by architectural amateurs to

prove the Norse origin of the Newport wonder, and its structural analogies to similar European buildings, accompanied by elaborate drawings to show how it looked to Norse eyes. To these, theoretical additions were added by others, and had not some bookish man shown by indubitable proof that it was built by the emigrant Arnold, after the model of a like stone structure in his native English town, we should have had in time on the soil of New England another tower of Babel.

But the Dighton rock was left, and it bore an inscription, a Runic inscription, and a learned professor had translated it. How simply it read. Its very simplicity, so much in harmony with the rugged Norse character, was sufficient in itself to prove its genuineness. It told of the landing of Thorfinn, the number of his men, and bore a representation of his wife, and of their child born after landing. Who would have the temerity to question this record? Yet, to-day, what student of American aboriginal rock writing but smiles at the strange delusion of the disciples of Rafn, when brought face to face with this interesting relic of our red-skinned predecessors? Such delusions, however, are not singular. The history of the world abounds with them.

One would have supposed that such signal instances of failure would have discouraged similar attempts; but such is not the case, and a new crop of Norsemaniacs, more zealous than their predecessors, has taken their place. Like them, these sciolists seize upon every archaic relic of doubtful origin to support their favorite postulate, and, like them, they press etymology, that facile science for theoretic display, into their service with a boldness that commands admiration.

Of relics, stone mortars, such as our Indians used, old horn spoons and débris of indescribable kinds, with nothing to indicate their age or origin, are brought forward as of Norse fabrication; and, most astounding of all, the remains of a great city have been discovered near Boston; a Norse city, and its name was Norumbega; that name which the bibulous Frenchman, stranded at a temperance hotel in Maine, was told, as he admired it upon the swinging sign over the door, was the original name of the Pine-Tree State, and who, reading it with the stress upon the second and fourth syllables, was moved to exclaim: "Well named from the first."

Of course we are all glad to learn that the location of Norumbega is at last settled, and that Massachusetts has it. It

has been an insufferable nuisance to Maineacs with historical tendencies. We are glad to hear of its unexampled extent and the nature of its ancient traffic, themes which furnish the enterprising journals of the day with picturesque opportunities for description. We are glad to know that the pulpit has a new subject with which to attack sin; a great city right in Massachusetts, with its immense canals floating lumber from the interior to its splendid docks and wharves, whence it went on ships full laden to far outland havens; a city, in spite of its prosperity, which came to nought through ungodliness. The fate of these ungodly Norumbegans, who married and were given in marriage with the Canaanites about them, may prove a timely warning to bad Bostonians, while the good, it is to be hoped, may not vaunt themselves overmuch because they were especially raised up by Providence to succeed the wicked Norumbegans. Such is the story recently told to an approving audience, of "The Norseman and the Puritan."

But perhaps etymology may be made to yield still better results. It is still remembered with what calm confidence the learned Mather derived the Algonquin word Naumkeag, the aboriginal name for the home of Endicot, from the Hebrew Nahum-keik, the bosom of consolation, which he believed, with his usual inflexibility of faith, was proof conclusive of Algonkin descent from Heber; and why should we be surprised to learn that Americus Vespucius did not give his name to the continent, but Eric, the ruddy sire of Leif, whose name America preserves in its two middle syllables, like a fly in amber or one of Mr. Donnelly's cryptographs? We are not surprised to find that we have been misinformed as to the first name of Vespucius, and that he is no longer A-meri-cus, but a sad one rapidly passing to a merited oblivion.

But while on the name of Eric may we not, in behalf of Maine, which ought to have a share in the Norseman since it was once a part of Massachusetts, remark that it appears on the Maine coast in the region of the Sagadahoc, one instance of which may be cited, namely, Mericoneag, the Abnaki name of the peninsular whereon Harpswell now flourishes? May not this have been named in honor of another Eric, the first bishop of Vinland? This theory is supported by names in the vicinity, especially by the names of the rivers near by, known as the Sagadahoc and Pjepscot, or Bishop's Cot, as the English recorded it. Why may not the humble home or cot of the

good Norse Bishop, Eric, have been at the latter place? What reflections this may furnish to our Roman Catholic friends. How wonderfully Father Biard's steps were guided to this region, so near the spot where the seeds of faith had been sowed by Bishop Eric. The soil had already been prepared for him in the hearts of these Norse Abnakians in this obscure region, and the little river Pjepscot all at once assumes an important place in the new history of "Em-Eric-a," as it is to be henceforth pronounced by all good Norsemaniacs.

Allusion has been made to the Sagadahoc. In this new method of writing history we are told that Sagamore, the title of an Abnaki chief, is a corruption of Sagaman, a person among Norsefolk also occupying a chief place. Truly suggestive was this to one person at least when, awhile ago, the Maine Historical Society met on the heights at the mouth of the beautiful Sagadahoc—Saga-da-hoc, the Saga-height or high place—and he reflected, may not this be the very spot where the Norse Abnaki Sagamores were wont to meet and enjoy their sagas, a much nobler occupation than that of the historians who had usurped their place to rest and enjoy their segars?

Time will not permit a further pursuit of this branch of the subject, but it is proper to remark that, if we adopt this method in our study of etymology, we shall find in the Abnaki branch of the Algonkin tongue, words having great similarity of sound to certain Chinese words, as well as to words of other tongues, and may expect to see come to the front Li Yen's story of the Chinese discovery in the seventh century of Fusang, or America, which was said to be numerous "lis" from the Celestial Empire, and lest some one may not know what a "li" is, it may be well to observe that it is a Chinese term for a measure of distance.

But leaving this perhaps too fruitful branch of the subject, may we not more profitably occupy ourselves with what a recent writer, who is evidently an admirer of the etymological method, terms the "bookish" method of research, by which is meant the method of seeking historical evidence in written or printed documents? As a matter of fact, neither archæology, ethnology, nor etymology at present yields satisfactory support to the Sagas relating to the discovery of America, if we except the remnants of former habitations found on the coast of Greenland, where the Sagas located Eric'sfiord, that erewhile mythical

haven from which the Norse heroes sailed for Vinland. The importance of this discovery is acknowledged. We may also acknowledge ourselves to be believers in the Sagas, founding our belief largely upon the internal evidence of truth which they possess. The Sagas are all that we have to bridge the wide gap between the Norse occupation of Greenland and the discovery of America by Columbus. For more than a century and a half they were not reduced to writing, but were repeated orally by men trained for the purpose of perpetuating and diffusing the knowledge of historical events. They can not, therefore, be properly regarded as history, and anything which may yield them external support will always be welcomed by historical students.

Believing that in Roman Catholic archives something relating to the Norse adventurers to the New World might be discovered, the author went to Rome sometime since, bearing suitable credentials, for the purpose of pursuing investigations in the Vatican, and, though his efforts were unsatisfactory, he still entertains hope, that facts having an important bearing upon this subject, may be found in Roman Catholic archives. One fact may be here presented as furnishing a proof of the verity of the sagas.

The policy of the Roman Pontiffs has ever been to extend the dominion of the church over the whole earth; hence the discovery of a new land, in which they could plant the seeds of the Roman faith, has never failed to be regarded as an event of much importance. Such newly discovered lands were regarded as the spiritual property of the church, and as soon as practicable, they were brought under her fostering care; hence we should expect to find in the church archives references to such discoveries.

Let us go back to a date previous to the Norse colonization of Iceland, which is set down in the *Crymogaea* of Arngrim Jonas as A. D. 874; say to the year A. D. 830, at which period Gregory Fourth occupied the papal throne. The world knew nothing at this time of Iceland, nor of any larger land west of Norway above the sixth circle. In this year we find Gregory confirming Auscarius as the first archbishop of Hamburg, Christianity having been introduced into Denmark but three years previous. To the north lay Sweden and Norway in the darkness of paganism. Thirty years later, the Roman congregation having, without doubt, planted the banner of the church

in Sweden; Pope Nicholas First, who had succeeded Gregory, invested Auscarius as his legate, and in doing so defined his jurisdiction. It is no longer confined to Hamburg and indefinite territory beyond, but is extended over the Swedes as well as "over any other nations in those parts to whom the mercy of God shall open a way."

In the year 874 A. D., Iceland was colonized; but the church had not reached Norway, and it is not until the year 948 A. D. that we find this country mentioned in pontifical annals. At this time Agapetus occupied the pontifical chair, and Archbishop Adalgarus was granted jurisdiction, not only over Swedes and Danes, but also over Norwegians and all other countries to the north, and we may expect, that ere long, the star of church empire, holding its way westward, may reach Iceland. Nor are we disappointed in this, for following along to the reign of Pope Benedict Eighth in the year 1022 A. D. we find him enlarging the jurisdiction of the see of Hamburg. Heretofore it had comprised the Swedes, Danes, and Norwegians, and now the Icelanders are taken in as well "as all islands adjacent unto the countries aforesaid."

We become interested in this progress of the church westward and are fain to follow it.

Greenland had been discovered in 982 A. D. by Eric, but at this date, 1022 A. D., had not been mentioned in pontifical documents. The author is aware that, according to certain German codices, Auscarius and his successor Rembert, who flourished in the ninth century, were given by popes Gregory Fourth and Nicholas First legatine powers over both Iceland and Greenland, but they are not supported by pontifical documents, nor by the best codices of Paris and Corbie; and as neither Iceland nor Greenland had been colonized at the date mentioned, they may properly be regarded as erroneous.

The church has now reached Iceland, and is following a little behind geographical discovery.

The year 1053 A. D. opens, and Leo the Ninth reigns at Rome. Christianity in its Roman garb has reached Greenland, and the people there have become amenable to its influence. The jurisdiction of Archbishop Adalbert has heretofore been nominally limited on the west to Iceland, but now the pope enlarges it so as not only to embrace Denmark, Sweden, and Norway, Iceland, and Lapland but also Greenland, as well as "all northern nations and certain portions of adjacent Slavia."

This, according to Migne's *Patrology of the Latin Fathers*, is the first mention of Greenland in pontifical documents. Having reached Greenland, we have come to the end of the history of geographical discovery toward the west until we resume it in Columbian chronicles. If, however, America was discovered by the Norsefolk at the close of the tenth century, as we are told it was by the sagas, should we not find the same kind of evidence of the fact in the annals of the Roman Catholic Church, which we have already found respecting the discovery of Iceland and Greenland? We have seen that in 1053 A. D. the jurisdiction of Archbishop Adalbert, of Hamburg, was extended by Pope Leo IX to include Greenland. In 1055, by a bull of Pope Victor XI, the same jurisdiction was continued to Archbishop Adalbert, who died in 1072.

The legatine powers of the see of Hamburg had become so extensive as to make it convenient to erect an archbishopric at Lund, in Sweden, in 1104, and Greenland was placed under its jurisdiction; and as the bishops of Iceland could not exercise inspection over its ecclesiastical affairs, it became desirable to have bishops of its own; hence in 1106, a bishopric was erected at Holum, and its charge committed to Eric Gnupson. After this date we lose sight of this man until 1112, when he appears in Greenland, superintending for several years after this date the ecclesiastical affairs of the country. During this period there appears no evidence that he had received his appointment from Rome, or been duly consecrated to his office. In 1121, however, Calixtus Second, then occupying the papal throne, he received consecration from Archbishop Adzer, of Lund, and had committed to his care not only Greenland but Vinland. To this latter country, where a colony is said to have emigrated from Greenland, Bishop Eric is said to have gone to take under his protection the ecclesiastical affairs of the new colony. If this is not true, we may expect to be able to follow Bishop Eric's subsequent career, but this we find ourselves unable to do, for he vanishes utterly from view. No record of his death appears, while an examination of the church history of the time, reveals the important fact, that Greenland was without a bishop, and in 1123 made an application for one, which was granted, and the next year Arnald was consecrated at Lund by Archbishop Adzer to fill the bishopric left vacant by Eric. Although some obscurity exists with relation to these transactions, they

certainly afford very important support to the truth of the sagas, and it is hoped that further evidence of their truth may yet be discovered in Roman Catholic archives. Of course I should not forget Adam of Bremen, whose reference to Vinland is always quoted. Archbishop Adalbert, who occupied the see of Hamburg from the year 1045 to 1072, was the patron and personal friend of the historian, whose work, *Gesta Pontificum Ecclesie Hamburgensis* was completed in 1075. Of the good Bishop, Adam always speaks with affection and reverence. He says that "he was so grand, so generous, so hospitable, so desirous of divine and human glory, that little Bremen, having become known by his virtue like another Rome, was devoutly resorted to from all quarters of the earth, especially from the north." Among the comers were Icelanders, Greenlanders, and Orcadeans, inhabitants of the Orkneys, who came to ask for preachers. It is probable that the archbishop himself journeyed as far west as Greenland, as on one occasion, when dispatching Islef, the first bishop of Scalthold to his charge, he sent by him letters, like those of the earlier apostles, to the people of Iceland and Greenland, saluting their churches with veneration, and promising to visit them soon, glorying that these countries had received the faith by his efforts. When we realize the close intimacy existing between these men, and their high character, these familiar words, which Adam uses to convey to us what Archbishop Adalbert said to him respecting Vinland, receive additional force. "He spoke," says he, "also of another island found in that ocean called Winland, because vines grew there spontaneously, yielding excellent wine. For that fruits grow there spontaneously we know, not from fabulous report, but for certain, from the reports of the Danes." This was written many years before the time of Eric Gnupson, that important figure in any story of North American discovery by Norsemen which may be constructed. It is to be hoped that the researches of students may yet bring to light much more respecting him.

XI.—PRINCE HENRY, THE NAVIGATOR.

By PROFESSOR EDWARD GAYLORD BOURNE,
OF ADELBERT COLLEGE.



PRINCE HENRY, THE NAVIGATOR.*

By EDWARD GAYLORD BOURNE.

The various commemorations of the discovery of the New World during the past year have quickened the historical instincts of every student, and as the momentous nature of the event in the history of the world becomes more vividly apparent the essentially historical problem to learn how it all came about becomes more and more fascinating.

Two lines of influence combined to convince Columbus that his project was practicable—the speculative views of Aristotle, Strabo, and Toscanelli, and the results of the Portuguese explorations off the coast of Africa, which at every step winnowed the geographical tradition of its terrifying chaff. Without the labors of Prince Henry, Columbus might not have ventured, but without Columbus America would have been discovered only eight years later by Cabral as the inevitable result of Prince Henry's work. Few careers have been more extraordinary in the range of their influence on history, and yet comparatively little attention has been given to his efforts and their consequences in the abundant literature of the past few months on the discoveries. In this brief paper I shall try to determine as exactly as possible what Prince Henry's aims were, and what prompted his course of action, presenting in conclusion some consideration of his character and personal influence.

*This paper is based on the following contemporary sources:

Diogo Gomez. *De Prima Inventione Guineae*, in Dr. Schmeller's *Ueber Valenti Fernandez Alemã*.

Chronica do Descobrimento e Conquista de Guiné, pelo Chronista Gomez Eannes de Azurara. Paris, 1841.

Alguns Documentos da Torre do Tombo. Lisbon, 1892.

Bullarum Collectio. Lisbon, 1707.

The citations from contemporary documents in the valuable notes in: *A Escola de Sagres e as Tradições do Infante D. Henrique*, pelo Marquez de Souza Holstein. Lisbon, 1877.

These two modern lives of Prince Henry have also been of great service: R. H. Major, *Prince Henry the Navigator*, London, 1868; and G. de Veer, *Prinz Heinrich der Seefahrer*. Leipzig, 1864

The earliest authentic statement of Prince Henry's aims that I have found, and one which may be taken as his own, is in a charter of King Alphonso V, dated October 22, 1443, and published recently, I think for the first time, which prohibits any one from making a voyage beyond Cape Bojador without permission from the prince. The passage reads: "We make known to all who see this charter that the Infant Dom Anrrique my much esteemed and beloved Uncle believing that he would do service to our Lord and to Us set about sending his ships to learn of the world beyond Cape Bojador, since till that time there was no one in Christendom who knew about it, nor did they know whether there were people there or not, nor in the sea-charts and maps was anything beyond Cape Bojador depicted except what seemed good to the makers. And since it was a doubtful matter, and since men did not venture to go, he sent thither fourteen times till he knew about part of that region, and they brought him thence on two occasions some thirty-eight Moors and he ordered a chart made, and he told us that his plan was to send his ships further to learn of that region."*

One reason for saying that this may be taken as Prince Henry's own statement is that Alphonso was only twelve years of age, and Henry was one of his guardians. The same aim is asserted in another charter of Alphonso, dated February 3, 1446,† and directly by Prince Henry himself in December, 1458, except that in the latter one the field of discovery begins from Cape Non.‡

Gomez Eannes de Azurara, in his invaluable contemporary chronicle of the Discovery and Conquest of Guinea, which was written in 1453, reports a conversation between Prince Henry and Antonio Goncalvez, which took place just prior to Goncalvez's voyage of 1443. This, whether it is considered as representing Henry's views in 1442, or several years later, comes next in order. Goncalvez was desirous of exchanging the Moors he had just captured for negroes. He urged that from the negroes they could gain information of a more distant region, and that he would make every effort to secure such information. Prince Henry replies that not only of that land did he desire information, but also of the Indies, and of the land of Prester John, if it were possible.§

* *Alguns Docs.*, 8.

‡ *Souza Holstein*, p. 47.

† *Ibid.*, 9.

§ *Alzurara*, 94.

In the bull of Nicholas V, January 8, 1454, we have in the preamble historical statements unquestionably supplied by Prince Henry in his petition to the Pope. The language is very similar to the passages just cited, yet additional facts of importance appear. "When it came to the Infant's knowledge that never, or at least within the memory of man had it been customary to make voyages through the ocean Sea of the Southern and Eastern Shores, and that it was to the degree unknown to us of the West that we had no certain knowledge of the people of these parts, believing that he would do very great service to God, if by his efforts and activity the Sea should be opened to his ships even to the Indians who are said to worship Christ and to be able to come into relations with them and to stir them to help the Christians against the Saracens and other enemies of the faith and to conquer some of the Gentiles or heathen living between, deeply corrupted with the teaching of the accursed Mahomet and to preach to them the most holy name of Christ as yet unknown, he has since twenty years of age armed with royal authority not ceased to send almost yearly a force from the people of these kingdoms with the greatest toils, dangers and expense in very swift ships called caravels, to explore the Sea and the maritime provinces toward the Southern regions and the Antarctic Pole. And so it came to pass that, when ships of this sort had explored many islands, harbors and the Sea adjacent to the province of Guinea had been occupied, they sailed further and reached the mouth of a certain great river commonly considered the Nile, where against the people of those regions a war in the name of the King Alphonso and the Infant existed for years, and in it many neighboring islands were conquered and peacefully possessed, as they remain to this day with the Sea adjacent. Thence also many people of Guinea and other negroes being captured by force or by exchange of unprohibited articles or some other legitimate contract of sale have been transported to the said kingdoms; of whom many have been converted to the Catholic faith and it is hoped that in the divine mercy, if progress of this kind continues that either the whole people will be converted to the Faith, or at least the souls of many be gained for Christ."*

In this passage we see clear evidences of the crusading spirit in Prince Henry alongside of that of scientific curiosity. The

* Bullarum collectio, pp. 18-20.

same spirit at times dominated Columbus, but manifested itself in the impracticable project of recovering the Holy Sepulcher; with Prince Henry it was practical and aimed at the conquest of Africa. Other indications of the strength of this spirit in Henry will be noted later. This passage and the citation from Azurara clearly reveal that Henry planned the circumnavigation of Africa. The Indians who worshiped Christ are obviously the subjects of Prester John, whose kingdom after the thirteenth century was commonly supposed to be in East Africa. From this time on to reach the kingdom of Prester John was a powerful incentive with the Portuguese. Diaz and da Gama were on the lookout for him, and John II of Portugal sent ambassadors to him overland. This legend of the Middle Ages far more powerfully promoted geographical discovery than the speculations of alchemy advanced the science of chemistry.

That Henry was confident of reaching a region that he thought of as India, whether it may have been Eastern Africa or India proper again appears with equal clearness from the narrative of Diego Gomez of his voyage of 1456. When he was in the territory of a certain chief, Batimansa, south of the Gambia, he says, "I wanted to make an experiment by sending James, a certain Indian, whom the Lord Infant sent with us, so that if we should enter India we might have an interpreter."*

Azurara in his invaluable contemporary chronicle gives, in addition to the reasons above mentioned, the following motives of Prince Henry's explorations: The desire of finding Christians to trade with, the desire of learning the dimensions of the Moorish power, and the desire of extending Christianity.†

Diego Gomez, who took part in several expeditions from 1444-1463, and wrote a history of the discovery of Guinea, sometime before 1483, entitled "*De prima Inventione Guineæ*," throws an independent light on Henry's aims and methods. A voyage in 1415 "*ad inquirendum partes extraneas*" is mentioned, and Henry is said to have sent out another in 1416, "*desiderans scire causam tam magni maris currentis*."‡

When Tristan and Goncalvez brought their first captives, in 1442, Prince Henry carefully examined them as to their country

* Schmeller, 29.

† *Chronica de Guiné*, pp. 44-49.

‡ Even if the evidence for these voyages is rejected, the statements are of value in showing the view prevalent when Gomez wrote of Prince Henry's purposes.

and learned the route to Timbuctoo. In 1444 Gonçalo de Sintra and Dinis Dias were sent out and were enjoined to go beyond Petra Galeæ, to see if they could find other languages spoken. The result of this expedition was the establishment in 1445 of a post in the Island of Arguim. Soon after this the Prince directed his commanders to avoid strife with the natives and to enter into peaceful commercial relations, as he desired to convert them to Christianity.

Another citation, interesting from the excessive emphasis upon his crusading spirit, may be made before I close this part of the discussion. Gomez says of his death, "King Alphonso was then in the City of Evora and he was very sad, together with his people, at the death of so great a lord, because all the resources that he had and that he derived from Guinea he expended in war and in continually fitting out fleets against the Saracens in behalf of the Christian faith.*

After examining thus carefully the nature of Prince Henry's aims, I propose briefly to consider what influences impelled him to a course of action so exceptional in his time, yet so rich in consequences. What was it that first turned his attention to that continent which has preserved its mystery longer than any other part of the world except the Poles?

Prince Henry's original interest in Africa is generally attributed to his experiences in the campaign of Ceuta. At the capture of this fortress—the African counterpart of Gibraltar—he won his spurs. We are informed by sources emanating, as we have seen, from Henry himself (the "Bull of Nicholas V" and his own statement in 1458) that his impulse dated from the time when he learned that the Coast of Africa south of Bojador had never been explored. When this fact was clear to him it is not easy to say, but it was probably not earlier than the Ceuta campaign.

Barros tells us that at the capture of Ceuta, as at other times when Henry was there, he always made inquiry of the Moors in regard to the interior, especially the parts more remote from Fez and Morroco.† Gomez says that when Henry, in 1415 or 1416, heard of the flourishing overland trade between Tunis and Timbuctoo and Cantor, engaged in which were caravans numbering sometimes seven hundred camels, he sent Gonzal

* Gomez, 32.

† Cited from Kunstmann's *Africa vor die Entdeckung der Portugiesen*.

Velho to investigate those regions by sea, for the purpose of having commerce with them and for the support of his nobles.* Once started on his work Prince Henry availed himself of every possible source of information. One of the most striking examples is the instance when he gathered from captive Azenegues a sufficiently accurate description of the mouth of the Senegal to enable his sailors to recognize the stream when they saw it for the first time.† At another time the close agreement between information brought home by Gomez and some that he had received from a merchant in Oran confirms his belief in the truth of both reports.‡ Prince Henry did not neglect literary sources. His brother, Dom Pedro, brought from Venice a copy of Marco Polo and a map. The description of the map which has been handed down by Antonio Galvan, who wrote a history of the discovery about 1555, is palpably greatly exaggerated.§ But it probably did contain a fairly correct outline of Africa, such as we find in the so-called Laurentian Portulano of 1351, based on information derived through the channels of land trade, just as Prince Henry received his knowledge of the Senegal. The familiar map of Fra Mauro of 1457-'59, of which a copy was made for Alphonso V, is another example of such a happy combination of guesswork and vague reports. If we can trust Damiaõ Goes, who wrote about the middle of the next century, Prince Henry was a careful student of the ancient geographers, and knew of the supposed voyage of Hanno around Africa, the expedition ordered by Pharaoh Necho, and the report given by Strabo about fragments of Spanish vessels having been discovered in the Red Sea.|| To avail himself of the highest maritime skill, he invited

* Gomez, p. 19. The following from the narrative of Hieronymus Muenzer, who was in Portugal in 1495, is evidently based on this passage from Gomez in reference with the trade with Timbuctoo:

"Likewise Henry considering his father's resources not sufficient for so great expenses gave his attention to the exploration of unknown lands. Knowing indeed, that the King of Tunis, i.e. Carthage, derived much gold annually, he sent his explorers to Tunis, and was informed how the King of Tunis sent merchandise through the Atlas Mountains into Southern Ethipoia, and brought back gold and slaves. This which the King of Tunis for many years had been able to do by land he tried to do by sea."

See Kunstmann Hieronymus Muenzers Bericht ueber die Entdeckung der Guinea, p. 60.

† Azurara, p. 279.

‡ Gomez, p. 28.

§ Tradado. Hakluyt Soc., ed. 66.

|| Souza Holstein, p. 23.

a skillful map-maker and instrument-maker as well as expert navigator, Jayme of Majorca, to come to Portugal to instruct his followers.* This seems to be the sole evidence of the existence of a nautical school at Sagres, which apparently must be given up if any systematic institution is thought of. Similar is the case with the alleged foundation of a chair of mathematics attributed to him by Major and others. Prince Henry's will, first published after Major wrote, gives a detailed statement of his foundations, and mentions many churches and bequest to a chair of theology, but is silent about any nautical school or chair of mathematics.†

The main line of results of Prince Henry's work is probably familiar to most of my readers. As I indicated in the beginning, his work removed some of the greatest obstacles to geographical progress—the fantastic and imaginary terrors of the deep. This appeared clearly in the passage of Dioguo Gomez, which, with its reflection of contemporary thought, is more forcible than any modern statement: "And these things which are written here are put down with all respect to the most illustrious Ptolomy, who wrote much which is good on the parts of the world, but in regard to this region he was wrong, for he divides the world into three parts—the middle part inhabited; the northern part is without inhabitants, he wrote, on account of the excessive cold; and the southern part on the equator, he wrote, is uninhabited on account of the heat. Now, of all these things we found just the contrary, because the Arctic pole is inhabited even beyond where the pole star is directly overhead; and the equator is inhabited by blacks, where there is such a multitude of tribes that it is almost not to be believed; and that the southern part is full of trees and fruits, but the fruits are different and the trees are incredibly tall and large; and I say this, to be sure, because I have seen a large part of the world, but never the like of this."‡

The opening of the Atlantic to continuous exploration changed the center of gravity of the civilized world. Western Europe, so many centuries the frontier, has become the center; and to London, the Melbourne of Prince Henry's time, has

* Barros, Dec. 1, lib. 1, c. 16. Codine, 2, 645.

† The text of the will is in Souza Holstein, p. 77, ff.

‡ Gomez, 23.

been given the destiny, for a period at least, to be the world's commercial capital; and to England the inheritance of the Indies, which he sought to reach. The priority of Henry's effort to explore the coast of Africa has been disputed, but the case with him is much as it is with Columbus and his alleged precursors, their voyages can not be proved or disproved, in any case they have no determinable relation to later progress, while as in Columbus's case, so in Prince Henry's, continuous knowledge and exploration date from his work. Further, the evidence is incontestable that Henry and at least most of his contemporaries believed him to be a pioneer and his sailors to be the first to go beyond Cape Bojador. Further still, it is difficult to reconcile their positive assertions and the absence of contemporary evidence to the contrary with the modern history of French voyages resting on conjectures as to the contents of documents no longer extant.

In saying a few words in closing on the character and personality of Prince Henry, I shall mention only some of the more striking features. No reader of Azurara's quaint and charming narrative can fail to see that Prince Henry was a man whose force of character, untiring resolution, and generosity, exercised an immense influence over his followers, inspiring them with zeal and boldness. They strained every effort to win his approval, and he possessed their unfaltering allegiance. He interests us chiefly as the organizer of discoveries. He seems so devoted to that as sometimes to be described as a patron of exploration. But to his contemporaries he is that as well as a crusading prince, following up the capture of Ceuta with continual onslaughts upon the infidels; a military missionary, the commander of the Order of Christ, working to plant Christianity in Africa and the islands of the ocean; as the promoter of great commercial and industrial enterprises, controlling the Tunney fisheries of Algarve, the coral fisheries of Portugal, the manufacture and sale of soap, dye factories, and several large fairs. He also controlled the whole commerce of the west coast of Africa, letting it out on shares, and apparently establishing the first commercial company of modern times.* As a soldier, he belongs at once to the Middle Ages and to Modern Times. He fights at Ceuta and Tangiers like a medieval knight while he plans a military exploring expedition like a modern master of strategy. His plan to circumnavigate Africa and strike the Moors from behind, in conjunction with

* Souza Holstein, 53.

the shadowy Christina, monarch of the East, is Napoleonic. One may ask if a bolder conception was given air between Alexander the Great and Napoleon.

I have spoken of him as a crusader; the essence of the Crusades was the aim to secure the predominance of Christianity. Prince Henry's work indirectly led to a greater predominance of Christianity than he could have imagined. The enrichment of the Old World and the occupation of the New by the discoverers has vastly increased the relative predominance of Christianity in the world.

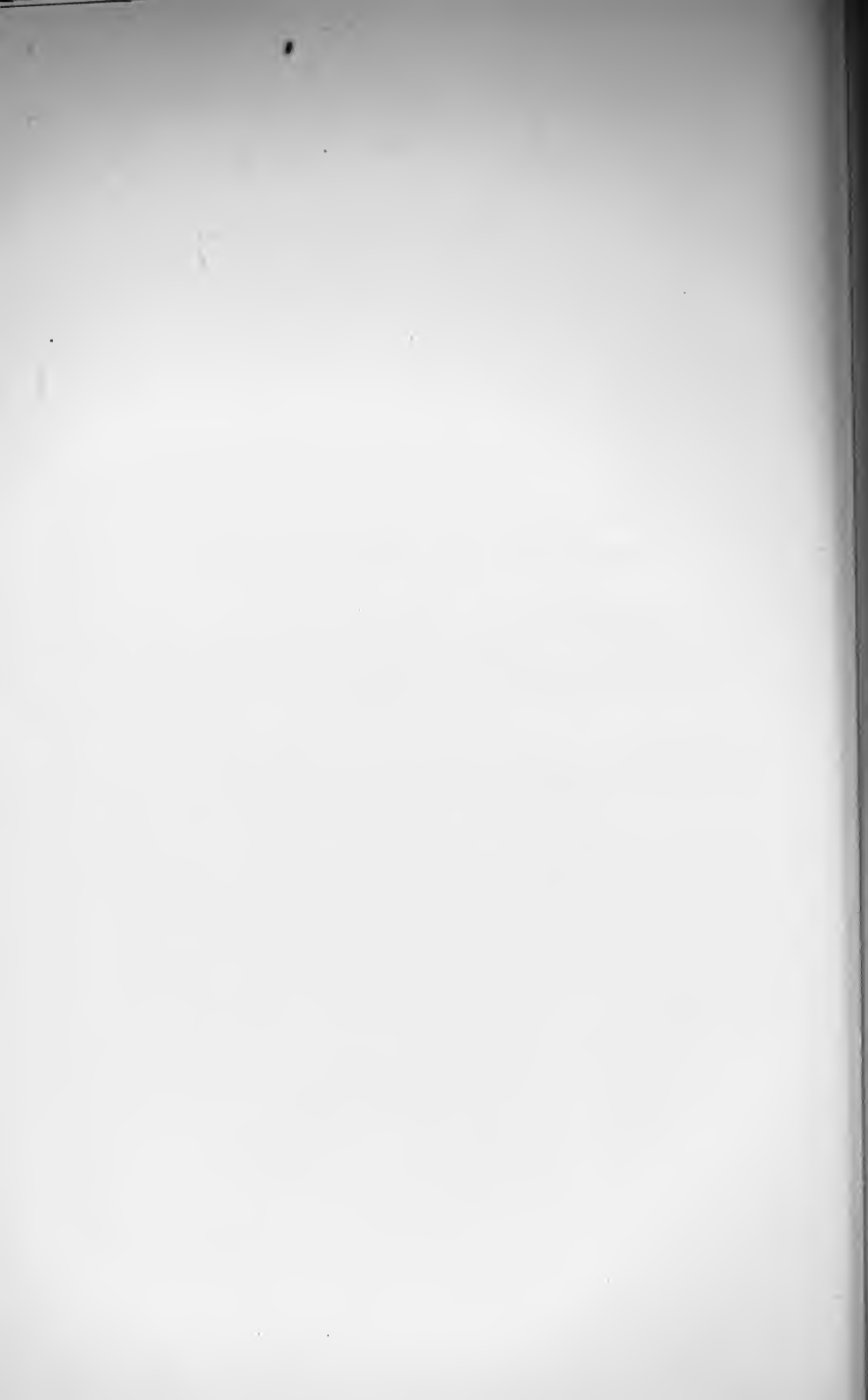
But, while emphasizing these other sides, we must not overlook Prince Henry as a true lover of science, with an unquenchable desire to find out the secrets of the earth, which actuated him from the time when, at twenty years of age, he is said to have sent Gonzalo Velho beyond the Canares to learn the cause of the swift currents of the sea.

"*Talent de bien faire*," the desire to do well, was his motto. No man ever chose a motto of more singular propriety, and no man ever lived up to it more faithfully than did Henry.



XII.—THE ECONOMIC CONDITION OF SPAIN IN THE SIXTEENTH
CENTURY.

By PROFESSOR BERNARD MOSES,
OF THE UNIVERSITY OF CALIFORNIA.



THE ECONOMIC CONDITION OF SPAIN IN THE SIXTEENTH CENTURY.

By BERNARD MOSES.

At this time I shall not attempt to read what I have written on the topic here announced, but shall confine myself to a brief statement concerning some phases of the subject in hand. At the beginning of the sixteenth century, Spain stood, in relation to the other nations of Europe, economically higher than she had ever stood before or has ever stood since. Between 1482 and 1700 her population declined from 10,000,000 to 6,000,000, and there was a corresponding decline in her economical affairs. A conspicuous cause in both cases was the indolence of the Spaniards in all matters except war on commerce. A sign of Spain's decay was the decline of her agriculture. Foreseeing the evil here impending, the Government had, in the thirteenth and fourteenth centuries, undertaken to exempt from seizure animals and implements employed in cultivation, except under certain prescribed conditions. The council of Castile, giving an account of the state of the realm in the beginning of the seventeenth century, said "the agricultural districts were becoming deserted, and the inhabitants were disappearing and leaving the fields abandoned."

The depression of agriculture was further intensified by the overthrow of the Moriscos in the Alpujarras, and their final expulsion from the Peninsula.

In 1618, a few years after the expulsion of the Moriscos, a commission called to propose a remedy for the ruinous condition of the Kingdom, began its memorial to the King with the following lamentation: "The depopulation and want of people in Spain are at present much greater than ever before in the reigns of any of your Majesty's progenitors; it being in truth so great at this time that if God do not provide such a remedy

for us as we may expect from your Majesty's piety and wisdom, the Crown of Spain is hastening to its total ruin; nothing being more visible than that Spain is on the verge of destruction, its houses being in ruins everywhere, and without anybody to rebuild them, and its towns and villages lying like so many deserts."*

It was of great importance for agriculture that the means of irrigation which the Spaniards found established in the districts taken from the Moors should be maintained and even extended. But the conquerors in this matter appear as inefficient successors of the conquered. Their attempts in this direction were few and ineffectual.

The privileges enjoyed by the sheep-owners who were represented by the Council of Mesta were not without importance for the agriculture of Spain, particularly for the agriculture of Estramadura. When the Moors had been expelled from this province, the cities were razed and the inhabitants were destroyed or driven into exile. Peace followed the war, but it was the peace of desolation. "Vast tracts previously in cultivation were then abandoned, and nature, here prolific, soon obliterated the furrows of man, resumed her rights, covered the soil with aromatic weeds, and gave it up to the wild birds and beasts. * * * Only a small portion of the country was recultivated by the lazy, ignorant, soldier conquerors; and the new population, scanty as it was, was almost swept away by the plague of 1348, after which fifty whole districts were left unclaimed. * * * These unclaimed, uninhabited pasturages at last attracted the attention of the highland shepherds of Leon, Segovia, and Molina de Aragon, who drove down their flocks to them as to a milder winter quarter; hence by degrees a prescriptive right of agistment was claimed over these commons, and the districts at last were set apart and apportioned. This feeding their flocks at the expense of others exactly suited the national predilection for self, and as the profit of the wool was great, and long one of the most productive staples of Spain, the flocks naturally multiplied, and with them their encroachments. As the owners were powerful nobles and convents, the poor peasants in vain opposed such overwhelming influence."† Gradually the population of Estramadura

* Geddes, *Miscellaneous Tracts*, p. 163.

† Ford, *Hand-Book for Travelers in Spain*, London, 1845, II, p. 517.

increased, resulting in contests between the wandering shepherds and the resident cultivators. In 1556, a compromise was effected, and the privileges of the Mesta were defined and legally established. Conspicuous among these privileges two may be cited: One is that the permanent residents were prohibited from plowing land that had not been cultivated hitherto; the other is that they were prohibited from extending their inclosures. The privileges of the Mesta suggest the hunting privileges of a mediæval aristocracy. They discouraged agriculture, and those who opposed them found it easy to argue that they "doomed to barrenness some of the finest districts of Spain."

An effective obstacle to agricultural progress existed also in the practice of entailing estates in behalf of the eldest son and of bestowing lands in mortmain on churches and monasteries.

Although excuses may have been found for the existence of entailed estates while the aristocracy was powerful and rendering the Crown great service in war, it is difficult to justify that extension of the practice which we observe in the sixteenth century, when the comparatively poor were enobled, and thus confirmed in their idleness, and made ridiculous in their unsupported pretensions. This practice is noteworthy for its evil effects on the agriculture of the country. In bringing honest work into contempt, and in setting up numerous models of indolent and worthless lives, its influence was so great that in 1552 the cortes of Madrid was moved to repudiate the privileges which the King was accustomed to grant to persons of little distinction and small wealth, to entail property to the prejudice of the younger children and to the injury of the nation.

Toward the end of the fifteenth century the lands of Spain, whether in public or private hands, were being rapidly denuded of trees, and the Government had already at that time perceived the need of special action to preserve the forests; but the present treeless condition of a large part of the country is in evidence that no permanently effective provision was made. Besides a number of general ordinances relating to the preservation of the forests, Ferdinand and Isabella caused to be issued also special ordinances touching the conservation of the forests of Madrid and those of Medina del Campo.

It may be seen from the instructions given to Diego de Covarrubias, when he was appointed president of the Council of Castile, that Philip the Second appreciated the seriousness of the situation: "One thing," he said, "I desire to see given thorough treatment, and that is the matter of the preservation of the forests, and their increase which is very necessary; for I believe they are going to destruction. I fear those who come after us may have many complaints that we have allowed them to be used up, and God grant that we may not see this in our day."

Prominent among the causes of the disappearance of the forests was the disposition, which has also prevailed in the United States, to plunder rather than to husband the resources of the country. In order to prepare the soil to receive the seed and to provide abundant pasture, it was the practice in some parts of Spain to burn the forests and the thickets which occupied the ground. The fires kindled for this purpose, which sometimes extended over several leagues and often caused serious losses, were recognized as an evil to be abated. Ordinances were, therefore, issued to prohibit them, but the abuses proved to be difficult to correct. In this barbarous manner disappeared the forests of Estramadura, Andalusia, Toledo, and other parts of the Kingdom, leaving no possibility of being replaced, inasmuch as the new growths, the fresh and tender shoots, were destroyed by the cattle which occupied these fields as pastures.

That some part of the damage might be avoided, Philip the Second ordered that the justices of the districts in which the forests had been burned should not allow cattle to graze where the ground had been burnt over, except as permitted by the license of his council. The ancient right to take wood for the use of the court had also much to do with the destruction of the forests; not that the strict observance of the right itself would have caused any serious damage, but that under the pretense of observing it, a way was found for extensive frauds, in that persons about the court not entitled to the advantages of this privilege ravaged the forests and contributed in a large measure to their ruin.

Concerning the industries of Spain in the sixteenth century, there appear two widely divergent views. According to one opinion, the beginning of the century witnessed an extraordinary development in the silk and woollen industries, which

lost their importance in the seventeenth century; while in the other view there never existed in the country any remarkable industrial development. The historical fact, however, lies nearer the first view than the second, but at the same time there is no doubt that tradition has somewhat exaggerated the degree of industrial prosperity which had been attained at the beginning of the sixteenth century. There is no doubt, moreover, that the course of the century was marked by a conspicuous decline in Spanish industry, but it is not now possible to date the several steps of that decline. Among the first symptoms were the complaints made in 1537 that the cloth of Segovia had risen in price in the four preceding years. With these complaints of high prices appeared also denunciations of fraud employed in the processes of manufacturing. On account of these high prices, the common people were unable to use the cloth made in their own country and were granted the privilege of purchasing foreign goods. This was the beginning of the fall of the textile industries in Spain, which was hastened by the operation of several causes. Prominent among these was the importation of gold and silver from America, which caused a continued rise of price, and developed an irresistible desire to buy in a foreign market. Another cause was the marked decline in the quality of Spanish products, which placed them in unfavorable contrast with the wares of other countries, and destroyed the demand for them. Among these causes may be mentioned, also, the rigidity of the surviving mediæval trade organizations, which, by their narrow views and their illiberal conduct in the management of their monopolies, prevented industrial and commercial growth, and made impossible, even in Spanish markets, successful competition with the more liberal industrial systems of other nations. A survey of the industries of Spain throughout the century, however, leads to the conclusion that the manufacture of cloth flourished in the beginning of the sixteenth century, while in the second quarter there were conspicuous symptoms of its approaching decline. "By the middle of the century the evil had become so far aggravated that Spain not only did not export textile fabrics, but was even under the necessity of importing them in order to meet the demands of her own consumption."* In the last half of the century the

* Colmeiro, II, 188.

fall was rapid, and all subsequent efforts for revival were fruitless.

Conspicuous among the hindrances to the economic development of Spain in the sixteenth century was the lack of facilities for transportation. This phase of civilization received little attention from the Moors. The habits of their ancestors, accustomed to free life on the desert or in Northern Africa, made them indifferent to the establishment of roads suited to vehicles with wheels; and the fact that the Spaniards remained in a very large measure satisfied with the beasts of burden as a means of transportation may be in part accounted for by the influence of their Mohammedan neighbors. From the point of view of economics, it is a mistake for a people to consent to make settlements at points to which they can not take their household goods and industrial elements on carts. An important difference between the Spanish and the English settling in America is that in the one case the settlers have insisted on finding or making roads over which they could drag with them their belongings on carts or wagons, while in the other case they have been content to carry their outfit on the back of mules, and have not insisted that their settlements should be connected with the rest of the world by carriage roads.

The lack of convenient and inexpensive means of communication between buyers and sellers suggested the fixing of certain times and places for general meetings. These meetings became the great fairs of the later Middle Ages, survivals of which may still be seen at Leipsic and at other points in Eastern Europe. In Spain they were held at Segovia, Valladolid, Alcalá, Salamanca, Seville, Villalon, Medina de Rioseco, and Medina del Campo. On account of the great wealth gathered at Rioseco, the place acquired the title of *India chica*; but the most important of all the fairs was that of Medina del Campo, whose origin, like the origin of most European fairs, is not a matter of definite historical knowledge.

The apologist of Spain's economic policy with respect to foreign trade in the sixteenth century is disposed to find in the restrictive and artificial system of the Hanseatic League and the Italian republics an earlier employment of the methods whose origin is ascribed to the Spaniards, claiming that the influence of these powers was felt throughout Europe, and that the mercantile system was introduced into Spain not earlier than into France and England. If it struck deeper

roots in Spain than elsewhere it was because Spain controlled the best mines of the world, and could not without difficulty give up the thought of monopolizing the precious metals.

In examining the trade with foreign nations and the shifting attitude of the Government towards it, it is not possible to discover any principle which was consistently observed. Many decrees of prohibition issued with respect to exportation were prompted by the desire not to have diminished the store of articles necessary for the support of the people; and if in certain cases the importation of wares was prohibited it was to avoid too sharp competition with Spain's domestic products. In other cases the principle of the mercantile system, or the desire to increase the amount of specie in the Kingdom, was unquestionably the determining factor in the policy. The state of things has been characterized by Colmeiro in the remark that "the mercantile doctrines grew up slowly and without order, indicating the triumph of other ideas, without succeeding in forming a new system; so that the commercial policy of the sixteenth century appears as a web of contradictions."

Passing over the details of the effects of the colonial system and the transatlantic trade, attention may be directed to the influence of the Government on the economic affairs of Spain. It may be noticed, in the first place, that the extensive dominions involving the Government in large expenses in carrying on wars into which it was drawn by an aggressive ambition, made a demand on the nation which the public revenue, even when supplemented by the treasures of America, could not satisfy. Through the great undertakings of Charles the Fifth and Philip the Second the expenditures went on from year to year carrying over an increasing burden upon the income of the future, so that at the death of Philip the Second Spain had a debt of 140,000,000 ducats.*

Philip's extraordinary need of money to meet his numerous obligations led him to extraordinary means to obtain it. He appropriated for his own uses the silver and gold which came from the Indies for merchants and other private persons. This

* "La nacion sufría los mayores ahogos, y arrastraba una vida trabajosa, miserable y pobre, gastando toda su savia en alimentar aquellas y las anteriores guerras, que continuamente habia sostenido el emperador, y no bastando todos los esfuerzos y sacrificios del reino a subvenir a las necesidades de fuera, ni a sacar al monarca y sus ejercitos de las escaseces y apuros que tan frecuentemente paralizaban sus operaciones." Lafuente, "Historia General de España," III, p 13.

helped to destroy the fundamental condition of material prosperity, namely, the citizen's sense of security in the possession of his property. He sold offices and titles of nobility, and the lands which belonged to the crown. He imposed forced loans on prelates and the owners of large estates, which were taken with violence and without consideration. He suspended payments to creditors; and in return for payments in money he rendered legitimate the sons of the clergy. Against these abuses the cortes from time to time protested; and they, moreover, petitioned that luxury in dress might be abated, and that the king himself might set the example. In reply to the petitions for restrictions on expenditure in matters of dress, Philip the Second issued the remarkable edict of October 25, 1563, which Lafuente quotes at some length, and which Prescott describes as "going at great length into such minute specifications of wearing apparel, both male and female, that it would seem to have been devised by a committee of tailors and milliners, rather than of grave legislators."

The scale on which the royal household was ordered also made a draft on the resources of the kingdom. To reduce these expenditures was the object of frequently repeated petitions by the cortes to the king. The members of the cortes wished for the court and the nation a simpler form of life, and in this they were supported by the bulk of those who had intelligent opinions on public affairs. They called the attention of the king to "the pernicious effects which this manner of living necessarily had on the great nobles and others of his subjects, prone to follow the example of their master."

Philip's financial outlook and the condition of the country in the nineteenth year of his reign are characterized in a note written by him to his treasurer: "Having already reached," he said, "my forty-eighth year, and the hereditary prince, my son, being only three years old, I can not but see with the keenest anxiety the disorderly condition of the treasury. What a prospect for my old age, if I am permitted to have a longer career, when I am now living from day to day without knowing how I shall live on the next, and how I shall procure that of which I am so much in need."*

And yet, with a deficit increasing from year to year, he entered upon the building of the Escorial. The cost of construc-

*Gayarre, Philip the Second, p. 268.

tion and interior decoration amounted to about 6,000,000 ducats, a sum equal to \$30,000,000 at present, or more than the total annual revenue of the kingdom of Castile at that time. Although it may have laid a burden on the nation, yet, according to Fray Alonzo de San Geronimo, it at the same time placed the Almighty under obligations of gratitude to the king. It illustrates how far Philip's administration was removed from an economic basis. This, his chief work, stands as a monument of economic folly, and in the design of the king it was intended to stay the current of social progress. According to his own declaration, he intended to make a bulwark unconquerable by the new doctrines, and in which the throne and religion should be sheltered so securely that they might not be reached by the ideas then agitating and moving the world. It was important for the economic condition of Spain that the building of the Escorial set a fashion for the magnates of the realm. They felt called upon to manifest their pious zeal, in founding churches and monasteries and in purchasing relics, so that at the close of the sixteenth century there were in Spain about 9,000 cloisters for monks and 988 for nuns, containing about 46,000 monks and 13,500 nuns. And whatever influence these institutions exerted on the spiritual welfare of the nation, it is clear that they were not powerful factors in economic progress. We may count, also, as a hindrance to economic progress the great number of holidays, set apart primarily for exercises of devotion, but which came to be days of pleasure, developing in the people a spirit opposed to that persistent effort necessary to growth in material well-being.



XIII.—THE UNION OF UTRECHT.

By PROFESSOR LUCY M. SALMON,
OF VASSAR COLLEGE.



THE UNION OF UTRECHT.

BY LUCY M. SALMON.

It is fifteen years since Mr. Gladstone in his "Kin Beyond Sea" expressed the opinion that "As the British constitution is the most subtle organism which has proceeded from progressive history, so the American constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man."*

The verdict was accepted by the American people, partly because they had always been taught the inspirational theory of their political origin, partly because they were proud of believing themselves self-made, partly because the well-rounded period of the great premier carried conviction with it.

But questionings had already come in the minds of American scholars, and at Harvard, at Johns Hopkins, at the University of Nebraska, the English, and subsequently the Germanic, origin of our institutions had been shown. The two new schools were not rivals, for the English themselves, under the leadership of Mr. Edward Freeman, were studying the Germanic origin of their own local institutions. These theories seemed reasonable, the proof conclusive, and we had come to accept without question this explanation of the source of our political ideas.

But a new school has lately risen, led by Mr. Douglas Campbell, urging the claims of the debt America owes Holland. We are persuaded that all of our political virtues are inherited from the Dutch, while our political vices come from England. The claims of the new school are yet to be proven, but its rise is of interest as showing that our political origin may yet be shown to be cosmopolitan in character, as were the settlements of the thirteen original colonies.

These different, perhaps not altogether conflicting views,

* North American Review, 127, 185.

have concerned chiefly the source of our local institutions. But the fundamental principle in our National Government is federation; and the query naturally arises as to how this idea could have been developed. That some form of union was inevitable is seen at once from the position and character of the American colonies. But necessary as the union was, it is impossible that one so perfect as was the confessedly imperfect one of the New England Confederation should have been evolved from the inner consciousness of its framers.

Four confederations had existed before the first formed on American soil. Those of Greece were as remote from the thoughts and experiences of the New England colonists as they were distant in time. The holy Roman Empire had little to commend itself to their respect even had they been familiar with its workings. "If a foreign example must be found for so natural an arrangement," says a recent writer,* "why not refer to the Confederacy of Switzerland, known by residence under its protection by English Puritans for generations?" But Switzerland had little standing among European nations. It had never harbored for any length of time any united company of English citizens, and in some of its fundamental principles it was totally unlike the union formed in America. The fourth confederation that Europe had known was that of the Dutch Republic. This had grown out of the Union of Utrecht, formed forty years before New England was colonized, and under which a considerable body of the New England colonists had lived during their eleven years' sojourn in Holland.

That the Union of Utrecht had a direct and immediate bearing on the forming of the New England Confederation can not be stated, for the records of the Pilgrims of their residence in Holland are utterly barren of political impressions. It is impossible to believe that they walked as men not seeing, yet what was seen has not been recorded. What was the germ out of which the New England Confederacy was developed will probably never be positively known—the case can be decided only by circumstantial evidence, but all of this evidence points to the Union of Utrecht as a forerunner and prototype of the New England Confederacy formed in 1643.

The Union of Utrecht signed in January, 1579, was intended

* George Leon Walker, *Life of Thomas Hooker*, p. 116, note.

as a protest against the ineffectual manner in which Spain had kept the Pacification of Ghent drawn up more than two years previous. It did not in any way contemplate the establishment of an independent commonwealth—the preamble expressly states that the bond between them is formed without thought of “in any case separating themselves from the Holy Roman Empire.” The Dutch Republic was certainly a result, but just as certainly it was not a premeditated result of the Union. It was two and a half years before the allegiance to Spain was formally renounced, and although the relations between the two countries had been greatly strained in 1579, it was not realized that a rupture was inevitable. The Union was intended solely to protect themselves against the attempts of Spain to dismember the Provinces, and to this fact must be attributed its incomplete nature as a permanent constitution.

The Union consists of twenty-six articles, it is full of repetitions, and shows little or no skill in the arrangement of the material. It is provisional in character* and contemplates the securing of but two main objects—mutual defense against a foreign oppressor and religious toleration. It presents no well-ordered, carefully devised scheme of government, and aside from these provisions securing protection and toleration, it is almost wholly negative in character.

It provides for no general executive department, the nominal governor-generalship established in 1577 under the Archduke Matthias being accepted in its stead†. Its legislative department is an assembly of independent envoys, representing sovereign States, who vote by provinces and not as individuals. It lacks a supreme judicial authority, providing for the settlement of the different classes of disagreements in several different ways. It makes no provision for a mutual concession of rights and privileges by the Provinces on the one hand and by the general government established on the other hand, except in the two matters of defense and religion. It violates in every particular all those principles which Americans to-day consider fundamental in a federal government—the formation of a supreme legislative, executive, and judicial authority, the equitable adjustment of the mutual relation of the national and state authorities, and a power inherent in the national government of operating directly on every individual citizen.

* Articles 5, 9.

† Article 2.

It has been said that the Union in its fundamental character, with the exception of two main features, is negative rather than positive in character, that it emphasizes at every point its confederate rather than its national principles, and that its forces are centrifugal rather than centripetal.

This is seen in the fact that the first article of the Union guarantees to every province, city, and corporation of the league its own peculiar privileges, liberties, exemptions, rights, statutes, customs, usages and all other laws. The Provinces must moreover assist each other with life and goods not only to maintain these but also to strengthen them and to protect them against every outside force seeking to diminish them. Again, a unanimous vote of all the Provinces was necessary in concluding peace, declaring war, and instituting taxes, in receiving new members into the confederation, and making additions or amendments to the Articles of Union.* The revenues raised were not to be employed for any purpose except that of defense and were to be only as great as the necessities of the Provinces demanded.† The captains and soldiers of all garrisons were to take the oath peculiar to the city and the province in which they were stationed and were not to be exempted from any duty or impost laid upon the citizens of the town.‡

On its positive side, the Provinces bound themselves to confederate together forever and to remain united as if one province. No change in any one of the Provinces by virtue of donation, cession, sale, treaty of peace, marriage, or any other cause, was to affect a separation of the Province from the Union. The articles provided that the Provinces should defend each other with life, goods, and blood against all force brought against them by any one in the king's name, or pleading the Pacification of Ghent, or because the Provinces had renounced Don John, or received the Archduke Matthias as governor-general, or because of any other act done since the accession of Philip II (1558), or because they had formed the present Union, or through any attempt to restore the Roman Catholic religion.§ The Provinces were also to assist each other against all foreign princes, powers, provinces, and cities who should unitedly or separately attack them, provided such defense were controlled by the "generality" of the Union after

*Articles 9, 11, 22.

† Article 6.

‡ Article 7.

§ Article 2.

full knowledge of the circumstances.* All frontier cities were to be strengthened, one-half of the expense being met by the province in which the cities were situated, and one-half by the confederation. The expense of building new fortifications was to be borne by the United Provinces.† In order to ascertain the military resources of the country, all inhabitants between the ages of eighteen and sixty were to be enrolled at a month's notice after the formation of the Union.‡ It was, furthermore, ordained, in providing for the common defense, that all cities should be bound to accept all such garrisons as the United Provinces should station in them, acting with the advice of the governor of the province, the expense of the garrison being borne by the United Provinces, and the citizens receiving compensation for all troops quartered on them, and being guaranteed against lawlessness on the part of the troops.§ To meet the expenses incurred in providing for this defense, it was decided that the Provinces should every three months, or at any reasonable period, farm out the taxes, raising the revenues necessary by duties and imposts on wine, beer, corn, grain, salt, gold, silver, silk, woolen, cattle, sowed lands, horses, oxen when sold, all goods coming to the scales, and other articles to be subsequently determined. If these revenues did not suffice, recourse was to be had to the royal demesne.|| In order to strengthen still further the finances of the Provinces, provision was made for a uniform currency, which was not to be changed without common consent.¶ Provision was also made for securing to the clergy their revenues.**

A second class of provisions positive in character concerned religious freedom. This was granted specially to Holland and Zealand, while permission was given the other Provinces to regulate the matter in accordance with the religious peace already framed by the States-General and the Archduke Matthias. Thus to all unmolested exercise of their religion was granted. No man was to be questioned concerning his religion, nor was any province or city to interfere with another in worship or religion.†† It was not intended by these provisions, a subsequent article explained‡‡, to exclude any Catholic city or province from the Union, if it bound itself by

*Article 3.

§Article 7.

**Articles 14, 15.

†Article 4.

||Article 5.

††Article 13.

‡Article 8.

¶Article 12.

‡‡Verklaring van bet 13. Articul.

other articles and its citizens conducted themselves as good patriots.

These two classes of provisions providing for the common defense and the necessary expenses entailed, and also for religious toleration, are the only ones conferring positive powers on the States-General. The two remaining classes of provisions, however, must be considered, the first concerning the modes of legislation and the second judicial procedure.

Deputies from all the Provinces were to meet at Utrecht, in order to attend to the public business, the purpose of the meeting being set forth in the call. This object was not to be kept secret, business was to be transacted by common consent, and by as large a number of votes as could be brought together. Those deputies not coming were to be bound by the acts of those present, unless the subjects under discussion admitted of delay or were of great importance. In either of these cases the deputies not present could be summoned a second time, but if they failed to appear after a second summons the business was to be decided by those present, and the decisions were to stand. The deputies could, however, send written proxies. Moreover, any person was at liberty to make those in authority acquainted with any matter which he considered it advisable for the other Provinces to know*. In all cases, except those mentioned, a majority vote was to decide, the votes being taken by Provinces rather than by individuals†.

In regard to judicial affairs, it was provided that all questions concerning the laws, privileges, rights, and customs of the Provinces should be settled, first, by ordinary tribunals; second, by arbitration, and, third, by amicable agreement; and this without the assistance of foreign countries or cities, except as these should be inclined to intercede in favor of arbitration.‡ Differences of opinion concerning the declaration of war, the conclusion of peace or the levying of taxes were to be referred to the stadholders of the Provinces, and these failing to agree they were to be assisted by arbitrators appointed by them, and by these decisions all parties were to be bound.§ Differences between the Provinces, if they concerned a particular Province, were to be settled by the other Provinces or by arbitrators appointed by them. If the matter in dispute concerned all the Provinces, it was to be settled by stadholders of the

* Articles 19, 20.

† Article 3.

‡ Article 1.

§ Article 9.

Provinces, or by them and assistants appointed by them, and no appeal could be taken from this decision.* All questions concerning the articles of Union were to be decided by the confederates. If they could not agree, the matter was to be referred to the stadholders.†

Other articles provided for the signing and carrying into effect of the articles.‡

Certain principles of government are clearly seen in these provisions. The first is that the Union was a confederation pure and simple, a fact indicated alike by the name States-General given to the legislative body and by the fact that the deputies represented sovereign states, not the entire people; that the General Government had no power over individuals; and that the ultimate sovereignty was inherent in the numerous board of magistracy, which were close corporations, by which each city was governed. The Union was to form one state against foes, but to be many internally. It was indeed to be a divided union. The second general principle is that the Union possessed the sovereign rights of declaring war and concluding peace, levying taxes, and coining money. The third is the fact the instrument of union was a compact, not a constitution under which an organic union could grow up. That the Union prospered was largely due to the fact that very soon after its formation the States-General usurped the authority, and, after the failure of the administration of the Earl of Leicester, governed the country in conjunction with the Council of State.

It was this Union, incomplete and temporary, yet active and vigorous, under which the Pilgrims lived for eleven years.

What was the influence that it had on the formation of the first American Union? Of direct evidence there is none. The records of the religious and ecclesiastical experiences of the colonies are given with an almost painful attention to minute detail, but scarcely an indirect allusion has come down of the political impressions gained in the Netherlands. That intelligent men who planned and executed the emigration to Holland and subsequently to America were unobserving of their political surroundings can not be believed, but direct proof is wholly lacking. Some inferences, however, can be drawn with a reasonable degree of probability both from external conditions and from the nature of the two Unions.

* Article 16.

† Article 21.

‡ Articles 23-26.

There are two main lines of circumstantial proof that not a union of the colonies, but the particular form such a union was to take was suggested to the colonists by the experience of Holland.

The first is the fact that of the four colonies that formed the New England Confederation Plymouth was one, and the Plymouth colonists, after a residence in Holland of eleven years, had come to America only seventeen years before the union was suggested and but twenty-three years before it became a reality. The early impressions of this long residence could scarcely have been effaced. It is not altogether probable that the first suggestion of a union came from Plymouth—the needs of the other colonies were greater—but it is more than probable that the experiences of the Pilgrims was of assistance in determining the special character of the league.

Again, it is a matter of uncertainty who first suggested the union. If the initiative came from Plymouth the influence of Holland is sufficiently clear. If it came from Connecticut the Dutch influence is equally clear. The first settlement of Connecticut was made by Lieut. Holmes and a company from Plymouth, and the station established was soon left in charge of Jonathan Brewster, a son of Elder Brewster, who did not leave Holland until the autumn of 1621. This early settlement by Plymouth was subsequently yielded to a colony from Massachusetts, and one of the pioneers of the Massachusetts settlement was Thomas Hooker, who had lived in Holland from 1630 to 1633 and removed to Connecticut less than three years later. If the initiative came from New Haven we know that one of its leaders, John Davenport, lived in Holland from 1633 to 1636, and that one of the signers of the confederation on the part of New Haven, Theophilus Eaton, had in London been a parishioner of John Davenport's and had come to America at Davenport's instance and in his company.* Eaton had, moreover, previously gone on a diplomatic mission to Denmark, where he must have come into more or less personal contact with Dutch ideas. If the honor belongs to Massachusetts, then we find that Thomas Dudley, one of the commissioners from Massachusetts who signed the articles of confederation, had been a resident of Holland.

It is thus seen that of the twelve names affixed to the New England Confederation three were men who had formerly

* Palfrey, *New England*, Vol. I, p. 528.

resided in Holland, as had also two others the most influential in bringing it about, while a sixth was an intimate friend and companion of one of these.

That a union of the colonies should have suggested itself to one and all of them is not strange, surrounded as they were by enemies on all sides and far removed from the protection of the mother country, or that its practicability should have seemed assured, familiar as were so many of their leaders, through personal experience, with the confederation of Holland.

As far as the details of the development of the plan are known they include seven steps, beginning in 1637 with a conference between Massachusetts, Plymouth, and Connecticut in regard to the Pequot war* and terminating six years later with the signing of the New England Confederation in 1643. The most important of all these steps was a month's discussion of the subject in Boston in 1639 on the part of Thomas Hooker and Governor Haynes.†

The indebtedness of the New England Confederation to the Union of Utrecht is seen most clearly through the internal evidence. The preamble states the conditions under which the confederation was formed—all those uniting in it had come to America to advance the kingdom of Christ and to enjoy religious liberty; they were living in scattered settlements, surrounded by jealous and hostile neighbors, threatened by the Indians, and cut off by reason of the civil war in England from seeking the advice and protection of the mother country. Thus they were led to form a firm and perpetual league for defense and offense, for mutual advice and succor, safety, and welfare, and also for propagating the truth and liberty of the gospel. Thus the objects of the two unions—defense and religious unity—are identical. The religious unity, however, secured by the New England Confederation was on a much narrower basis than that of the Union of Utrecht in that it attempted to secure the absolute identity of religious interests, while the Union of Utrecht deemed it sufficient to prevent active interference in religious affairs. Again, the New England Confederation was not formed with the thought of securing independence from England. Twenty years after-

* Winthrop, *Hist. of New England*, 1, 260; Bradford, *Hist. of Plymouth Plantation*, p. 351-355; Massachusetts Records, 1, 192.

† Winthrop, *Hist. of New England*, 1, 360; Hubbard, p. 466.

wards the general court of Plymouth protested to the English commissioners, "the league between the four colonies was not with any intent (that we ever heard of) to cast off our dependence upon England, a thing which we abhor, entreating your honors to believe us, for we speak as in the presence of God."*

In one respect the Union of Utrecht was more liberal than the New England Confederation, in that it provided for accession to its numbers, while the American union distinctly provided that no other jurisdiction should be taken into the confederation.

The New England Confederation is, like the Union of Utrecht, crude in form and suggesting little the careful deliberation of six years. It is essentially aristocratic in character, carefully excluding those provinces that "ran a different course," especially that of Maine, "for they had lately made Acomenticus (a poor village) a corporation, and had made a tailor their mayor, and had entertained one Hull, an excommunicated person and very contentious, for their minister." †

The New England Confederation is scarcely less negative in character than the Union of Utrecht. It provides like its forerunner for but one department, a legislative, with advisory powers. The local independence of each colony is forever guaranteed. ‡ It gives to the commissioners no authority over the individual members of the confederation, and it provides for the equality of the distinct jurisdictions. In every way the power of each province and of commissioners is hedged about that no one may have an advantage over any other.

On its positive side it provides for the payment of all charges of war as regards men and supplies, according to the population of each jurisdiction, between sixteen and sixty years of age, and the distribution of booty on the same basis. For the determining of all these questions of war and peace the commissioners were to have full power, and a majority of six were to have power of decision. The commissioners were also, as they might have commission or opportunity, to endeavor to frame civil laws and agreements for preserving peace among themselves, preventing differences, securing the free and speedy passage of justice in every jurisdiction, mutual citizen-

* Hutchinson, *History of Massachusetts*, I, 235.

† Winthrop, *History of New England*, II, 121.

‡ Articles 3, 6.

ship, and a satisfactory Indian policy. Moreover, fugitives from service and from justice were to be delivered up.

It was undoubtedly the influence of Holland that led to the refusal of the commissioners from Plymouth to approve the articles until they had been confirmed by the majority of the people of the colony. In both Plymouth and Connecticut, where there was Dutch influence, there was the greatest insistence on the responsibility of the deputies of the colonies. In 1638, when the articles were under consideration in Connecticut, that colony had insisted that if the commissioners were not unanimous in their opinions, the matter under discussion should be referred to the several colonies—a proceeding which, as Winthrop remarks, "beside that it would have been infinitely tedious and extreme chargeable, it would never have attained the end."*

It is thus seen that the New England Confederation, like its prototype, was a confederation, not an organic union of colonies. Its commissioners also represented independent communities and the confederation had no power over individuals. It had the sovereign rights of declaring war, concluding peace, and levying taxes, while that of coinage still remained naturally with the mother country. Every colony had an equal voice with every other in the management of affairs, while the burdens of war were proportional to the population. In a similar manner to the Union of Utrecht, if the commissioners were unable to agree, the matter under discussion was to be referred back to the general courts of the four colonies. If these four general courts agreed upon the business, it was then to be prosecuted.

Thus, at every point the unions in both countries could decree while it rested with the individual members of the union to carry out the decrees.

It was inevitable in both countries that friction should result from this attempt to square the circle of nationality, and we find in the Netherlands John De Witt protesting that Holland gave far more to the Union than she received from it, while in New England the advantage derived from the confederation was disproportionate to what was contributed to it, a fact that led Massachusetts in the New England Confederation to play the part of Holland in the Union of Utrecht.

* Winthrop, *History of New England*, 1; 342.

It was inevitable that in details the unions should differ, but we think it must be seen that the underlying principles of the two are identical. If so, it must prove one more illustration of the fact that, in the words of Mr. George William Curtis, "Our political constitution was not an inspiration, it was an application."*

*Address at the Twenty-fifth Anniversary of Vassar College, p. 28.

XIV.—ENGLISH POPULAR UPRISINGS IN THE MIDDLE AGES.

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ENGLISH POPULAR UPRISINGS IN THE MIDDLE AGES.

By GEORGE KRIEHN.

A series of popular upheavals marked the close of the middle ages in central and western Europe. These movements were popular even to a more marked extent than modern revolutions; the lower classes arose almost to a man. They swept away their masters, and it seemed as if unheard-of reforms were about to be inaugurated. But only for a moment! Centuries have elapsed since then, yet even now the demands of the patriot leaders have not been fully realized.

Partly by treachery, partly by force of arms, the mediæval revolutions were suppressed. Their events were forgotten, or, worse still, only recorded to be condemned, to become a favorite theme of eighteenth-century historians against the deadly sin of rebellion. Not until our own times have they begun to receive a part of the attention they merit. And yet they were of no small influence on the society they strove to reform; the rising in 1381 gave the death-blow to English serfdom; the Jacquerie destroyed many a stronghold of oppression in France; a thousand flaming castles and monasteries lighted the march of the German peasants in their great struggle for liberty in 1524-'25.

Such important factors in history deserve special investigation for their own sake. To Americans they should be of particular interest. Our national existence began with a revolution; what subject could be more noteworthy to us than former rebellions of our ancestors, unsuccessful though they were? What analogies do they present to modern revolutions? The study of mediæval agrarian and labor troubles may perhaps aid us to solve our own.

Of all such disturbances the English are probably the most instructive, because they were of common occurrence, more successful, and of more lasting influence on social conditions.

It is somewhat remarkable that comparatively little has been done in this field, especially when we consider the importance generally conceded it by the foremost English historians.*

Whilst studying abroad the author first directed his attention to the study of mediæval revolts, having written his graduating thesis on one of them, the English rising in 1450.† Upon his return to America these studies were further prosecuted under the kind encouragement of Prof. Herbert B. Adams, and partly embodied in a course of lectures to the graduate students of the Johns Hopkins University on Popular Uprisings in the Fourteenth, Fifteenth, and Sixteenth Centuries.‡ A further work on the English Popular Revolt in 1381 will soon appear. The reader is referred to these investigations for such new or dissenting views as will be expressed in this paper.

It is a commonplace that our ancestors were comparatively free in the days of Cæsar and Tacitus, but that they lost this primitive freedom in course of time. At first the freemen were the greater part, the ruling body of the German tribes; by the year 1000 the masses of the English people were serfs without any legal rights against their masters. Once the land had belonged to the village communities and to the nation; now lords, prelates, and kings owned almost every acre. The once free Saxon was bound to the soil of the manor. If he belonged to the class termed villains, and held the normal holding of about 30 acres, he must work two or three days weekly for his lord throughout the year, to say nothing of other obligations and taxes scarcely less onerous. If a cottier, holding a smaller plot, his duties were somewhat lighter. He had only one protection against oppression and misrule, the custom of the manor, as had been the use from time immemorial.

In the fourteenth and fifteenth centuries a change took place in the condition of the peasantry. England passed from the natural husbandry to the money basis; the labor service of the serf was commuted into rent. The villain became a yeoman, or rent-paying freeholder; the cottier a free agricultural laborer. During the fourteenth century a number of chanced events aided this transformation. I refer especially

* Stubbs' Constitutional History, II, 449-50; Thorold Rogers' History of Agriculture and Prices, Oxford, 1866, I, 79-95.

† English Rising in 1450, Strasburg, 1892.

‡ Johns Hopkins University Circulars, May, 1893, p. 80 *sq.*

to the great plague in 1349, the famous black death, which made Europe and the Orient like to a vast charnel-house. One-third of the population of England perished. Whole yillages were swept away.

Of course labor became scarce. Sheep wandered about without shepherds to heed them; vast tracts of land lay untilled for want of men to plow. Wages rose and rents fell. The prices of all the necessaries of life increased in proportion and no man could subsist on small pay. Yet little were the wants of the masses considered by the landholding parliament, the very first proceeding of which was to enact the well-known statute of laborers, a measure that, under brutal penalties, compelled the workman to demand no higher wages than before the plague. The people's answer was defiance; in country and town peasants and artisans formed regular trades-unions against it. Forbidden by the government, they maintained their organizations in secret. Yeoman or villain, cottier or laborer, craftsman or apprentice: all gladly gave to the common cause.

But parliament was blind and deaf to public discontent. It reenacted the statute, enforcing all its clauses with increased severity. It continued to raise heavy taxes for the needs of the French war, resorting to unheard of poll taxes, which exasperated the people beyond measure. At last a brutal levy occasioned the first dangerous outbreaks in 1381.

The contemporary accounts of the events of 1381 were written by monks and other churchmen who had lost and suffered through the rebellion. Hence their narratives are very one sided. Thomas of Walsingham, historian of the royal abbey St. Albans, gave us the longest account in his *Chronica Majora*.* The works of Henry of Knighton † and of the monk of Eversham ‡ are of importance, as is that of the fanciful, unreliable Sir Jean Froissart. John Stowe's *Annales* are invaluable on account of their detailed narratives and the author's faithfulness in copying contemporary sources. The

* This work is now lost, but has been preserved in two works that reproduced it almost verbally: Thomas of Walsingham's *Historia Anglicana*, ed. Riley, London, 1863, and the *Chronica Anglica*, ed. Thompson, London, 1874, both in the Rolls Series.

† Published by Roger Twysden, *Historiæ Anglicanæ scriptores decem*, London, 1652.

‡ *Historia vitæ et regni Ricardi II, Angliæ regis, a monacho quodam de Eversham consignata*, ed. Th. Hearnius Oxonie, 1729.

continuation of the so-called *Eulogium** teems with important information not heretofore utilized. Among the state papers the Rolls of the Parliament and the court rolls recording the legal proceedings against the insurgents are especially valuable. Modern historians have contented themselves with noting particular phases of the insurrection; no detailed account has as yet appeared.

The first important outbreak in 1381 was a bitter conflict between the townsmen and the University of Cambridge. About May 1 the former arose in open rebellion and compelled the university officials to renounce all their oppressive privileges over the town. The first uprising of the rural tenantry occurred in Essex somewhat later, on occasion of an enforced collection of an oppressive poll tax. All the villages arose; such as were reluctant were forced to march along with the rest. A compact body of men under Wat Tyler and Jack Straw crossed over the Thames at Erith, into Kent, in order to arouse the inhabitants of that county as well. †

On 7th of June a levy of the inhabitants of northwestern Kent was held at Dartford; a military and political programme of a general revolt and advance upon London were there agreed upon. The main body of the rebels thereupon marched on Canterbury, the chief city of the county. On the road they stormed and took the castle of Rochester, releasing a townsman of Gravesend whose imprisonment had caused a general uprising of the surrounding country.

Canterbury received them with open arms; mayor and bailiffs solemnly swore allegiance to the rebellion. The citadel of the city was soon taken, Sir William Sepbrantz, the sheriff of Kent, along with it. The latter was forced to deliver up all rolls and muniments in his possession, which Tyler, the rebel leader, caused to be publicly burnt. A second division broke into the priory adjoining the cathedral and rifled the chamber of the archbishop of Canterbury, who was at the same time chancellor of England, and therefore most cordially hated as a chief author of the misgovernment then prevailing. The rebels are also accused of having damaged the abbey of St. Vincent and of having committed various other offenses.

* *Eulogium historiarum sive temporis*, a monacho quodam Malmesburien-
ensi exeratum, ed. Haydon, London (Rolls Series), 1858.

† *Contin*, *Eulog.* III, 352.

On the morning of June 11 they set out for London, plundering the houses of all whom they esteemed public enemies on the way, and forcing all men of note to join them. In the evening of June 12 they arrived at Blackheath, their fixed camp, where a number of men awaited them, so that their number perhaps amounted to 20,000, all told. The chief prophet of the rebellion, an heretical priest named John Ball, whose fiery, socialistic sermons had long been the delight of the peasantry, and the terror of clergy and nobility, was among them. The text of his sermon held at Blackheath well illustrates his doctrine, as well as the spirit that animated his hearers:

“ When Adam dalf and Eve span
Who was then the gentleman.”

The feast of Corpus Christi, June 13, was the day generally assigned for the advance on London. From the northeast came the men of Essex under Jack Straw, their captain, and encamped at Mile End, a northeastern suburb. The men of all the counties about the capital simultaneously advanced; more distant shires also sent in insurgents. Most of the rebels were ill equipped, but great desire for freedom moved all alike and made them strong.

In the morning of June 14 the southeastern rebels were admitted into London by favor of the popular party. The men of Hertfordshire entered from the north; the way stood open to the levies of Essex in the northeast. Some of the principal citizens of London did not hesitate to make common cause with the rebels, notwithstanding the efforts of William Waltham, the mayor; the populace was heart and soul in their favor. Soon after the arrival of the rebels, perhaps even before then, the latter had demolished a great part of Savoy, a palace belonging to John, duke of Lancaster, an uncle of the king, but very unpopular with the people.

One division of the southeastern rebels marched through London, destroying a number of houses of supposed public enemies. Thus the Temple, where the hated lawyers dwelt, went up in flames. The lodge of the Hospitalers at Clerkenwell was totally destroyed on account of the hatred they bore the head of the order, Sir Robert Hales, lord treasurer of England. The main body began a regular siege of the tower of London, where king and court were shut in like mice in a trap. The knights and men at arms assembled within, though

powerful in numbers, were too panic-stricken to offer effectual resistance; nothing remained but to yield to the rebels. Accordingly the boy-king, Richard II, was escorted to Mile End to hold a conference with the rebels, whilst the unfortunate ministers were left to the mercies of the Kentish besiegers.

The latter rushed wildly into the tower and siezed the chancellor, treasurer, and other alleged traitors, among whom were four of the chief collectors of the poll tax. They dragged their victims to the neighboring Tower hill, and executed them without mercy.

At Mile End were assembled all the rebels who had come from the north and east, and many from the south as well. In the conference held there during the evening of June 14 the King and his advisers granted all the rebels demanded: that serfdom be abolished; that every man be able to buy and sell free of toll throughout England; that 4 pence an acre be the limit of rent for land held in any kind of tenure; that all rebels receive the king's pardon. Upon this the rebels of the eastern and midland counties returned home.

The southeastern rebels, however, were unwilling to accept the same terms. Being mostly yeomen or free tenantry they had attained that stage of development coveted by their northern compatriots, and sought rights still more extended. A conference was arranged for Smithfield, then a northern suburb of the capital. Wat Tyler, the rebel leader, was lured out of sight of his men on plea of an interview with the king and secretly dispatched by the royal retinue.* Under pretended commands from their captain his men were enticed without the city walls. Troops collected by the royal partisans in the city then appeared on the scene, and the result was that the rebels, upon the king promising all their demands, agreed to go home.

Bloody vengeance was executed on the rebels after their final dispersal, notwithstanding the royal word. Manumissions and pardons were formally revoked, while a great army was summoned to crush out the remains of the revolt. The rebel leaders were punished with unheard of severity.

The popular uprising in 1381 was most variegated in character. It seemed as if all discontented elements (social, politi-

*Eulog. III, 353-4; Stowe, p. 288. This new version of the meeting at Smithfield and Tyler's death is to be preferred to the romantic but highly improbable account heretofore accepted

cal, and religious) had united in a grand effort to overthrow the social fabric of the day.* The central factor was of course a general rising of the tenantry against the landed system. This was brought about by the repeated attempts of parliament to enforce the statute of laborers, and to introduce poll taxes, and also by the reactionary policy of the landlords in demanding labor services, even where they had since accepted money payments for rent. The latter were aided in their desire by the machinations of the lawyers; hence the extreme hatred of the rebels for that class.

In close alliance with the peasantry were a number of mesne towns under the jurisdiction of spiritual lords; indeed, it almost seems as if a general rising of such boroughs had been attempted. In St. Albans the townsmen, under direct countenance of Wat Tyler and promised aid in case of need, arose and extorted a charter of liberties from the abbot. William Gryndecobbe, a heroic townsman, was the real head of the movement. Most villains of the abbot's domains brought them aid, and shared the success of the rebellion by obtaining charters of liberty for themselves. A similar but far bloodier scene took place at St. Edmundsbury in Sussex, where the rebels, under John Wrawe, a priest, beheaded the prior and a royal justice. At Cambridge another revolt against the university occurred, in which Corpus Christi college was well-nigh destroyed and much damage done. The inhabitants of Peterborough are said to have attempted the destruction of the abbey there.

Not only the dependent religious towns but several great cities and boroughs such as York, Scarborough, and Beverly in the north, Canterbury and Bridgewater in the south, took open part with the rebels. Indeed, it seems very reasonable to suppose that the popular party in all English towns favored the rebellion. For it was about this time that the popular municipal government was being absorbed by the great merchant companies, for which reason the lower classes were very restive. The rising in 1381 was not only the battle of serf against landlord, but that of the poorer craftsman and artisan against the rich civic aristocrat. It was the first great general conflict between capital and labor.

*The reformer John Wycliffe was in no way connected with the insurrection, though some of his converts probably were. See Gotthard Lechler, *Johann von Wiclif*, Leipsic, 1873, I, 636-65.

The movement raged far and wide throughout the country. A certain sort of organization seems to have prevailed; the people arose by counties, each one under a separate captain. Thus Wat Tyler, also chief captain of all the rebels, was captain in Kent, Jack Straw in Essex, John Wrawe in Suffolk, John Littestere in Norfolk, John Hanchach in Cambridge, Robert Phippe in Huntingdon. The purposes of the insurgents have already been noticed in the demands of these leaders.

The effects of the revolt in 1381 were far-reaching and of great importance. Never was another poll tax attempted in England; this is of importance, as this method of taxation was fast becoming a precedent. A second effect was the scare produced on John of Gaunt, who retired from the field of active politics, where he had been having a prevailing though not a salutary influence. But its greatest result was the terror struck in the hearts of the landlords; they became timid about enforcing labor services. Serfdom received a deathblow.

During the fifteenth century the natural development quietly took its course; a race of sturdy freeholders took the place of the serfs, an age of unprecedented prosperity dawned for the English workingman. Necessaries of life were cheap, rents very low, and wages universally high. It was the golden age of English labor.

Just this prosperity made the workman impatient of oppression and misrule, and caused the frequent disturbances of the fifteenth century. I shall give no details on the numerous Lollard revolts, as these socialistic Wicliffites were at best a small though a very pertinacious minority. No great national movement occurred till 1450, the year of the so-called Cade's rebellion. For a description and interpretation of the historical sources I beg to refer to the thesis mentioned above.

One of its main causes was the overtaxation resulting on Henry VI's glory in France. The income from the royal domains, which contributed the nucleus of the revenue, had been squandered, wherefore the want was more keenly felt. Another cause was the prevailing misgovernment in England, the common bribery and corruption in all circles of the Government; a third, the loss of France, which wounded national pride, and had well-nigh ruined the wool trade. But none of the important complaints of the rebels are social or religious. The movement was purely political. It was a tide of popular opinion in favor of the Yorkist or reform party, perhaps under

the countenance of the duke of York himself. Not only the lower classes, but also the gentry, and even some of the nobility, were implicated.

The rebellion began in Kent during the latter part of May. The people of the different hundreds, well ordered and organized, appeared under their constables like the militia in a regular levy. As in 1381 they fixed a camp at Blackheath, but retreated on the approach of the royal forces under king Henry VI in person. A detachment following them in hot pursuit was defeated and cut to pieces at Sevenoaks on June 18. The remainder of the king's troops disbanded, and on July 3 the rebels, after having recruited in Sussex, forced their way into London by favor of the populace. On the day following the heads of Say, the lord treasurer, and Crowmer, sheriff of Kent, fell on the block. At length the hostile city council, aided by the garrison of the Tower, strove to exclude the rebels by occupying London bridge in the night of July 5. A bloody though undecided fight took place, and lasting quiet was only established when members of the royal council accepted the complaints and demands of the rebels, and granted a general pardon to all. Their captain was killed soon afterwards. He must have been a man of considerable ability to keep such excellent order and lead them so successfully, though we know as little of his name as of his life or character.

The rising in 1450 was by no means a local Kentish outbreak. The commons of Essex came to London by appointment to meet Cade; the people of Dorset and Wiltshire, rose against their hated bishop of Salisbury, put him to death, and confiscated all his possessions. In south, east, west, and middle England the rebellion raged; only the north was free. It was a great national movement.

The causes of the popular revolt in 1469 were precisely similar to those of 1450. Prevailing evils had not been diminished by the accession of the house of York, only that Edward IV's favorites were now universally detested instead of Henry VI's. This time the scene shifts to the north. Rising against the tax collectors, the peasants, 15,000 strong, under a certain Robin of Redesdale, marched on York, but were defeated by a brother of Warwick, the king-maker. They soon rallied, however, and, countenanced by Clarence, the king's brother, and Warwick himself, marched southward, and utterly defeated the royal forces at Edgecote.

Several unpopular ministers were taken and beheaded, the queen's father and brother among them. The king himself was obliged to surrender, whereupon Warwick dismissed the people, who returned home. The fruits of the victory remained in the hands of Warwick and Clarence, just where the people wished to put them.

Just as the rising in 1450 ushered in the wars of the roses, announcing the general favor of the nation for the house of York, that of 1469 announced a great revulsion against a king of that house, guided by Warwick, the people's friend.

A change now comes over the scene. In the latter part of the fifteenth century and the beginning of the sixteenth the face of England was transformed from plow to pasture land. Sheep farming was introduced, because wool brought higher prices than wheat and required little labor to raise. Contrary to all law and right, landlords evicted their tenants and inclosed the common pastures. The land was filled with vagabonds and beggars; at the same time prices were enhanced by the debasement of the currency under Henry VIII and his successors, whereas wages were slower to rise. A little before, the dissolution of the monasteries had put a band of merciless land-grabbers in the place of the monks, who were often easy landlords.

Parliament has done its utmost against illegal inclosures and evictions, but in vain. Another rising of the peasants in 1549, but which does not come under the scope of this paper, failed to effect the same purpose. Since then the fortunes of the English workman steadily declined, until only the nineteenth century brought about a change for the better. None of the great reformers or statesmen favored him; not a single law was made for his benefit. The much-lauded poor laws of queen Elizabeth only forced the landlord to maintain as a pauper him whom he had deprived of his land. The law of parochial settlement, passed under Charles II, made him a serf without land. Hostile legislation thwarted the relief that would otherwise have been afforded by the invention of steam, so that at the end of the seventeenth century the workman could buy just one-eighth as much wheat for his wages as in the fifteenth.

The middle ages, then, were not so disastrous for the people. England has progressed, it is true, but the laborer has not received a corresponding share of the advancement. Merchant

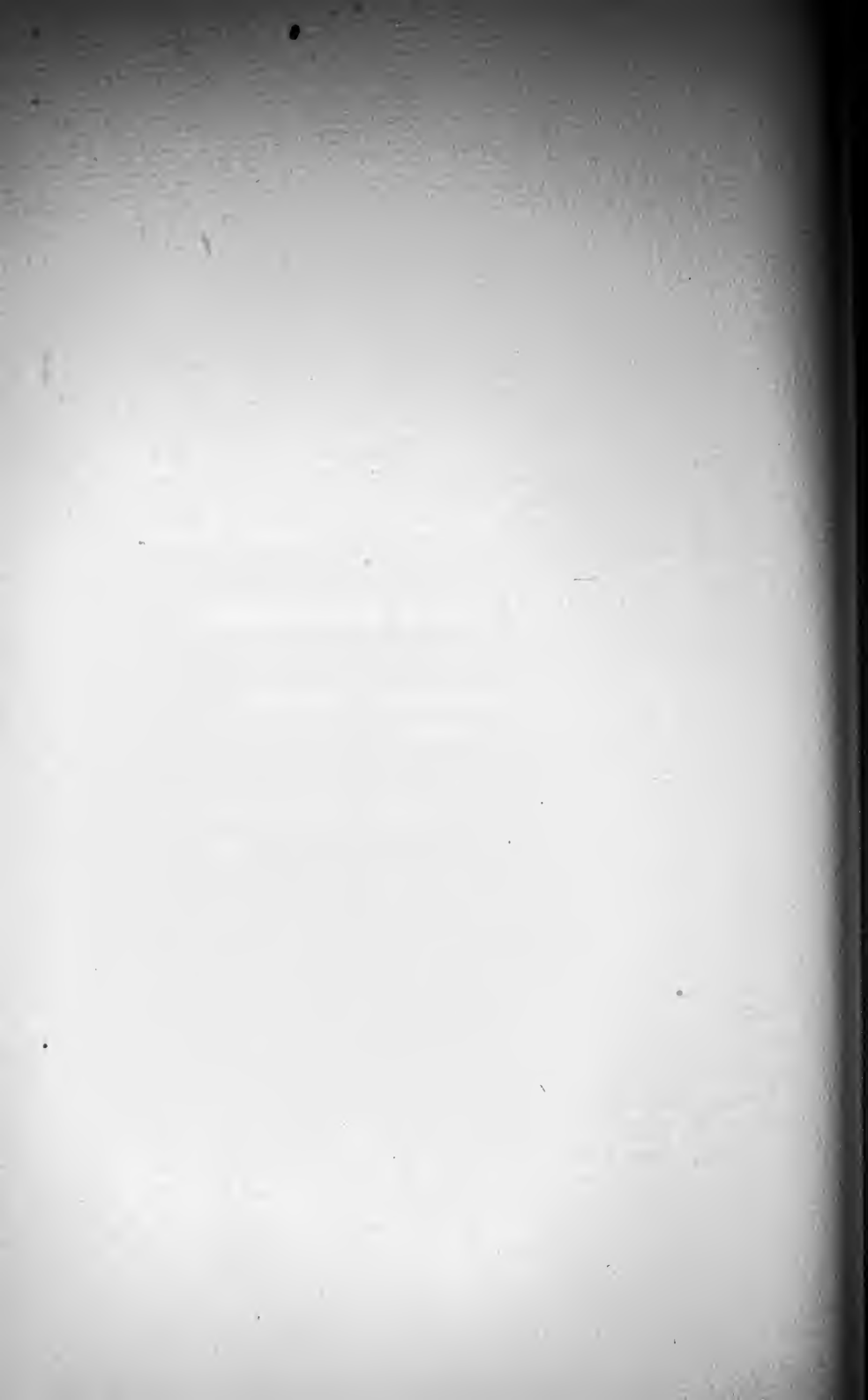
and landholder have fared far better than he. His condition is in many respects superior to that of the mediæval serf, but not absolutely so; for the latter, at least, had plenty to eat and a hut to protect him from the weather, whereas our outcasts often starve and have not where to lay their heads. There are more starving, homeless wretches in the great cities of England to-day than there ever were serfs in the whole island. They live in far more squalid and abject poverty than the meanest mediæval bondman. Not until the masses enjoy more economic in addition to personal freedom may we vaunt our absolute social superiority over the middle ages. Oh, that we might add some of the prosperity of the fourteenth and fifteenth centuries to the culture and progress of the nineteenth!*

*For the economical development of England throughout the period see Thorold Rogers' *Six Centuries of Work and Wages*.



XV.—JEFFERSON AND THE SOCIAL COMPACT THEORY.

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JEFFERSON AND THE SOCIAL COMPACT THEORY.*

By GEORGE P. FISHER.

The theory of Social Compact finds the authority of government on the express or implied consent of the subjects to its creation or continuance. There are various types of the theory, but they agree in postulating, in some form, as the condition of rightful authority in the state, a pact between the governors and the governed. In the conservative form of the theory, this pact is merely a theoretic implication which serves to define the mutual obligations of ruler and subject. In the more radical form, the actual consent of the people, or of a major portion of them, is assumed to be requisite to the validity of a civil polity.

The genesis of the Social Compact theory is a point of much historical interest. To investigate the rise and progress of this doctrine does not fall, however, within our present purpose. Many† find the germ of the theory, which was developed by subsequent writers, in the sentence of Grotius: "*Civilis juris mater est ipso ex consensu obligatio.*" Grotius in effect teaches that there is a tacit agreement on the part of the people of a monarchy or republic to obey the will of the sovereign or the majority. Before him, however, Hooker had presented the same doctrine; his view being that an original consent of a people to be subject to a sovereign binds posterity as parts of one corporation. We lived, he says, in our remote ancestors.‡ The idea was transformed, in the hands of Hobbes, into the distinct conception of an original contract—of a state of nature as preceding civil society—which, though acknowledged by him to be a fiction, as far as actual history is concerned, is, nevertheless, the basis of his reasoning in behalf of absolutism in government. Locke differs from Hobbes in placing the sovereignty, conceded by man on passing from the state of nature into society, in the community, instead of an absolute

* Printed in *The Yale Review*, February, 1894.

† E. g., Leo, in his *Universalgeschichte*, B. III, S. 717.

‡ *Ecclesiastical Polity*, I, x, 8.

prince. Locke was much affected by the writings of Hobbes, more often, to be sure, in the way of repulsion than attraction. A leading doctrine in Locke's Reasonableness of Christianity is the same that Hobbes endeavors to establish in the Leviathan, the doctrine that the substance of Christianity, as preached by the Apostles, is the proposition that "Jesus of Nazareth is the Messiah." Before Locke, however, Algernon Sidney, in his Discourses concerning Government first published in 1698, had broached the theory of a contract. Montesquieu, though a friend of limited monarchy after the English model, is considered by Leo (who is a hater of republican government) to have paved the way for the revolutionary philosophy of Rousseau, by making virtue a defining characteristic and only support of popular as distinguished from aristocratic or monarchical government. The word contract, in a special application to the relation of king and people in the English Constitution, is found in the great vote of the Houses of Parliament, which declared vacant the throne of James I, and made room for the accession of William. In the medley of reasons (for all writers acknowledge it to be a medley) given for their act, James is charged with "having endeavored to subvert the constitution of this kingdom by breaking the original contract between king and people." Such a contract is thus declared to be involved in the English Constitution. Here a nice and interesting question arises, whether the reference was to a primary, unwritten contract, implied in the existence of a government of law—a social compact—or to some positive feature and express provision of the English system. Hallam would seem to incline to the former interpretation. He says that this position was "rather too theoretical, yet necessary at that time, as denying the divine origin of monarchy, from which its absolute and indefeasible authority had been plausibly derived.*

They proceeded not by the stated rules of the English Government, but the general rights of mankind. They looked not so much to Magna Charta as the original compact of society, and rejected Coke and Hale for Hooker and Harrington.†

Macaulay, speaking of the inconsistent statements of the great vote, there being one reason put in for each section of the majority who were relied to pass on it, says that "the mention of the original contract gratified the disciples of Sidney."‡

* Hallam's Constitutional History (Harper's ed.), p. 544.

† *Ib.*, p. 546.

‡ Macaulay's History of England (Harper's ed.), Vol. II, p. 580.

Macaulay defends the inexact and confused character of the vote, on grounds of expediency, as the proper way to secure unanimity; remarking that the "essence of politics is compromise." But Mackintosh, with more reason, declares that it would have been manlier to fall back openly upon the right of revolution, instead of mixing up the pretense of an abdication.* In the trial of Sacheverell, the sense of this vote and the character of the revolution, of which it was a part, were deliberately expounded by the managers of the impeachment. Sacheverell had coupled with his doctrine of absolute submission the assertion that the revolution was not a case of resistance. But the managers of the prosecution did not allow him to shield himself by this mode of approving of the revolution. They affirmed that it was a case of forcible resistance, and that his principle of nonresistance, being a virtual condemnation of it, would overthrow the title of the reigning sovereign. Yet, the ambiguity of the clause about the contract between the king and people is not cleared away. A leading manager, Sir Joseph Jekyl, said:

To make out the justice of the revolution, it may be laid down, that as the law is the only measure of the Prince's authority and the people's subjection, so the law derives its being and efficacy from the common consent; and to place it on any other foundation than common consent is to take away the obligation this notion of common consent puts prince and people under to observe the laws.†

This sounds like the Lockeian Social compact. The revolution, the same manager said, occurred in "a case that the law of England could never suppose, provide for, or have in view."‡ Said another manager, Sir John Hawles:

When a government is brought out of frame by the extraordinary steps of a prince, it is a vain thing to hope that it can ever be set right by regular steps.

"The revolution," it is said, "can not be urged as an instance of the lawfulness of anything, but of resisting the supreme executive power acting in opposition to the laws."§ But when challenged to produce the contract between king and people Sir Joseph Jekyl refers to the history of the coronation oath, of the oath of allegiance, to ancient customs and forms, which involve such a contract. That is to say, he makes his appeal to usages and peculiarities interwoven with the constitution,

* Mackintosh's History of the English Revolution.

† State Trials, Vol. xv, p. 98.

‡ *Ib.*, p. 110.

§ *Ib.*, p. 383.

as if the contract were a positive thing, a feature of the English system of government, rather than the underlying basis of all civil society; at least where there is monarchy. This is insisted upon—that there was no law providing for the revolutionary action. It was an exercise of power not provided for by any existing statute. But it was an act of the community, having for its end the recovery of the constitution and laws. The right to perform such an act is not extended beyond the case in question, where there was an actual necessity of restoring the government and of saving the Constitution from being overthrown. It is only the right of conservative revolution that is claimed. There is nothing, therefore, in their mode of stating the English right of resistance to determine with certainty whether the managers held that the contract between king and people is a positive and special characteristic of English institutions or a fundamental part of all monarchical society. At the time of the Revolution, when the question of the condition in which things were left by the departure of James was under debate in Parliament, some one suggested that they were left in a state of nature. But it was immediately replied that such a view would dissolve all laws and abolish all franchises. The truth appears to be, as far as the act of dethroning James and enthroning William is concerned, they could properly plead only the right of revolution. The precise meaning, when they spoke of breach of compact between king and people, was probably apprehended by few, if any, of the actors themselves.

Burke, in his famous "Reflections on the French Revolution," does not absolutely exclude the notion of a "consent" on the part of subjects as implied in the existence of lawful government. He teaches that men have an equal right to the advantages for which society was created. The management of the State, however, not being among the original rights of man, does not belong equally to all. The obligations of the subject do not depend on any voluntary, formal act of consent on his part. It is no violation of natural rights when political power is lodged with a few, or with one man, provided the ends of government are attained. In saying that the management of the State is "a thing to be settled by convention," and in using the terms, "compact of the State," the social "partnership," Burke has no intention, it hardly needs to be said, to sanction the doctrine that an explicit consent of the people, or of the major part of them, to the creation of a particular government and to the selection of those who adminis-

ter it, is necessary, if the subject is to be bound to obedience. On this topic Burke writes thus:

Though civil society might be at first a voluntary act (which, in many cases, it undoubtedly was) its continuance is under a permanent standing covenant, coexisting with the society; and it attaches upon every individual of that society, without any formal act of his own. This is warranted by the general practice, arising out of the general sense of mankind. Men, without their choice, derive benefits from that association; without their choice they are subjected to duties in consequence of these benefits; and without their choice they enter into a virtual obligation as binding as any that is actual. Much the strongest moral obligations are such as were never the results of our option. * * * We have obligations to mankind at large which are not in consequence of any special voluntary pact. They arise from the relation of man to man, and the relation of man to God, which relations are not matters of choice. * * * Dark and inscrutable are the ways by which we come into the world. The instincts which give rise to this mysterious process of nature are not of our making. But out of physical causes, unknown to us, perhaps unknowable, arise moral duties which, as we are able perfectly to comprehend, we are bound indispensable to perform. Parents may not be consenting to their moral relation; but, consenting or not, they are bound to a long train of burdensome duties towards those with whom they have never made a convention of any sort. Children are not consenting to their relation, but their relation, without their actual consent, binds them to its duties; or rather it implies their consent, because the presumed consent of every rational creature is in unison with the predisposed order of things. Men come in that manner into a community with the social state of their parents, endowed with all the benefits, loaded with all the duties of their situation. If the social ties and ligaments spun out of those physical relations which are the elements of the commonwealth, in most cases begin, and always continue, independently of our will (so without any stipulation on our own part we are bound by that relation called our country, which comprehends (as it has been well said) "all the charities of all.") * Nor are we left without powerful instincts to make this duty as dear and grateful to us as it is awful and coercive. Our country is not a thing of mere physical locality. It consists, in a great measure, in the ancient order into which we are born. We may have the same geographical situation, but another country; as we may have the same country in another soil. The place that determines our duty to our country is a social, civil relation.†

* *Omnes omnium charitates patria una complectitur.* Cicero.

† Vol. III, p. 460. In agreement with Burke's definition of terms are the observations of Blackstone on the same topic, in his Commentaries, (Introduction, section 2). "But though society," says Blackstone, "had not its formal beginning from any convention of individuals, actuated by their wants and their fears; yet it is a sense of their weakness and imperfection that keeps mankind together; and that, therefore, is the solid and natural foundation, as well as the cement of civil society. And this is what we mean by the original contract of society." The author proceeds to say that protection of the rights of the individual by society, and submission to the laws by him in return, are the parts of the compact.

Utterly antagonistic to the principles and the spirit of Burke is the famous treatise of Rousseau, the *Social Contract*, which more than any other work was the text-book of the French Revolution. It is significant that the whole discussion is reared upon speculations relative to the origin of civil society. Rights and obligations must all be inferred with mathematical exactitude from the fundamental theory adopted at the start. This theory assumes that the existence of society is optional with men and is due to their voluntary consent. Individuals are bound by the actual social bond only because, and as far as, they have agreed to be bound. This false dogma of mutual contract is laid at the foundation of the edifice. It is further held that the individual in entering society surrenders all his rights to the community, and through this common act of all there instantly arises the body politic. To the community, thus formed, belongs sovereignty. The general will is now the supreme law. To this general will the entire framework of government is subject. The idea of "institutional" freedom, of freedom secured and assured to the individual by constitutional safeguards, against the haste or deliberate tyranny of majorities, is discarded. Representative government itself is derided as a product and sign of the decay of public spirit.* Of course the state must be restricted to narrow territorial limits. But what is this general will which is so omnipotent in the state? It turns out to be merely the majority of suffrages. When the vote of a citizen upon any measure is called for, the question really answered by him is what, in his opinion, is the general will in reference to this measure. The result of the ballot decides the point, and thus if he finds himself in the minority he is not really overruled, but simply mistaken in his judgment as to what the general will is.† It is impossible to

* Rousseau explicitly says that every law which is not expressly ratified by popular vote is no law; and that the English, through their adherence to representative government, are slaves. "Toute loi que le peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi. Le peuple Anglois pense être libre, il se trompe fort: il ne l'est que durant l'élection des membres du parlement: sitôt qu'ils sont élus, il est esclave, il n'est rien." (Livre III, Ch. xv.)

† This curious, though puerile subterfuge for saving (theoretically) the freedom of the individual, when overborne by the vote of the majority, is found in Liv. IV, ch. II (*Des Suffrages*.) "Quand donc l'avis contraire au mien l'importe, cela ne prouve autre chose sinon que je m'étois trompé, et que j'estimois être la volonté générale ne l'étoit pas."

imagine a more frightful despotism than Rousseau's sovereignty of the people, under which the individual has literally given up everything to the unchecked will of the majority. Equality, which more than liberty is the idol of the Frenchman, is the keynote of Rousseau's entire work. Views akin to those expressed in this ingenious but superficial essay have fascinated the French mind, and led to the sacrifice of both stable government and substantial freedom. On the warrant afforded by a popular vote (called for, according to the more approved practice, after the deed has been done), one government is overthrown and a new one set up, and the entire community, perhaps, brought under the uncontrolled sway of an imperial despot. This terrible price is paid for the sake of having a government which is (in theory) of their own making. The protection of natural rights—a prime object of society—is, in fact, given up, in consequence of the hot chase after political rights; and even these are not attained.*

We are more apt to connect the theory of the Social Compact with the name of a true lover of liberty, John Locke, a man, in all that constitutes human excellence, at a high eleva-

* Burke has left on record his opinion of the Social Contract and its author. In a letter to a French correspondent (in 1789), quoted in Prior's *Life of Burke* (Am. Ed., 1825, p., 313), he says: "I have read long since the *Contrat Social*. It has left very few traces upon my mind. I thought it a performance of little or no merit, and little did I conceive that it could ever make revolutions and give law to nations; but so it is." In Burke's "Letter to a member of the National Assembly" (1791), we find a dissection of Rousseau, whom he calls "the great founder and professor of the philosophy of vanity." Burke's satire upon the sentimental philanthropy which tramples under foot particular duties is excellent. Rousseau is the father of the sentimental school of poets (not excepting Byron and Goethe) and novelists, who seek to make a criminal interesting by weaving around him a veil of sentiment, aiming to excite sympathy where reprobation is the proper feeling. There is a very curious fact concerning Rousseau, which Burke brings forward in the "Reflections." "Mr. Hume told me that he had from Rousseau himself the secret of his principles of composition. That acute, though eccentric, observer, had perceived that to strike and interest the public the marvelous must be produced; that the marvelous of the heathen mythology had long since lost its effect; that giants, magicians, fairies, and heroes of romance which succeeded had exhausted the portion of credulity which belonged to their age; that now nothing was left to a writer but that species of the marvelous which might still be produced, and with as great an effect as ever, though in another way; that this: the marvelous in life, manners, in characters, and in extraordinary situations, giving rise to new and unlooked for strokes in politics and morals."

tion above Rousseau. The negative part of Locke's treatise on government, wherein he demolishes the arguments of Filmer in favor of absolute monarchy as a legitimate inheritance from Adam and from the dominion of the patriarchs, is fully successful. His task was here comparatively easy. So the second book of Locke's treatise is marked by signal merits. The sentiment of hostility to tyranny that inspires the work is characteristic of the author. The natural rights of men, such as the rights of property, are declared to be not the creatures of civil society, but the end of society is properly defined to be the protection of them, though the error is committed of making the prime object of the commonwealth to be the security of property. The function of government, also, is limited to the end for which government is established. The state, however it may be constituted, must keep to its design. But Locke falls into the great error of supposing that the consent of the individual is necessary in order to his transference from an imaginary state of nature within the fold and under the obligations of civil society. Every man, says Locke, is naturally free and nothing is "able to put him into subjection to any earthly power but only his own consent."* Men being, as has been said, by nature, all free, equal, and independent, no one can be put out of this estate and subjected to the political power of another without his own consent."† Compelled by his theory, Locke affirms that every one actually, though tacitly, gives his consent to the social compact when he comes of age by the very act of inheriting property in a country. Every generation by these separate acts of individuals renews the compact; otherwise society would be dissolved. Moreover, Locke assumes (for he fails to prove) that the assent to the social compact implies a promise to be governed by a majority. "When any number of men, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority."‡ Instead of founding society, with Burke, upon a divinely ordained "pre-disposed order of things," with which the will of every rational being is assumed to agree, Locke makes the mistake of requiring, as a condition of the validity of government, an explicit act and the voluntary consent of every one who is

* Locke's Works (London, 1794), Vol. iv, p. 409.

† *Ib.*, p. 394.

‡ Works, Vol. iv, p. 395.

born in a country. In taking this ground he advanced beyond any statements of Hooker, whose authority he is able to bring in support of the principle that society owes its origin to an express or secret agreement, and that no human government is binding without the consent of the governed. Hooker, as we have said, avoids the necessity of getting the consent of every new generation to the existing form of society by falling back upon the notion of the continued life of a corporation. The motive of Locke, we may add, was the honorable one of defending the rightfulness of the change of dynasty by which the Stuarts were expelled and the Prince of Orange raised to the throne. He desired to present a theory of society that would justify the change. It were better, however, to rest it upon the simple right of revolution.

The doctrine of the Social Compact is embodied in a general form in the preamble of the American Declaration of Independence. Men are asserted to be by nature equal. Governments are instituted to protect them in the exercise of their natural rights, and owe their powers to the consent of the governed. Jefferson states that he "turned to neither book nor pamphlet in writing it."* It is clear, however, that phrases from the Virginia Declaration of Rights were in his thoughts.† That document, as drawn up by George Mason, contains the following statements:

1. That all men are created equally free and independent and have certain inherent natural rights, * * * among which are the enjoyment of life and liberty, with the means of acquiring and possessing property and pursuing and obtaining happiness. * * *

3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community.‡ * * *

In Jefferson's first draft of the Declaration of Independence he wrote: "That all men are created equal and independent; that they are endowed by their Creator with certain inherent and unalienable rights," etc. The terms "independent" and "inherent," which occur also in Mason's paper, were erased from the draft by Jefferson's own hand. But the ultimate source of a number of thoughts and phrases in the theoretical part of the Declaration of Independence was, as Richard Henry Lee once alleged, Locke's treatise. Compare the following passages, the first being from the Declaration:

* Jefferson's Works (1853), Vol. VII, p. 305.

† So Mr. Ford judges: Jefferson's Works, Vol. I, p. 26.

‡ Life and Correspondence of George Mason, Vol. I, p. 339.

Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security.

Locke writes (p. 472):

Revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty will be borne by the people without mutiny or murmur. But if a long train of abuses, prevarications, and artifices, all tending the same way, make the design visible to the people, and they can not but feel what they lie under and see whither they are going, it is not to be wondered that they should then rouse themselves and endeavor to put the rule into such hands which may secure to them the ends for which government was first erected.

Elsewhere in the writings of Jefferson we find him advocating the theory of a social contract in its most radical form and pushing it to conclusions almost anarchical in their tendency. In the midst of the earlier stages of the French revolution he wrote a letter from Paris, on September 6, 1789, addressed to Madison. In this letter he propounds an extreme opinion on the necessity of popular consent to the existence of the organic law of the State. The following are extracts from this remarkable epistle:

The question whether one generation of men has a right to bind another seems never to have been started either on this or our side of the water. Yet it is a question of such consequence as not only to merit decision but place among the fundamental principles of every government. The course of reflection in which we are immersed here, on the elementary principles of society, has presented this question to my mind; and that no such obligation can be transmitted I think very capable of proof. I set out on this ground, which I suppose to be self-evident, that the earth belongs in usufruct to the living.

He proceeds to show to his own satisfaction that the sole basis of a right of inheritance is "the law of the society." Then he infers that "what is true of every member of the society, individually, is true of them all collectively; since the rights of the whole can be no more than the sum of the rights of the individuals." He argues that the earth belongs to each generation "during its course, fully and in its own right. The second receives it clear of the debts and incumbrances of the first, the third of the second, and so on." "When a whole généra-

tion—that is, the whole society—dies * * * and another generation or society succeeds, this forms a whole, and there is no superior who can give their territory to a third society, who may have lent money to their predecessors beyond their faculty of paying.” In this way the attempt is made to demonstrate that a debt contracted by one generation, or by a government at a particular time, is not binding on any generation after. He limits the duration of the contracting party to thirty-four years. “Every constitution, then, and every law naturally expires at the end of thirty-four years.” This is not a merely tentative speculation. “Examination,” we are told, “will prove it to be solid and salutary.”* In a subsequent letter Jefferson revises his numerical calculation. He has come to see that the half of a contracting society disappears in nineteen years. “Then the contracts, constitutions, and laws of every such society become void in nineteen years from their date.”† The period here allowed for the rightful existence of the constitution and laws of a political community is, as one has said, shorter than the lifetime of a horse. That these were not temporary fleeting opinions is proved by the fact that twenty-four years later, in 1813, and again, only two years before his death, under date of June 5, 1824, Jefferson advances these same propositions in almost identical language. This shows that he had not been convinced by Madison’s pretty obvious objections to this superficial theorizing. If the earth belongs to the living, what shall be said of the improvements made by those before us, and the services rendered, and the debts incurred, for our sake?

Unless temporary laws were kept in force by additional acts prior to their expiration, “all the rights depending on positive laws, that is, most of the rights of property, would become defunct.” Madison falls back on the idea of a tacit consent given to existing laws through the very fact of their nonrevocation. He goes further and raises the question on what principle it is that the voice of the majority binds the minority. This, he answers, is not a law of nature, but is the result of a compact, and a compact in the making of which there was unanimity. “Rigid theory” must presuppose such a unanimity. Unless there be this tacit agreement, no person on attaining to mature age is bound by the acts of the majority.

* Jefferson’s Writings (1853), Vol. III, p. 102, *et seq.*

† *Ibid.*, p. 109.

The good sense of Madison enables him to riddle the doctrine of his correspondent, but Madison struggles in the meshes of the social compact theory, and can think of no escape from its practical absurdities except through assumptions not less arbitrary and artificial than the hypotheses which they are invented to bolster up.

The social compact theory, considered as an historical explanation of the origin of states, is, of course, true only to a very limited extent. Political communities, as a rule, have had other origins. It is at best a legal fiction, convenient as other legal fictions may be, as a mode of stating the reciprocal character of the rights and obligations which pertain to rulers and the ruled. When taken for a political dogma, as a test of the validity of existing systems of polity, it is a mischievous error. When we interpret it, with Burke, as a mode of saying that every rational will is presupposed to coincide with the right order of things; or, with Blackstone, as a way of asserting that reciprocal duties are laid upon rulers and the governed, it conveys a truth. When we take another step, and affirm that no government which was not established by general or unanimous consent can claim allegiance, and further maintain that the assent of every generation, nay, of every individual, is the condition of his obligation to obedience, we introduce a political heresy, the influence of which is very likely to be disastrous. The true view to take is, that the existing form of the state, regarded as a fact, may or may not be due to an express agreement at some former epoch. But the obligation of the individual to obedience does not depend on his having had a share in forming the state, or on his having a share at present in the management of it. This, be it observed, is not to approve of the denial of political power to those who are capable of exercising it. It is easy to suppose cases where the withholding of all share in the government from those who can be safely trusted with political power is both arbitrary and inexpedient. What form of government is best can only be decided by reference to the character and history of the particular nation. We are speaking now only of what the individual may demand, as a condition of his obeying the "the powers that be." For one born under a particular system, it is only necessary to know that the established system secures the great ends of government, and lays upon him no command inconsistent with his duty to God. Yet in supposable cases, even the withholding

of political power may be so flagrant an evil as to warrant resistance. We require some guaranty that natural rights shall not be violated. Such a guaranty may be afforded by the actual possession of a share of political power, especially when the individual is one of a class—the wealthy class for example— who are thus enabled, by uniting their political strength, peacefully to counteract threatened injustice. But when political rights are demanded as a guaranty for the secure possession of natural rights, the claim is equivalent simply to a demand for a government that shall defend the latter. Political rights are thus claimed only as a means to an end. The two categories of rights are properly distinguished.

S. Mis. 104—12

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XVI.—THE RELATION OF HISTORY TO POLITICS.

By PROFESSOR JESSE MACY,
OF IOWA COLLEGE,



THE RELATION OF HISTORY TO POLITICS.

By JESSE MACY.

Dr. Freeman's oft-quoted declaration that history is past politics and politics is present history calls our attention to an assumed identity of history and politics. Taken in a certain sense all will agree that a large part of the history of the past is a description of what we call the politics of the past; and a large part of to-day's history is included in to-day's politics.

Over against these accepted truisms we observe that there is a widespread impression of a conflict between history and politics; that politics is a perverter of history; that he who would know true history must rid himself of the trammels of politics; that it is impossible to have a true history of the present on account of the prejudices engendered by politics. It is commonly assumed that in order to attain the true historic spirit the writer must be removed in time and space from the field of active politics.

Politics has to do chiefly with conflicting rights and interests. It is customary for the parties to a political contention to appeal to the experiences of the past in support of their contention. Each party appeals to history, but he does it not in what would usually be accepted as the true historic spirit. He garbles the facts of the past in the interest of his special contention. That contention about the nature of the United States Constitution which involved the question of the right of a State to peacefully withdraw from the Union was debated chiefly as an historical question. Many facts, incidents, and statements were adduced to make good the claim that the makers of the Constitution intended to leave the States in the full possession of this right. Other facts, incidents and sayings were adduced to prove that the makers of the Constitution intended to create a National Government having full powers to maintain its integrity. As a mere debate, the balance of the arguments from history was remarkably even. A careful garbling of all the history bearing upon the question

left the dispute unsettled; as much proof could be found for one side as for the other. Alongside of the historical argument for and against the right of a State to peaceably withdraw from the Union there were always in the minds of the disputants arguments drawn from the sense of what ought to be. It was not simply a question of what sort of constitution the statesmen of the Revolution did make. This question came to be merged into the more pressing question, What sort of constitution, in this regard, ought we to have? This last question came to be the dominant one. And it may now be considered as settled that the American Constitution does not permit a State to withdraw from the Union except by an act of successful revolution. Now the mere fact that this question is settled in this way will give added force to the one-sided historical arguments which were always adduced in support of this particular theory. That which was for the time being merely garbled history in support of a partisan view is likely now to be accepted as the true history.

This principle is illustrated in all history. Statesmen and citizens are divided into parties. They have, or think they have, conflicting interests. They have conflicting ideas as to what is right or just. Each party appeals to the experiences of the past in support of its partisan view. In this appeal to the past the facts of the past are always distorted. It is not a calm and scientific survey of the experiences of the past, but certain facts only from the past are selected and taken out of their true setting and marshaled in such a manner as to give support to a particular partisan view. Finally, in the course of political development one of the partisan views is adopted by the state. Immediately there ensues a strong tendency on the part of all classes to accept the partisan view of history which had been presented in argument as correct history. Those who are beaten in the historical argument, when once the question at issue is settled, are disposed to accept as true the partisan view of history which is most in harmony with the action of the state.

There is now in England a controversy between the Established Church and the Nonconformists on the question of the disestablishment and the disendowment of the church. Each party rests its case largely upon certain facts in past history. Yet no historian would claim that in the arguments for and against disestablishment a fair statement of these facts is pre-

sented. In the present state of morality it is too much to expect that men will maintain a scientific or a Christian attitude of mind in dealing with rather obscure facts of history when a possible conclusion of the investigation is likely to deprive them of a living. Under such circumstances history is much distorted. But the time will come when this question will be settled. It is likely also to be settled in a thoroughly partisan way. The bodies of some of the partisans who at the time were most blamed for the measure will be entombed in Westminster Abbey. Those who have been beaten in the contest will then join with those who have triumphed in doing honor to the successful statesmen. After having incurred the injury which ensues upon a political action, and having forgiven the perpetrators, it is a slight thing to accept as true historical arguments which seem most in harmony with the policy adopted.

There would thus seem to be a natural and a perpetual conflict between politics and history. That is, politics seems to tend constantly to pervert the truth of history. But whether this conflict is real or apparent depends in part upon the definition of history and the definition of the historic spirit.

History is usually conceived as a true presentation of the past experiences of mankind. The true historic spirit is that disposition of mind which keeps the faculties at their best in seeing all that is true in the past and in fully and accurately reporting all that is seen.

When the expert naturalist describes a species of animals his testimony is accepted by the scientific world. The modern scientific spirit has freed the scientist from prejudice. In the observing and reporting of material phenomena almost no motive exists for deception or lying. The animal does not testify of himself. Biology is wholly a science of observation. But when we come to deal with a human being the case is altogether different. The thing of chief interest about man is what he thinks and says of himself. If man is studied after the analogy of natural history his distinctive characteristics are omitted.

Some of our historians who have tried to present to our view the early Germanic institutions find, or think they find, groups of families and kinsfolk united into a sort of free township. It is believed that these freemen in the township were accustomed to meet and attend to matters of common interest. The first

that we know about a society of human beings is that the members of the society are in trouble of some sort and are trying to devise ways and means of extricating themselves from their difficulties. We are told that in settling specific disputes in the primordial society the old men were called upon to declare what was the ancient custom, in order that the custom might be followed in settling the dispute. In such a case several interesting questions arise which the historian can not afford to neglect: (1) Would an old man at such a time follow the example of some modern Christian statesman and deliberately lie about the ancient custom in order to serve the party of his choice? (2) Would he allow partisan bias growing out of the dispute to cause him to receive into his consciousness only a partial view of the ancient custom? (3) Would he fulfill the yet unattained ideal of the Christian and the scientist and place his mind at its best in its contact with all past experiences, and would he report fully and impartially all that he remembered? If history is past politics we may reasonably conclude that some of the old men in reporting past customs would consciously make false reports; others would allow partisan prejudice to increase the defects of memory. None of them would be wholly scientific or wholly Christian. It is probable that no people ever made record of a custom except the custom had to do with the settlement of their difficulties. In partisan contests and in the adapting of old customs to new conditions there have always existed motives for misrepresenting the past. There have thus come to be two parts to history: (1) That which is objectively true; (2) That which is not true yet is believed and followed. Erroneous beliefs have had a large share in the making of history. If the old man in the ancient township persuaded the citizens that the former custom was other than it was in fact, so that they acted in accordance with his erroneous view, it was their error which was wrought into the institutions. The important thing about the Constitution of the United States is not so much what the fathers did a century ago as what is believed and acted upon today. Magna Charta would be simply a bit of curious antiquity were it not for erroneous beliefs which have been associated with it. In the days of King John it had not entered into the heart of living man to conceive of the things that were to be believed of Magna Charta. To the citizen of the nineteenth century the charter stands for liberty. In the days of John

and for centuries later the word liberty usually meant the privilege of a class. Gardiner quotes a passage in which a town is shown to be greatly attached to its ancient liberty of putting people into stocks. The privileges of a class become the liberty of all only when class interests are seen to be merged into the common interest; and in this change the word liberty gains a new meaning.

What, then, must the historian do? He must not surrender his ideal; he must still strive to represent all past experiences of mankind. But to do this he must take large account of the part played by erroneous beliefs. Some erroneous beliefs are not far removed from that which is highest and most characteristic of man. When an old man talks of his childhood it is not of the actual childhood which he experienced; it is an idealized, glorified childhood, enriched by long years of reflection and observation. There is in man the consciousness of an unattained destiny. He feels himself to be a victim, but he is never an altogether hopeless victim. There is always present some ideal of the yet unattained. Patrick Henry was mistaken when he said, "I have but one lamp by which my feet are guided, and that is the lamp of experience." That which is hoped for and has not been experienced has ever served as a lamp to guide the feet of men. The unattained has always formed a part of partisan politics. The perverting of history for the sake of a partisan advantage is in part due to an effort to actualize an ideal by reading it into past history.

It is this fact which has given rise to the saying that poets and novelists are our best historians. I have not a particle of sympathy with this saying. Poetry and fiction are great aids to the historian, provided he knows how to use them. But if they are viewed as substitutes for history then they become his most subtle enemies. The historian must ever strive for the actual. However hopeless may seem to be the task, the historian must strive to distinguish between what has been believed about the past and what is true of the past. To enable him to do this he should acquaint himself with actual politics, present and past. He should know how current political life is related to past events. He should know how current political life is affected by a striving after an unattained ideal. No other original source of history can be compared in importance with present politics.

The first territorial legislature in Iowa passed an elaborate

statute providing for a system of free schools. Yet a free school system did not exist in the State till twenty years later. The men who made the first law have informed me that they knew at the time that there were to be no free schools, but that they intended the law to serve as an advertising agency in the East. By this means they intended to induce people who believed in free schools to come to the Territory. They hoped that the time might come when free schools would exist. What student of original sources of history would interpret aright this statute if he had no source of information but the statute itself? We learn from actual politics that a positive statute sometimes expresses an ideal, a hope, or an aspiration; sometimes it is an advertising agency. Some laws do not express anything intelligible even to the wisest of those who make them. Some laws may be accounted for only by the fact that restless men are confined to a room several hours in a day for certain months in a year with nothing to do but to make laws. Suppose now a student who, ignorant of actual politics, should undertake to construct a history out of the bare statutes of a nation. A knowledge of politics is essential to the correct reading and the correct writing of history. The perfect historian will be in politics, but he will not be of that part of politics which tolerates the perverting of the facts of history.

There has been in the world for thousands of years an ideal of a society all of whose members are lovers of the truth. From this society all who love or make a lie are excluded. According to this ancient Christian ideal it is the duty of man to have his mind ever ready to believe all truth. The actual Christian of history has not fulfilled this ideal. He has been subject to prejudices as have other men. The Christian has found it to be comparatively easy to preserve a truth-loving and a truth-telling spirit while dealing with some of his own states of mind; but to preserve the same spirit while dealing with the present evil world has been too much for him. To preserve his integrity he has been inclined to withdraw from the evil world and to occupy himself in the contemplation of an unseen world. The stress of politics has induced the Christian to obscure and practically to obliterate his ideal by dividing truth into departments which he calls higher and lower, essential and non-essential. When a lower truth seems to be in conflict with a so-called higher truth, the lower truth does not receive fair treatment. As an incident to the rapid advancement of physical

science this ancient Christian ideal has been restated and has received a new name. The men who are devoting their lives to the advancement of science are dependent at every stage upon the testimony of others. One observer can see only a small part of the phenomena which he is obliged to treat. The select world of scientists has ruthlessly cast from their midst all scientific blunderers, deceivers, and liars. They will have only those who have the scientific spirit. By this they mean those who at all times maintain a truth-loving and truth-telling habit in the observing and the reporting of phenomena. The scientist would usually assent to the theory that what he calls the scientific spirit is applicable to every sort of knowledge. Stated in this form it is identical with the ancient Christian ideal. But the scientist, like the Christian, has not been able to realize his ideal outside of a limited field where the motive for lying is almost wholly lacking. The scientist wrecks his high ideal the instant he enters politics and history, where beliefs and not external phenomena are the dominant factors. Here falsehood and deception seem to be great social forces, and they appear to be susceptible to a beneficent use. If the scientist follows appearances in politics as he does in physics, he becomes naturally a Machiavellian, and recognizes lying as a great political force. The stress of politics causes the scientist, like the Christian, to divide knowledge into departments. In the study of matter he maintains a truth-loving and a truth-telling spirit. But in the study of the relations of man to man in society, deception and lying are admitted as a working hypothesis though the scientist is careful to say that this sort of knowledge is not scientific, and that the pursuit of it lacks something of the scientific spirit.

It will be observed that the scientist is strong where the Christian is weak, and that the Christian is strong where the scientist is weak. The one in dealing with external phenomena; the other in dealing with beliefs, with self-knowledge, with unattained ideals.

The historian, for his own ends, must do what neither scientist nor Christian has yet been able to do; that is, he must maintain a truth-loving and a truth-telling spirit in the field of active politics. It is the high mission of the historian to mark out a way in which all lovers of truth may unite in removing the lie from politics. With this achievement the apparent conflict between history and politics would cease. Without

this achievement history can not be wholly trustworthy, or wholly trustworthy history will not be believed. Without this achievement there can be no political science worthy of the name. Without this achievement man will continue to be a victim of force, and will gain political wisdom chiefly through suffering.

XVII,—EARLY LEAD-MINING IN ILLINOIS AND WISCONSIN.

By REUBEN GOLD THWAITES,
OF MADISON, WISCONSIN.



EARLY LEAD-MINING IN ILLINOIS AND WISCONSIN.*

By REUBEN GOLD THWAITES.

No evidence exists, nor is it probable, that the aboriginal inhabitants of the Upper Mississippi Valley made any considerable use of lead previous to the appearance among them of French explorers, missionaries, and fur-traders. The French were continually on the search for beds of mineral, and closely questioned the Indians regarding their probable whereabouts. The savages appear to have soon made known to the whites the deposits of lead in the "Fever River tract," which now embraces the counties of Grant, Iowa, and Lafayette, in Wisconsin; Jo Daviess and Carroll counties, in Illinois; Dubuque County, in Iowa; and portions of eastern Missouri. This is one of the richest lead-bearing regions in the world, and when once brought to the notice of the pioneers of New France its fame became widespread. The French introduced firearms among the Northwestern Indians, inducing them to hunt fur-bearing animals on a large scale, and lead immediately assumed a value in the eyes of the latter, both for use as bullets in their own weapons and as an article of traffic with the traders.

It is probable that the Wisconsin and Illinois Indians were first visited by Nicolet, in 1634. We know the story of the fright he occasioned among the savages at Green Bay by his discharge of pistols, and how they were disposed to worship him as a manitou, carrying thunder and lightning in his hands. No doubt he made the Wisconsin aborigines quite familiar with the use of gunpowder before his return homeward. Those adventurous traders, Radisson and Groseilliers, were in the Northwest in 1658-59, and appear to have heard of the lead mines in the neighborhood of Dubuque.

The journals of Marquette (1673) and La Hontan (1689) speak of the mineral wealth of the Upper Mississippi country; but they appear never to have seen the mines themselves, and

*An abstract of a more detailed study of the topic, as yet unpublished.

misunderstanding their informants, concluded that the deposits were of gold, silver, and copper. Hennepin's map of 1687 has a lead mine located in the neighborhood of where Galena now is, showing that he had very close information regarding it; and Joutel, who was in the country the same year, speaks specifically of the good lead mines "at the upper part of the Mississippi."

Indeed, by this time the Wisconsin and Illinois Indians must have had a considerable traffic in the ore with wandering traders and *couriers des bois*, of whose presence in the region we catch faint glimpses in the earliest records of exploration. No doubt many roving Frenchmen were in the country soon after Radisson and Groseilliers, although few of them have left any traces of their presence in the literature of the period.

Nicholas Perrot, the commandant of the French in the Northwest, visited the mines in 1690, building a log trading post on the east side of the river, opposite Dubuque, and spent some time in smelting ore.

Nine years later Le Seuer, a merchant adventurer, who had had much previous experience in the Wisconsin forests, came over with D'Iberville's second expedition to Louisiana, and with twenty miners ascended the Mississippi intent on exploring the mines on behalf of the French king. He worked some ore in the now deserted Perrot mine, and also at the lead afterwards known as "Snake diggings," near Potosi, Wis., but returned to France without developing the industry.

In 1712, Louis XIV. granted to Sieur Anthony Crozat a monopoly of trading and mining privileges in Louisiana—which then included the entire Mississippi valley—for a term of fifteen years. But Crozat does not appear to have touched the lead mines, though doubtless the English traders who freely poached on the French domain, and the wandering *couriers des bois*, had more or less traffic with Indians for ore, both to meet present necessities and home demand. In 1715 La Mothe Cadillac, governor of Louisiana and founder of Detroit, went up to the Illinois country in search of reputed silver mines, but carried back only lead ore.

Crozat's monopoly was resigned to John Law's Company of the West in 1719, but the lead region appears to have been uninfluenced by the brief "boom" which was inaugurated by that ill-timed enterprise. We find references in the records of New France to spasmodic lead mining in 1719 and 1722, and

XVIII.—THE SIGNIFICANCE OF THE FRONTIER IN AMERICAN
HISTORY.

By PROFESSOR FREDERICK J. TURNER,
OF THE UNIVERSITY OF WISCONSIN.



THE SIGNIFICANCE OF THE FRONTIER IN AMERICAN HISTORY.*

By FREDERICK J. TURNER.

In a recent bulletin of the Superintendent of the Census for 1890 appear these significant words: "Up to and including 1880 the country had a frontier of settlement, but at present the unsettled area has been so broken into by isolated bodies of settlement that there can hardly be said to be a frontier line. In the discussion of its extent, its westward movement, etc., it can not, therefore, any longer have a place in the census reports." This brief official statement marks the closing of a great historic movement. Up to our own day American history has been in a large degree the history of the colonization of the Great West. The existence of an area of free land, its continuous recession, and the advance of American settlement westward, explain American development.

Behind institutions, behind constitutional forms and modifications, lie the vital forces that call these organs into life and shape them to meet changing conditions. The peculiarity of American institutions is, the fact that they have been compelled to adapt themselves to the changes of an expanding people—to the changes involved in crossing a continent, in winning a wilderness, and in developing at each area of this progress out of the primitive economic and political conditions of the frontier into the complexity of city life. Said Calhoun in 1817, "We are great, and rapidly—I was about to say fearfully—growing!"† So saying, he touched the distinguishing feature of American life. All peoples show development; the germ theory of politics has been sufficiently emphasized. In the case of most nations, however, the development

* Since the meeting of the American Historical Association, this paper has also been given as an address to the State Historical Society of Wisconsin, December 14, 1893. I have to thank the Secretary of the Society, Mr. Reuben G. Thwaites, for securing valuable material for my use in the preparation of the paper.

†Abridgment of Debates of Congress, v., p. 706.

has occurred in a limited area; and if the nation has expanded, it has met other growing peoples whom it has conquered. But in the case of the United States we have a different phenomenon. Limiting our attention to the Atlantic coast, we have the familiar phenomenon of the evolution of institutions in a limited area, such as the rise of representative government; the differentiation of simple colonial governments into complex organs; the progress from primitive industrial society, without division of labor, up to manufacturing civilization. But we have in addition to this a recurrence of the process of evolution in each western area reached in the process of expansion. Thus American development has exhibited not merely advance along a single line, but a return to primitive conditions on a continually advancing frontier line, and a new development for that area. American social development has been continually beginning over again on the frontier. This perennial rebirth, this fluidity of American life, this expansion westward with its new opportunities, its continuous touch with the simplicity of primitive society, furnish the forces dominating American character. The true point of view in the history of this nation is not the Atlantic coast, it is the great West. Even the slavery struggle, which is made so exclusive an object of attention by writers like Prof. von Holst, occupies its important place in American history because of its relation to westward expansion.

In this advance, the frontier is the outer edge of the wave—the meeting point between savagery and civilization. Much has been written about the frontier from the point of view of border warfare and the chase, but as a field for the serious study of the economist and the historian it has been neglected.

The American frontier is sharply distinguished from the European frontier—a fortified boundary line running through dense populations. The most significant thing about the American frontier is, that it lies at the hither edge of free land. In the census reports it is treated as the margin of that settlement which has a density of two or more to the square mile. The term is an elastic one, and for our purposes does not need sharp definition. We shall consider the whole frontier belt, including the Indian country and the outer margin of the "settled area" of the census reports. This paper will make no attempt to treat the subject exhaustively; its aim is simply to call attention to the frontier as a fertile field for investiga-

tion, and to suggest some of the problems which arise in connection with it.

In the settlement of America we have to observe how European life entered the continent, and how America modified and developed that life and reacted on Europe. Our early history is the study of European germs developing in an American environment. Too exclusive attention has been paid by institutional students to the Germanic origins, too little to the American factors. The frontier is the line of most rapid and effective Americanization. The wilderness masters the colonist. It finds him a European in dress, industries, tools, modes of travel, and thought. It takes him from the railroad car and puts him in the birch canoe. It strips off the garments of civilization and arrays him in the hunting shirt and the moccasin. It puts him in the log cabin of the Cherokee and Iroquois and runs an Indian palisade around him. Before long he has gone to planting Indian corn and plowing with a sharp stick; he shouts the war cry and takes the scalp in orthodox Indian fashion. In short, at the frontier the environment is at first too strong for the man. He must accept the conditions which it furnishes, or perish, and so he fits himself into the Indian clearings and follows the Indian trails. Little by little he transforms the wilderness, but the outcome is not the old Europe, not simply the development of Germanic germs, any more than the first phenomenon was a case of reversion to the Germanic mark. The fact is, that here is a new product that is American. At first, the frontier was the Atlantic coast. It was the frontier of Europe in a very real sense. Moving westward, the frontier became more and more American. As successive terminal moraines result from successive glaciations, so each frontier leaves its traces behind it, and when it becomes a settled area the region still partakes of the frontier characteristics. Thus the advance of the frontier has meant a steady movement away from the influence of Europe, a steady growth of independence on American lines. And to study this advance, the men who grew up under these conditions, and the political, economic, and social results of it, is to study the really American part of our history.

STAGES OF FRONTIER ADVANCE.

In the course of the seventeenth century the frontier was advanced up the Atlantic river courses, just beyond the "fall line," and the tidewater region became the settled area. In the first half of the eighteenth century another advance occurred. Traders followed the Delaware and Shawnese Indians to the Ohio as early as the end of the first quarter of the century.* Gov. Spotswood, of Virginia, made an expedition in 1714 across the Blue Ridge. The end of the first quarter of the century saw the advance of the Scotch-Irish and the Palatine Germans up the Shenandoah Valley into the western part of Virginia, and along the Piedmont region of the Carolinas.† The Germans in New York pushed the frontier of settlement up the Mohawk to German Flats.‡ In Pennsylvania the town of Bedford indicates the line of settlement. Settlements had begun on New River, a branch of the Kanawha, and on the sources of the Yadkin and French Broad.§ The King attempted to arrest the advance by his proclamation of 1763,|| forbidding settlements beyond the sources of the rivers flowing into the Atlantic; but in vain. In the period of the Revolution the frontier crossed the Alleghanies into Kentucky and Tennessee, and the upper waters of the Ohio were settled.¶ When the first census was taken in 1790, the continuous settled area was bounded by a line which ran near the coast of Maine, and included New England except a portion of Vermont and New Hampshire, New York along the Hudson and up the Mohawk about Schenectady, eastern and southern Pennsylvania, Virginia well across the Shenandoah Valley,

* Bancroft (1860 ed.), III, pp. 344, 345, citing Logan MSS.; [Mitchell] Contest in America, etc. (1752), p. 237.

† Kercheval, History of the Valley; Bernheim, German Settlements in the Carolinas; Winsor, Narrative and Critical History of America, v, p. 304; Colonial Records of North Carolina, IV, p. xx; Weston, Documents Connected with the History of South Carolina, p. 82; Ellis and Evans, History of Lancaster County, Pa., chs. iii, xxvi.

‡ Parkman, Pontiac, II; Griffis, Sir William Johnson, p. 6; Simms's Frontiersmen of New York.

§ Monette, Mississippi Valley, I, p. 311.

|| Wis. Hist. Cols., XI, p. 50; Hinsdale, Old Northwest, p. 121; Burke, "Oration on Conciliation," Works (1872 ed.), I, p. 473.

¶ Roosevelt, Winning of the West, and citations there given; Cutler's Life of Cutler.

and the Carolinas and eastern Georgia.* Beyond this region of continuous settlement were the small settled areas of Kentucky and Tennessee, and the Ohio, with the mountains intervening between them and the Atlantic area, thus giving a new and important character to the frontier. The isolation of the region increased its peculiarly American tendencies, and the need of transportation facilities to connect it with the East called out important schemes of internal improvement, which will be noted farther on. The "West," as a self-conscious section, began to evolve.

From decade to decade distinct advances of the frontier occurred. By the census of 1820 † the settled area included Ohio, southern Indiana and Illinois, southeastern Missouri, and about one-half of Louisiana. This settled area had surrounded Indian areas, and the management of these tribes became an object of political concern. The frontier region of the time lay along the Great Lakes, where Astor's American Fur Company operated in the Indian trade, ‡ and beyond the Mississippi, where Indian traders extended their activity even to the Rocky Mountains; Florida also furnished frontier conditions. The Mississippi River region was the scene of typical frontier settlements.§

* Scribner's Statistical Atlas, xxxviii, pl. 13; MacMaster, *Hist. of People of U. S.*, I, pp. 4, 60, 61; Imlay and Filson, *Western Territory of America* (London, 1793); Rochefoucault-Liancourt, *Travels Through the United States of North America* (London, 1799); Michaux's "Journal," in *Proceedings American Philosophical Society*, xxvi, No. 129; Forman, *Narrative of a Journey Down the Ohio and Mississippi in 1780-90* (Cincinnati, 1888); Bartram, *Travels Through North Carolina, etc.* (London, 1792); Pope, *Tour Through the Southern and Western Territories, etc.* (Richmond, 1792); Weld, *Travels Through the States of North America* (London, 1799); Baily, *Journal of a Tour in the Unsettled States of North America, 1796-97* (London, 1856); *Pennsylvania Magazine of History*, July, 1886; Winsor, *Narrative and Critical History of America*, vii, pp. 491, 492, citations.

† Scribner's Statistical Atlas, xxxix.

‡ Turner, *Character and Influence of the Indian Trade in Wisconsin* (Johns Hopkins University Studies, Series ix), pp. 61 ff.

§ Monette, *History of the Mississippi Valley*, II; Flint, *Travels and Residence in Mississippi*; Flint, *Geography and History of the Western States*; *Abridgment of Debates of Congress*, vii, pp. 397, 398, 404; Holmes, *Account of the U. S.*; Kingdom, *America and the British Colonies* (London, 1820); Grund, *Americans*, II, chs. I, III, VI (although writing in 1836, he treats of conditions that grew out of western advance from the

The rising steam navigation* on western waters, the opening of the Erie Canal, and the westward extension of cotton † culture added five frontier states to the Union in this period. Grund, writing in 1836, declares: "It appears then that the universal disposition of Americans to emigrate to the western wilderness, in order to enlarge their dominion over inanimate nature, is the actual result of an expansive power which is inherent in them, and which by continually agitating all classes of society is constantly throwing a large portion of the whole population on the extreme confines of the State, in order to gain space for its development. Hardly is a new State or Territory formed before the same principle manifests itself again and gives rise to a further emigration; and so is it destined to go on until a physical barrier must finally obstruct its progress." ‡

In the middle of this century the line indicated by the present eastern boundary of Indian Territory, Nebraska, and Kansas marked the frontier of the Indian country. § Minnesota and

era of 1820 to that time); Peck, *Guide for Emigrants* (Boston, 1831); Darby, *Emigrants' Guide to Western and Southwestern States and Territories*; Dana, *Geographical Sketches in the Western Country*; Kinzie, *Waubun*; Keating, *Narrative of Long's Expedition*; Schoolcraft, *Discovery of the Sources of the Mississippi River, Travels in the Central Portions of the Mississippi Valley, and Lead Mines of the Missouri*; Andreas, *History of Illinois*, I, 86-99; Hurlbut, *Chicago Antiquities*; McKenney, *Tour to the Lakes*; Thomas, *Travels through the Western Country, etc.* (Auburn, N. Y., 1819).

* Darby, *Emigrants' Guide*, pp. 272 ff.; Benton, *Abridgment of Debates*, VII, p. 397.

† De Bow's *Review*, IV, p. 254; XVII, p. 428.

‡ Grund, *Americans*, II, p. 8.

§ Peck, *New Guide to the West* (Cincinnati, 1848), ch. IV; Parkman, *Oregon Trail*; Hall, *The West* (Cincinnati, 1848); Pierce, *Incidents of Western Travel*; Murray, *Travels in North America*; Lloyd, *Steamboat Directory* (Cincinnati, 1856); "Forty Days in a Western Hotel" (Chicago), in *Putnam's Magazine*, December, 1894; Mackay, *The Western World*, II, ch. II, III; Meeker, *Life in the West*; Bogen, *German in America* (Boston, 1851); Olmstead, *Texas Journey*; Greeley, *Recollections of a Busy Life*; Schouler, *History of the United States*, V, 261-267; Peyton, *Over the Alleghenies and Across the Prairies* (London, 1870); Loughborough, *The Pacific Telegraph and Railway* (St. Louis, 1849); Whitney, *Project for a Railroad to the Pacific* (New York, 1849); Peyton, *Suggestions on Railroad Communication with the Pacific, and the Trade of China and the Indian Islands*; Benton, *Highway to the Pacific* (a speech delivered in the U. S. Senate, December 16, 1850).

many Sacs and Foxes who had married with the Winnebago tribes. Some of these Foxes, irritated by representatives of the American Fur Company who purchased Indian lead along the Fever River, made no small amount of trouble for Dubuque.

The United States assumed possession of Louisiana in 1804, and from that time forward Americans appeared in the lead mines, although, as representatives of a land-grabbing race, they found little favor with the Indians; the latter preferred the volatile French, who were in greater sympathy with them, and who did not care to make the wilderness blossom as the rose.

In 1811 we find George E. Jackson, a Missouri miner, building a rude low furnace on an island in the Mississippi, near East Dubuque, and floating his lead to St. Louis by flatboats, although meeting with much opposition from the savages, who bitterly hated all Americans.

In 1810 Nicholas Boilvin, United States Indian agent at Prairie du Chien, went on foot from Rock Island to the mouth of the Wisconsin, and reported that the Indians of the region had "mostly abandoned the chase, except to furnish themselves with meat, and turned their attention to the manufacture of lead." He states that that year they had made 200 tons of the metal, which they had exchanged for goods, mainly with Canadian traders, who were continually inciting them to opposition against Americans.

Nine years later (1819) some American traders, who attempted to go among the Sac and Fox miners and run opposition to the Canadians, were killed. This same year there appears to have been a more general movement on the lead region on the part of the Americans. The hostile Indians were browbeaten at a treaty held at Prairie du Chien, and Jesse W. Shull, the founder of Shullsburg, Wis., erected a trading post in the vicinity of where is now Galena. The same or the following year Col. James Johnson, of Kentucky, came into the district and worked mines, carrying his product to St. Louis by flatboat. In 1822 he took out a lease from the national government, and under strong military protection encamped with a party of negro slaves where Galena now stands, and commenced operations on the most extensive scale yet known in the lead country. There were at the time several French miners on Fever River, and one or more American trading posts.

On the heels of Johnson there at once flocked to the Galena region a crowd of squatters and prospectors from Missouri, Kentucky, and Tennessee, while many came from southern Illinois. In 1825 there were in the Fever River diggings about 100 persons engaged in mining; in 1826 the number rose to 453, while across the river in Missouri there were fully 2,000 men thus employed—"miners, teamsters, and laborers of every kind (including slaves)"—but some of these were farmers, who, with their slaves, spent only their spare time in the mines.

West of the great river the heirs of Spanish claimants held that the mines were private property, and American prospectors were warned off. This fact helped the development of the Fever River district to the east of the Mississippi. In 1827 the name Galena was applied to the largest settlement on the Fever. In 1829 the heaviest American immigration set in, and from that time the history of lead mining in the Fever River district is familiar. Four years later (1833) the Spanish and Indian titles in Missouri having been cleared, mining operations recommenced there upon an extended scale.

Wisconsin still exhibited frontier conditions,* but the distinctive frontier of the period is found in California, where the gold discoveries had sent a sudden tide of adventurous miners, and in Oregon, and the settlements in Utah.† As the frontier has leaped over the Alleghanies, so now it skipped the Great Plains and the Rocky Mountains; and in the same way that the advance of the frontiersmen beyond the Alleghanies had caused the rise of important questions of transportation and internal improvement, so now the settlers beyond the Rocky Mountains needed means of communication with the East, and in the furnishing of these arose the settlement of the Great Plains and the development of still another kind of frontier life. Railroads, fostered by land grants, sent an increasing tide of immigrants into the far West. The United States Army fought a series of Indian wars in Minnesota, Dakota, and the Indian Territory.

By 1880 the settled area had been pushed into northern Michigan, Wisconsin, and Minnesota, along Dakota rivers, and in the Black Hills region, and was ascending the rivers of Kansas and Nebraska. The development of mines in Colorado had drawn isolated frontier settlements into that region, and Montana and Idaho were receiving settlers. The frontier was found in these mining camps and the ranches of the Great Plains. The superintendent of the census for 1890 reports, as previously stated, that the settlements of the West lie so scattered over the region that there can no longer be said to be a frontier line.

In these successive frontiers we find natural boundary lines which have served to mark and to affect the characteristics of the frontiers, namely: The "fall line;" the Alleghany Mountains; the Mississippi; the Missouri, where its direction approximates north and south; the line of the arid lands, approximately the ninety-ninth meridian; and the Rocky Mountains. The fall line marked the frontier of the seventeenth century; the Alleghanies that of the eighteenth; the Mississippi that of

* A writer in *The Home Missionary* (1850), p. 239, reporting Wisconsin conditions, exclaims: "Think of this, people of the enlightened East. What an example, to come from the very frontiers of civilization!" But one of the missionaries writes: "In a few years Wisconsin will no longer be considered as the West, or as an outpost of civilization, any more than western New York, or the Western Reserve."

† Bancroft (H. H.), *History of California, History of Oregon, and Popular Tribunals*; Shinn, *Mining Camps*.

the first quarter of the nineteenth; the Missouri that of the middle of this century (omitting the California movement); and the belt of the Rocky Mountains and the arid tract, the present frontier. Each was won by a series of Indian wars.

THE FRONTIER FURNISHES A FIELD FOR COMPARATIVE
STUDY OF SOCIAL DEVELOPMENT.

At the Atlantic frontier one can study the germs of processes repeated at each successive frontier. We have the complex European life sharply precipitated by the wilderness into the simplicity of primitive conditions. The first frontier had to meet its Indian question, its question of the disposition of the public domain, of the means of intercourse with older settlements, of the extension of political organization, of religious and educational activity. And the settlement of these and similar questions for one frontier served as a guide for the next. The American student needs not to go to the "prim little townships of Sleswick" for illustrations of the law of continuity and development. For example, he may study the origin of our land policies in the colonial land policy; he may see how the system grew by adapting the statutes to the customs of the successive frontiers.* He may see how the mining experience in the lead regions of Wisconsin, Illinois, and Iowa was applied to the mining laws of the Rockies,† and how our Indian policy has been a series of experimentations on successive frontiers. Each tier of new States has found in the older ones material for its constitutions.‡ Each frontier has made similar contributions to American character, as will be discussed farther on.

But with all these similarities there are essential differences, due to the place element and the time element. It is evident that the farming frontier of the Mississippi Valley presents different conditions from the mining frontier of the Rocky Mountains. The frontier reached by the Pacific Railroad, surveyed into rectangles, guarded by the United States Army, and recruited by the daily immigrant ship, moves forward at a swifter pace and in a different way than the frontier reached by the birch canoe or the pack horse. The geologist traces

* See the suggestive paper by Prof. Jesse Macy, *The Institutional Beginnings of a Western State*.

† Shinn, *Mining Camps*.

‡ Compare Thorpe, in *Annals American Academy of Political and Social Science*, September, 1891; Bryce, *American Commonwealth* (1888), II, p. 689.

nothing further about the enterprise until 1743, when one Le Guis gave an account of the methods of eighteen or twenty miners then operating in the Fever river region: "a fast lot," he says; "every man working for himself, and only getting enough to earn him a bare existence for the rest of the year." Hollow cob-houses of logs were reared, the center being filled with mineral, and then as much wood as possible was piled on top and around, the mass being fired—with the result that a portion of the ore was smelted, running into trenches dug in the ground. This operation had sometimes to be repeated three times. Le Guis deemed this wasteful, yet similar methods had long been in vogue among the Indians, and indeed were practiced by American miners of later days until the introduction of the Drummond blast furnace, about 1836. In spite of the bad system of the French, it is recorded that in 1741 some 90 tons of pig metal were taken out, the men working but four or five months in the year.

In 1762 France ceded the eastern half of the Mississippi valley to England, and secretly yielded up the western half to Spain. Frenchmen continued, however, for many years to be the only operators of the mines. By the year 1770 St. Genevieve had become a notable market for lead, which was, next to peltries, the most important and valuable export of the upper Mississippi country, and served as currency, the rate of exchange being for many years a peck of corn for a peck of ore. This lead trade was afterward removed to St. Louis when that town began to control the commerce of the region. It was stated by a careful annalist that the profits of the miners were in those days quite considerable—men working on their own account often taking out \$30 per day for weeks together, while the traders who handled the product made cent per cent for the capital invested.

During the Revolutionary war, as seen from the Haldimand Papers, the western armies of both contending forces had frequent skirmishes over the lead supply from the Fever River and Dubuque sections, and Spanish traders reaped gain from the rivalry over this important munition of war.

Julien Dubuque was the most notable character among the miners of the last dozen years of the eighteenth century and the first ten of the nineteenth. He had made rich discoveries of lead in the bluffs and ravines adjoining the present site of the Iowa town which bears his name. To curry favor with

the Spanish, then in possession of the soil, he called his diggings "The Spanish mines"; and indeed there is no doubt that some years previous, Spaniards had carried on extensive works there, for he found substantial roads through the district for the transport of ore; and very likely Indians had mined there full a century before, to obtain bullets for the guns they had procured from the early French fur traders.

By Dubuque's time, the Indians had become quite expert in lead mining, their operations being then chiefly confined to their lodes on Fever River. As a rule they only skimmed the surface, although occasionally they drifted into sidehills for some distance, and when they reached "cap rock" would build a fire under it and crack it by dashing cold water on the heated surface. Their tools, in the earliest times, were buck horns, many of which were found in abandoned drifts by the early white settlers; but in Dubuque's time they obtained iron implements from the traders to whom they sold their lead. The Indians loaded their ore in the shafts, into tough deer skins, the bundle being hoisted to the surface or dragged up inclined planes by long thongs of hide. Many of these Indian leads, abandoned by the savages when the work of developing them became too great for their simple tools, were afterwards taken possession of by the whites and found to be among the best in the region. On the other hand, a mine about a mile above the site of Galena had been worked by Dubuque's men for many years, and after his death in 1810 was continued by Indians, who in 1819 made there the largest discovery of lead ore up to that date, the entire force of the band being necessary to raise the nugget to the surface. It was estimated the following year that up to that time millions of pounds had been extracted from this mine, known as the "Buck lead," by the Indians and Dubuque's men—more than afterwards taken by the American miners, despite the fact that it was one of the richest mines in the region and came to be worked in a scientific manner.

Dubuque was a rare favorite with the bulk of the Indians, and was allowed fairly free range over their lands on both sides of the river, his operations extending well up to the Wisconsin line. The Sacs and Foxes were the owners of the lead-mining district during the eighteenth century, but in 1804 relinquished their lands east of the river, and the gypsy Winnebagoes squatted in the region, although with them were

patiently the shores of ancient seas, maps their areas, and compares the older and the newer. It would be a work worth the historian's labors to mark these various frontiers and in detail compare one with another. Not only would there result a more adequate conception of American development and characteristics, but invaluable additions would be made to the history of society.

Loria,* the Italian economist, has urged the study of colonial life as an aid in understanding the stages of European development, affirming that colonial settlement is for economic science what the mountain is for geology, bringing to light primitive stratifications. "America," he says, "has the key to the historical enigma which Europe has sought for centuries in vain, and the land which has no history reveals luminously the course of universal history." There is much truth in this. The United States lies like a huge page in the history of society. Line by line as we read this continental page from west to east we find the record of social evolution. It begins with the Indian and the hunter; it goes on to tell of the disintegration of savagery by the entrance of the trader, the pathfinder of civilization; we read the annals of the pastoral stage in ranch life; the exploitation of the soil by the raising of unrotated crops of corn and wheat in sparsely settled farming communities; the intensive culture of the denser farm settlement; and finally the manufacturing organization with city and factory system.† This page is familiar to the student of census statistics, but how little of it has been used by our historians. Particularly in eastern States this page is a palimpsest. What is now a manufacturing State was in an earlier decade an area of intensive farming. Earlier yet it had been a wheat area, and still earlier the "range" had attracted the cattleherder. Thus Wisconsin, now developing manufacture, is a State with varied agricultural interests. But earlier it was given over to almost exclusive grain-raising, like North Dakota at the present time.

Each of these areas has had an influence in our economic

* Loria, *Analisi della Proprieta Capitalista*, II., p. 15.

† Compare Observations on the North American Land Company, London, 1796, pp. xv, 144; Logan, *History of Upper South Carolina*, I, pp. 149-151; Turner, *Character and Influence of Indian Trade in Wisconsin*, p. 18; Peck, *New Guide for Emigrants* (Boston, 1837), ch. iv; *Compendium Eleventh Census*, I, p. xl.

and political history; the evolution of each into a higher stage has worked political transformations. But what constitutional historian has made any adequate attempt to interpret political facts by the light of these social areas and changes?*

The Atlantic frontier was compounded of fisherman, fur-trader, miner, cattle-raiser, and farmer. Excepting the fisherman, each type of industry was on the march toward the West, impelled by an irresistible attraction. Each passed in successive waves across the continent. Stand at Cumberland Gap and watch the procession of civilization, marching single file—the buffalo following the trail to the salt springs, the Indian, the fur-trader and hunter, the cattle-raiser, the pioneer farmer—and the frontier has passed by. Stand at South Pass in the Rockies a century later and see the same procession with wider intervals between. The unequal rate of advance compels us to distinguish the frontier into the trader's frontier, the rancher's frontier, or the miner's frontier, and the farmer's frontier. When the mines and the cow pens were still near the fall line the traders' pack trains were tinkling across the Alleghanies, and the French on the Great Lakes were fortifying their posts, alarmed by the British trader's birch canoe. When the trappers scaled the Rockies, the farmer was still near the mouth of the Missouri.

THE INDIAN TRADER'S FRONTIER.

Why was it that the Indian trader passed so rapidly across the continent? What effects followed from the trader's frontier? The trade was coeval with American discovery. The Norsemen, Vespuccius, Verrazani, Hudson, John Smith, all trafficked for furs. The Plymouth pilgrims settled in Indian cornfields, and their first return cargo was of beaver and lumber. The records of the various New England colonies show how steadily exploration was carried into the wilderness by this trade. What is true for New England is, as would be expected, even plainer for the rest of the colonies. All along the coast from Maine to Georgia the Indian trade opened up the river courses. Steadily the trader passed westward, utilizing the older lines of French trade. The Ohio, the Great Lakes, the Mississippi, the Missouri, and the Platte, the lines of western advance, were ascended by traders. They found

* See pages 220, 221, 223, *post*, for illustrations of the political accompaniments of changed industrial conditions.

the passes in the Rocky Mountains and guided Lewis and Clarke,* Fremont, and Bidwell. The explanation of the rapidity of this advance is connected with the effects of the trader on the Indian. The trading post left the unarmed tribes at the mercy of those that had purchased fire-arms—a truth which the Iroquois Indians wrote in blood, and so the remote and unvisited tribes gave eager welcome to the trader. "The savages," wrote La Salle, "take better care of us French than of their own children; from us only can they get guns and goods." This accounts for the trader's power and the rapidity of his advance. Thus the disintegrating forces of civilization entered the wilderness. Every river valley and Indian trail became a fissure in Indian society, and so that society became honeycombed. Long before the pioneer farmer appeared on the scene, primitive Indian life had passed away. The farmers met Indians armed with guns. The trading frontier, while steadily undermining Indian power by making the tribes ultimately dependent on the whites, yet, through its sale of guns, gave to the Indians increased power of resistance to the farming frontier. French colonization was dominated by its trading frontier; English colonization by its farming frontier. There was an antagonism between the two frontiers as between the two nations. Said Duquesne to the Iroquois, "Are you ignorant of the difference between the king of England and the king of France? Go see the forts that our king has established and you will see that you can still hunt under their very walls. They have been placed for your advantage in places which you frequent. The English, on the contrary, are no sooner in possession of a place than the game is driven away. The forest falls before them as they advance, and the soil is laid bare so that you can scarce find the wherewithal to erect a shelter for the night."

And yet, in spite of this opposition of the interests of the trader and the farmer, the Indian trade pioneered the way for civilization. The buffalo trail became the Indian trail, and this because the trader's "trace;" the trails widened into roads, and the roads into turnpikes, and these in turn were transformed into railroads. The same origin can be shown for the railroads of the South, the far West, and the Dominion

* But Lewis and Clarke were the first to explore the route from the Missouri to the Columbia.

of Canada.* The trading posts reached by these trails were on the sites of Indian villages which had been placed in positions suggested by nature; and these trading posts, situated so as to command the water systems of the country, have grown into such cities as Albany, Pittsburg, Detroit, Chicago, St. Louis, Council Bluffs, and Kansas City. Thus civilization in America has followed the arteries made by geology, pouring an ever richer tide through them, until at last the slender paths of aboriginal intercourse have been broadened and interwoven into the complex mazes of modern commercial lines; the wilderness has been interpenetrated by lines of civilization growing ever more numerous. It is like the steady growth of a complex nervous system for the originally simple, inert continent. If one would understand why we are to-day one nation, rather than a collection of isolated states, he must study this economic and social consolidation of the country. In this progress from savage conditions lie topics for the evolutionist.†

The effect of the Indian frontier as a consolidating agent in our history is important. From the close of the seventeenth century various intercolonial congresses have been called to treat with Indians and establish common measures of defense. Particularism was strongest in colonies with no Indian frontier. This frontier stretched along the western border like a cord of union. The Indian was a common danger, demanding united action. Most celebrated of these conferences was the Albany congress of 1754, called to treat with the Six Nations, and to consider plans of union. Even a cursory reading of the plan proposed by the congress reveals the importance of the frontier. The powers of the general council and the officers were, chiefly, the determination of peace and war with the Indians, the regulation of Indian trade, the purchase of Indian lands, and the creation and government of new settlements as a security against the Indians. It is evident that the unifying tendencies of the Revolutionary period were facilitated by the previous cooperation in the regulation of the frontier. In this connection may be mentioned the importance of the frontier, from

* Narrative and Critical History of America, VIII, p. 10; Sparks' Washington Works, IX, pp. 303, 327; Logan, History of Upper South Carolina, I; McDonald, Life of Kenton, p. 72; Cong. Record, XXIII, p. 57.

† On the effect of the fur trade in opening the routes of migration, see the author's Character and Influence of the Indian Trade in Wisconsin.

that day to this, as a military training school, keeping alive the power of resistance to aggression, and developing the stalwart and rugged qualities of the frontiersman.

THE RANCHER'S FRONTIER.

It would not be possible in the limits of this paper to trace the other frontiers across the continent. Travelers of the eighteenth century found the "cowpens" among the canebrakes and peavine pastures of the South, and the "cow drivers" took their droves to Charleston, Philadelphia, and New York.* Travelers at the close of the War of 1812 met droves of more than a thousand cattle and swine from the interior of Ohio going to Pennsylvania to fatten for the Philadelphia market.† The ranges of the Great Plains, with ranch and cowboy and nomadic life, are things of yesterday and of to-day. The experience of the Carolina cowpens guided the ranchers of Texas. One element favoring the rapid extension of the rancher's frontier is the fact that in a remote country lacking transportation facilities the product must be in small bulk, or must be able to transport itself, and the cattle raiser could easily drive his product to market. The effect of these great ranches on the subsequent agrarian history of the localities in which they existed should be studied.

THE FARMER'S FRONTIER.

The maps of the census reports show an uneven advance of the farmer's frontier, with tongues of settlement pushed forward and with indentations of wilderness. In part this is due to Indian resistance, in part to the location of river valleys and passes, in part to the unequal force of the centers of frontier attraction. Among the important centers of attraction may be mentioned the following: fertile and favorably situated soils, salt springs, mines, and army posts.

ARMY POSTS.

The frontier army post, serving to protect the settlers from the Indians, has also acted as a wedge to open the Indian country, and has been a nucleus for settlement.‡ In this con-

* Lodge, *English Colonies*, p. 152 and citations; Logan, *Hist. of Upper South Carolina*, I, p. 151.

† Flint, *Recollections*, p. 9.

‡ See Monette, *Mississippi Valley*, I, p. 344.

nection mention should also be made of the Government military and exploring expeditions in determining the lines of settlement. But all the more important expeditions were greatly indebted to the earliest pathmakers, the Indian guides, the traders and trappers, and the French voyageurs, who were inevitable parts of governmental expeditions from the days of Lewis and Clarke.* Each expedition was an epitome of the previous factors in western advance.

SALT SPRINGS.

In an interesting monograph, Victor Hehn† has traced the effect of salt upon early European development, and has pointed out how it affected the lines of settlement and the form of administration. A similar study might be made for the salt springs of the United States. The early settlers were tied to the coast by the need of salt, without which they could not preserve their meats or live in comfort. Writing in 1752, Bishop Spangenburg says of a colony for which he was seeking lands in North Carolina, "They will require salt & other necessaries which they can neither manufacture nor raise. Either they must go to Charleston, which is 300 miles distant * * * Or else they must go to Boling's Point in Va on a branch of the James & is also 300 miles from here * * * Or else they must go down the Roanoke—I know not how many miles—where salt is brought up from the Cape Fear."‡ This may serve as a typical illustration. An annual pilgrimage to the coast for salt thus became essential. Taking flocks or furs and ginseng root, the early settlers sent their pack trains after seeding time each year to the coast.§ This proved to be an important educational influence, since it was almost the only way in which the pioneer learned what was going on in the East. But when discovery was made of the salt springs of the Kanawha, and the Holston, and Kentucky, and central New York, the West began to be freed from dependence on the coast. It was in part the effect of finding these salt springs that enabled settlement to cross the mountains.

* Coles', Lewis and Clarke's Expedition, I, pp. 2, 253-259; Benton, in Cong. Record, XXIII, p. 57.

† Hehn, *Das Salz* (Berlin, 1873).

‡ Col. Records of N. C., v, p. 3.

§ Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania in the Year 1794* (Philadelphia, 1796), p. 35.

From the time the mountains rose between the pioneer and the seaboard, a new order of Americanism arose. The West and the East began to get out of touch of each other. The settlements from the sea to the mountains kept connection with the rear and had a certain solidarity. But the overmountain men grew more and more independent. The East took a narrow view of American advance, and nearly lost these men. Kentucky and Tennessee history bears abundant witness to the truth of this statement. The East began to try to hedge and limit westward expansion. Though Webster could declare that there were no Alleghanies in his politics, yet in politics in general they were a very solid factor.

LAND.

The exploitation of the beasts took hunter and trader to the west, the exploitation of the grasses took the rancher west, and the exploitation of the virgin soil of the river valleys and prairies attracted the farmer. Good soils have been the most continuous attraction to the farmer's frontier. The land hunger of the Virginians drew them down the rivers into Carolina, in early colonial days; the search for soils took the Massachusetts men to Pennsylvania and to New York. As the eastern lands were taken up migration flowed across them to the west. Daniel Boone, the great backwoodsman, who combined the occupations of hunter, trader, cattle-raiser, farmer, and surveyor—learning, probably from the traders, of the fertility of the lands on the upper Yadkin, where the traders were wont to rest as they took their way to the Indians, left his Pennsylvania home with his father, and passed down the Great Valley road to that stream. Learning from a trader whose posts were on the Red River in Kentucky of its game and rich pastures, he pioneered the way for the farmers to that region. Thence he passed to the frontier of Missouri, where his settlement was long a landmark on the frontier. Here again he helped to open the way for civilization, finding salt licks, and trails, and land. His son was among the earliest trappers in the passes of the Rocky Mountains, and his party are said to have been the first to camp on the present site of Denver. His grandson, Col. A. J. Boone, of Colorado, was a power among the Indians of the Rocky Mountains, and was appointed an agent by the Government. Kit Carson's mother

was a Boone.* Thus this family epitomizes the backwoodsman's advance across the continent.

The farmer's advance came in a distinct series of waves. In Peck's *New Guide to the West*, published in Boston in 1837, occurs this suggestive passage:

Generally, in all the western settlements, three classes, like the waves of the ocean, have rolled one after the other. First comes the pioneer, who depends for the subsistence of his family chiefly upon the natural growth of vegetation, called the "range," and the proceeds of hunting. His implements of agriculture are rude, chiefly of his own make, and his efforts directed mainly to a crop of corn and a "truck patch." The last is a rude garden for growing cabbage, beans, corn for roasting ears, cucumbers, and potatoes. A log cabin, and, occasionally, a stable and corn-crib, and a field of a dozen acres, the timber girdled or "deadened," and fenced, are enough for his occupancy. It is quite immaterial whether he ever becomes the owner of the soil. He is the occupant for the time being, pays no rent, and feels as independent as the "lord of the manor." With a horse, cow, and one or two breeders of swine, he strikes into the woods with his family, and becomes the founder of a new county, or perhaps state. He builds his cabin, gathers around him a few other families of similar tastes and habits, and occupies till the range is somewhat subdued, and hunting a little precarious, or, which is more frequently the case, till the neighbors crowd around, roads, bridges, and fields annoy him, and he lacks elbow room. The preemption law enables him to dispose of his cabin and cornfield to the next class of emigrants; and, to employ his own figures, he "breaks for the high timber," "clears out for the New Purchase," or migrates to Arkansas or Texas, to work the same process over.

The next class of emigrants purchase the lands, add field to field, clear out the roads, throw rough bridges over the streams, put up hewn log houses with glass windows and brick or stone chimneys, occasionally plant orchards, build mills, schoolhouses, court-houses, etc., and exhibit the picture and forms of plain, frugal, civilized life.

Another wave rolls on. The men of capital and enterprise come. The settler is ready to sell out and take the advantage of the rise in property, push farther into the interior and become, himself, a man of capital and enterprise in turn. The small village rises to a spacious town or city; substantial edifices of brick, extensive fields, orchards, gardens, colleges, and churches are seen. Broadcloths, silks, leghorns, crapes, and all the refinements, luxuries, elegancies, frivolities, and fashions are in vogue. Thus wave after wave is rolling westward; the real Eldorado is still farther on.

A portion of the two first classes remain stationary amidst the general movement, improve their habits and condition, and rise in the scale of society.

The writer has traveled much amongst the first class, the real pioneers. He has lived many years in connection with the second grade; and now

*Hale, Daniel Boone (pamphlet).

the third wave is sweeping over large districts of Indiana, Illinois, and Missouri. Migration has become almost a habit in the West. Hundreds of men can be found, not over 50 years of age, who have settled for the fourth, fifth, or sixth time on a new spot. To sell out and remove only a few hundred miles makes up a portion of the variety of backwoods life and manners.*

Omitting those of the pioneer farmers who move from the love of adventure, the advance of the more steady farmer is easy to understand. Obviously the immigrant was attracted by the cheap lands of the frontier, and even the native farmer felt their influence strongly. Year by year the farmers who lived on soil whose returns were diminished by unrotated crops were offered the virgin soil of the frontier at nominal prices. Their growing families demanded more lands, and these were dear. The competition of the unexhausted, cheap, and easily tilled prairie lands compelled the farmer either to go west and continue the exhaustion of the soil on a new frontier, or to adopt intensive culture. Thus the census of 1890 shows, in the Northwest, many counties in which there is an absolute or a relative decrease of population. These States have been sending farmers to advance the frontier on the plains, and have themselves begun to turn to intensive farming and to manufacture. A decade before this, Ohio had shown the same transition stage. Thus the demand for land and the love of wilderness freedom drew the frontier ever onward.

Having now roughly outlined the various kinds of frontiers, and their modes of advance, chiefly from the point of view of the frontier itself, we may next inquire what were the influences on the East and on the Old World. A rapid enumeration of some of the more noteworthy effects is all that I have time for.

COMPOSITE NATIONALITY.

First, we note that the frontier promoted the formation of a composite nationality for the American people. The coast was preponderantly English, but the later tides of continental immigration flowed across to the free lands. This was the case from the early colonial days. The Scotch Irish and the Pala-

* Compare Baily, *Tour in the Unsettled Parts of North America* (London, 1856), pp. 217-219, where a similar analysis is made for 1796. See also Collet, *Journey in North America* (Paris, 1826), p. 109; *Observations on the North American Land Company* (London, 1796), pp. xv, 144; Logan, *History of Upper South Carolina*.

tine Germans, or "Pennsylvania Dutch," furnished the dominant element in the stock of the colonial frontier. With these peoples were also the freed indented servants, or redemptioners, who at the expiration of their time of service passed to the frontier. Governor Spottswood of Virginia writes in 1717, "The inhabitants of our frontiers are composed generally of such as have been transported hither as servants, and, being out of their time, settle themselves where land is to be taken up and that will produce the necessaries of life with little labour."* Very generally these redemptioners were of non-English stock. In the crucible of the frontier the immigrants were Americanized, liberated, and fused into a mixed race, English in neither nationality or characteristics. The process has gone on from the early days to our own. Burke and other writers in the middle of the eighteenth century believed that Pennsylvania† was "threatened with the danger of being wholly foreign in language, manners, and perhaps even inclinations." The German and Scotch-Irish elements in the frontier of the South were only less great. In the middle of the present century the German element in Wisconsin was already so considerable that leading publicists looked to the creation of a German state out of the commonwealth by concentrating their colonization.‡ Such examples teach us to beware of misinterpreting the fact that there is a common English speech in America into a belief that the stock is also English.

INDUSTRIAL INDEPENDENCE.

In another way the advance of the frontier decreased our dependence on England. The coast, particularly of the South, lacked diversified industries, and was dependent on England for the bulk of its supplies. In the South there was even a dependence on the Northern colonies for articles of food. Governor Glenn, of South Carolina, writes in the middle of the eighteenth century: "Our trade with New York and Philadelphia was of this sort, draining us of all the little money and bills we could gather from other places for their bread, flour, beer, hams, bacon, and other things of their produce, all which, except beer, our new townships begin to supply us with, which

* "Spottswood Papers," in Collections of Virginia Historical Society, I, II.

† [Burke], *European Settlements, etc.* (1765 ed.), II, p. 200.

‡ Everest, in Wisconsin Historical Collections, XII, pp. 7 ff

are settled with very industrious and thriving Germans. This no doubt diminishes the number of shipping and the appearance of our trade, but it is far from being a detriment to us."* Before long the frontier created a demand for merchants. As it retreated from the coast it became less and less possible for England to bring her supplies directly to the consumer's wharfs, and carry away staple crops, and staple crops began to give way to diversified agriculture for a time. The effect of this phase of the frontier action upon the northern section is perceived when we realize how the advance of the frontier aroused seaboard cities like Boston, New York, and Baltimore, to engage in rivalry for what Washington called "the extensive and valuable trade of a rising empire."

EFFECTS ON NATIONAL LEGISLATION.

The legislation which most developed the powers of the National Government, and played the largest part in its activity, was conditioned on the frontier. Writers have discussed the subjects of tariff, land, and internal improvement, as subsidiary to the slavery question. But when American history comes to be rightly viewed it will be seen that the slavery question is an incident. In the period from the end of the first half of the present century to the close of the civil war slavery rose to primary, but far from exclusive, importance. But this does not justify Dr. von Holst (to take an example) in treating our constitutional history in its formative period down to 1828 in a single volume, giving six volumes chiefly to the history of slavery from 1828 to 1861, under the title "Constitutional History of the United States." The growth of nationalism and the evolution of American political institutions were dependent on the advance of the frontier. Even so recent a writer as Rhodes, in his *History of the United States since the compromise of 1850*, has treated the legislation called out by the western advance as incidental to the slavery struggle.

This is a wrong perspective. The pioneer needed the goods of the coast, and so the grand series of internal improvement and railroad legislation began, with potent nationalizing effects. Over internal improvements occurred great debates, in which grave constitutional questions were discussed. Sectional groupings appear in the votes, profoundly significant for the

* Weston, Documents connected with History of South Carolina, p. 61.

historian. Loose construction increased as the nation marched westward.* But the West was not content with bringing the farm to the factory. Under the lead of Clay—"Harry of the West"—protective tariffs were passed, with the cry of bringing the factory to the farm. The disposition of the public lands was a third important subject of national legislation influenced by the frontier.

THE PUBLIC DOMAIN.

The public domain has been a force of profound importance in the nationalization and development of the Government. The effects of the struggle of the landed and the landless States, and of the ordinance of 1787, need no discussion.† Administratively the frontier called out some of the highest and most vitalizing activities of the General Government. The purchase of Louisiana was perhaps the constitutional turning point in the history of the Republic, inasmuch as it afforded both a new area for national legislation and the occasion of the downfall of the policy of strict construction. But the purchase of Louisiana was called out by frontier needs and demands. As frontier States accrued to the Union the national power grew. In a speech on the dedication of the Calhoun monument Mr. Lamar explained: "In 1789 the States were the creators of the Federal Government; in 1861 the Federal Government was the creator of a large majority of the States."

When we consider the public domain from the point of view of the sale and disposal of the public lands we are again brought face to face with the frontier. The policy of the United States in dealing with its lands is in sharp contrast with the European system of scientific administration. Efforts to make this domain a source of revenue, and to withhold it from emigrants in order that settlement might be compact, were in vain. The jealousy and the fears of the East were powerless in the face of the demands of the frontiersmen. John Quincy Adams was obliged to confess: "My own system of administration, which was to make the national domain the inexhaustible fund for progressive and unceasing internal improvement, has failed." The

*See, for example, the speech of Clay, in the House of Representatives, January 30, 1824.

†See the admirable monograph by Prof. H. B. Adams, *Maryland's Influence on the Land Cessions*; and also President Welling, in *Papers American Historical Association*, III, p. 411.

reason is obvious; a system of administration was not what the West demanded; it wanted land. Adams states the situation as follows: "The slaveholders of the South have bought the cooperation of the western country by the bribe of the western lands, abandoning to the new Western States their own proportion of the public property and aiding them in the design of grasping all the lands into their own hands. Thomas H. Benton was the author of this system, which he brought forward as a substitute for the American system of Mr. Clay, and to supplant him as the leading statesman of the West. Mr. Clay, by his tariff compromise with Mr. Calhoun, abandoned his own American system. At the same time he brought forward a plan for distributing among all the States of the Union the proceeds of the sales of the public lands. His bill for that purpose passed both Houses of Congress, but was vetoed by President Jackson, who, in his annual message of December, 1832, formally recommended that all public lands should be gratuitously given away to individual adventurers and to the States in which the lands are situated.*

"No subject," said Henry Clay, "which has presented itself to the present, or perhaps any preceding, Congress, is of greater magnitude than that of the public lands." When we consider the far-reaching effects of the Government's land policy upon political, economic, and social aspects of American life, we are disposed to agree with him. But this legislation was framed under frontier influences, and under the lead of Western statesmen like Benton and Jackson. Said Senator Scott of Indiana in 1841: "I consider the preemption law merely declaratory of the custom or common law of the settlers."

— NATIONAL TENDENCIES OF THE FRONTIER.

It is safe to say that the legislation with regard to land, tariff, and internal improvements—the American system of the nationalizing Whig party—was conditioned on frontier ideas and needs. But it was not merely in legislative action that the frontier worked against the sectionalism of the coast. The economic and social characteristics of the frontier worked against sectionalism. The men of the frontier had closer resemblances to the Middle region than to either of the other sections. Pennsylvania had been the seed-plot of frontier emigration, and, although she passed on her settlers along the

* Adams Memoirs, ix, pp. 247, 248.

Great Valley into the west of Virginia and the Carolinas, yet the industrial society of these Southern frontiersmen was always more like that of the Middle region than like that of the tide-water portion of the South, which later came to spread its industrial type throughout the South.

The Middle region, entered by New York harbor, was an open door to all Europe. The tide-water part of the South represented typical Englishmen, modified by a warm climate and servile labor, and living in baronial fashion on great plantations; New England stood for a special English movement—Puritanism. The Middle region was less English than the other sections. It had a wide mixture of nationalities, a varied society, the mixed town and county system of local government, a varied economic life, many religious sects. In short, it was a region mediating between New England and the South, and the East and the West. It represented that composite nationality which the contemporary United States exhibits, that juxtaposition of non-English groups, occupying a valley or a little settlement, and presenting reflections of the map of Europe in their variety. It was democratic and nonsectional, if not national; "easy, tolerant, and contented;" rooted strongly in material prosperity. It was typical of the modern United States. It was least sectional, not only because it lay between North and South, but also because with no barriers to shut out its frontiers from its settled region, and with a system of connecting waterways, the Middle region mediated between East and West as well as between North and South. Thus it became the typically American region. Even the New Englander, who was shut out from the frontier by the Middle region, tarrying in New York or Pennsylvania on his westward march, lost the acuteness of his sectionalism on the way.*

The spread of cotton culture into the interior of the South finally broke down the contrast between the "tide-water" region and the rest of the State, and based Southern interests on slavery. Before this process revealed its results the western portion of the South, which was akin to Pennsylvania in stock, society, and industry, showed tendencies to fall away from the faith of the fathers into internal improvement legislation and nationalism. In the Virginia convention of 1829-30, called to revise the constitution, Mr. Leigh, of Chesterfield, one of the tide-water counties, declared:

*Author's article in *The Ægis* (Madison, Wis.), November 4, 1892.

One of the main causes of discontent which led to this convention, that which had the strongest influence in overcoming our veneration for the work of our fathers, which taught us to contemn the sentiments of Henry and Mason and Pendleton, which weaned us from our reverence for the constituted authorities of the State, was an overweening passion for internal improvement. I say this with perfect knowledge, for it has been avowed to me by gentlemen from the West over and over again. And let me tell the gentleman from Albemarle (Mr. Gordon) that it has been another principal object of those who set this ball of revolution in motion, to overturn the doctrine of State rights, of which Virginia has been the very pillar, and to remove the barrier she has interposed to the interference of the Federal Government in that same work of internal improvement, by so reorganizing the legislature that Virginia, too, may be hitched to the Federal car.

It was this nationalizing tendency of the West that transformed the democracy of Jefferson into the national republicanism of Monroe and the democracy of Andrew Jackson. The West of the war of 1812, the West of Clay, and Benton, and Harrison, and Andrew Jackson, shut off by the Middle States and the mountains from the coast sections, had a solidarity of its own with national tendencies.* On the tide of the Father of Waters, North and South met and mingled into a nation. Interstate migration went steadily on—a process of cross-fertilization of ideas and institutions. The fierce struggle of the sections over slavery on the western frontier does not diminish the truth of this statement; it proves the truth of it. Slavery was a sectional trait that would not down, but in the West it could not remain sectional. It was the greatest of frontiersmen who declared: "I believe this Government can not endure permanently half slave and half free. It will become all of one thing or all of the other." Nothing works for nationalism like intercourse within the nation. Mobility of population is death to localism, and the western frontier worked irresistibly in unsettling population. The effects reached back from the frontier and affected profoundly the Atlantic coast and even the Old World.

GROWTH OF DEMOCRACY.

But the most important effect of the frontier has been in the promotion of democracy here and in Europe. As has been indicated, the frontier is productive of individualism. Complex society is precipitated by the wilderness into a kind of

* Compare Roosevelt, Thomas Benton, ch. i.

primitive organization based on the family. The tendency is anti-social. It produces antipathy to control, and particularly to any direct control. The tax-gatherer is viewed as a representative of oppression. Prof. Osgood, in an able article,* has pointed out that the frontier conditions prevalent in the colonies are important factors in the explanation of the American Revolution, where individual liberty was sometimes confused with absence of all effective government. The same conditions aid in explaining the difficulty of instituting a strong government in the period of the confederacy. The frontier individualism has from the beginning promoted democracy.

The frontier States that came into the Union in the first quarter of a century of its existence came in with democratic suffrage provisions, and had reactive effects of the highest importance upon the older States whose peoples were being attracted there. An extension of the franchise became essential. It was *western* New York that forced an extension of suffrage in the constitutional convention of that State in 1821; and it was *western* Virginia that compelled the tide-water region to put a more liberal suffrage provision in the constitution framed in 1830, and to give to the frontier region a more nearly proportionate representation with the tide-water aristocracy. The rise of democracy as an effective force in the nation came in with western preponderance under Jackson and William Henry Harrison, and it meant the triumph of the frontier—with all of its good and with all of its evil elements.† An interesting illustration of the tone of frontier democracy in 1830 comes from the same debates in the Virginia convention already referred to. A representative from western Virginia declared:

But, sir, it is not the increase of population in the West which this gentleman ought to fear. It is the energy which the mountain breeze and western habits impart to those emigrants. They are regenerated, politically I mean, sir. They soon become *working politicians*; and the difference, sir, between a *talking* and a *working* politician is immense. The Old Dominion has long been celebrated for producing great orators; the ablest metaphysicians in policy; men that can split hairs in all abstruse questions of political economy. But at home, or when they return from Congress, they have negroes to fan them asleep. But a Pennsylvania, a New York, an Ohio, or a western Virginia statesman, though far inferior in logic, metaphysics, and rhetoric to an old Virginia statesman, has this advantage, that when he returns home he takes off his coat and takes hold

* Political Science Quarterly, II, p. 457. Compare Sumner, Alexander Hamilton, Chs. ii-vii.

† Compare Wilson, Division and Reunion, pp. 15, 24.

of the plow. This gives him bone and muscle, sir, and preserves his republican principles pure and uncontaminated.

So long as free land exists, the opportunity for a competency exists, and economic power secures political power. But the democracy born of free land, strong in selfishness and individualism, intolerant of administrative experience and education, and pressing individual liberty beyond its proper bounds, has its dangers as well as it benefits. Individualism in America has allowed a laxity in regard to governmental affairs which has rendered possible the spoils system and all the manifest evils that follow from the lack of a highly developed civic spirit. In this connection may be noted also the influence of frontier conditions in permitting lax business honor, inflated paper currency and wild-cat banking. The colonial and revolutionary frontier was the region whence emanated many of the worst forms of an evil currency.* The West in the war of 1812 repeated the phenomenon on the frontier of that day, while the speculation and wild-cat banking of the period of the crisis of 1837 occurred on the new frontier belt of the next tier of States. Thus each one of the periods of lax financial integrity coincides with periods when a new set of frontier communities had arisen, and coincides in area with these successive frontiers, for the most part. The recent Populist agitation is a case in point. Many a State that now declines any connection with the tenets of the Populists, itself adhered to such ideas in an earlier stage of the development of the State. A primitive society can hardly be expected to show the intelligent appreciation of the complexity of business interests in a developed society. The continual recurrence of these areas of paper-money agitation is another evidence that the frontier can be isolated and studied as a factor in American history of the highest importance. †

* On the relation of frontier conditions to Revolutionary taxation, see Sumner, Alexander Hamilton, Ch. iii.

† I have refrained from dwelling on the lawless characteristics of the frontier, because they are sufficiently well known. The gambler and desperado, the regulators of the Carolinas and the vigilantes of California, are types of that line of scum that the waves of advancing civilization bore before them, and of the growth of spontaneous organs of authority where legal authority was absent. Compare Barrows, United States of Yesterday and To-morrow; Shinn, Mining Camps; and Bancroft, Popular Tribunals. The humor, bravery, and rude strength, as well as the vices of the frontier in its worst aspect, have left traces on American character, language, and literature, not soon to be effaced.

ATTEMPTS TO CHECK AND REGULATE THE FRONTIER.

The East has always feared the result of an unregulated advance of the frontier, and has tried to check and guide it. The English authorities would have checked settlement at the headwaters of the Atlantic tributaries and allowed the "savages to enjoy their deserts in quiet lest the peltry trade should decrease." This called out Burke's splendid protest:

If you stopped your grants, what would be the consequence? The people would occupy without grants. They have already so occupied in many places. You can not station garrisons in every part of these deserts. If you drive the people from one place, they will carry on their annual tillage and remove with their flocks and herds to another. Many of the people in the back settlements are already little attached to particular situations. Already they have topped the Appalachian mountains. From thence they behold before them an immense plain, one vast, rich, level meadow; a square of five hundred miles. Over this they would wander without a possibility of restraint; they would change their manners with their habits of life; would soon forget a government by which they were disowned; would become hordes of English Tartars; and, pouring down upon your unfortified frontiers a fierce and irresistible cavalry, become masters of your governors and your counselors, your collectors and controllers, and of all the slaves that adhered to them. Such would, and in no long time must, be the effect of attempting to forbid as a crime and to suppress as an evil the command and blessing of Providence, "Increase and multiply." Such would be the happy result of an endeavor to keep as a lair of wild beasts that earth which God, by an express charter, has given to the children of men.

But the English Government was not alone in its desire to limit the advance of the frontier and guide its destinies. Tidewater Virginia* and South Carolina† gerrymandered those colonies to insure the dominance of the coast in their legislatures. Washington desired to settle a State at a time in the Northwest; Jefferson would reserve from settlement the territory of his Louisiana purchase north of the thirty-second parallel, in order to offer it to the Indians in exchange for their settlements east of the Mississippi. "When we shall be full on this side," he writes, "we may lay off a range of States on the western bank from the head to the mouth, and so range after range, advancing compactly as we multiply." Madison went so far as to argue to the French minister that the United States had no interest in seeing population extend itself on

* Debates in the Constitutional Convention, 1829-1830.

† [McCrary] Eminent and Representative Men of the Carolinas, I, p. 43; Calhoun's Works, I, pp. 401-406.

the right bank of the Mississippi, but should rather fear it. When the Oregon question was under debate, in 1824, Smyth, of Virginia, would draw an unchangeable line for the limits of the United States at the outer limit of two tiers of States beyond the Mississippi, complaining that the seaboard States were being drained of the flower of their population by the bringing of too much land into market. Even Thomas Benton, the man of widest views of the destiny of the West, at this stage of his career declared that along the ridge of the Rocky mountains "the western limits of the Republic should be drawn, and the statue of the fabled god Terminus should be raised upon its highest peak, never to be thrown down."* But the attempts to limit the boundaries, to restrict land sales and settlement, and to deprive the West of its share of political power were all in vain. Steadily the frontier of settlement advanced and carried with it individualism, democracy, and nationalism, and powerfully affected the East and the Old World.

MISSIONARY ACTIVITY.

The most effective efforts of the East to regulate the frontier came through its educational and religious activity, exerted by interstate migration and by organized societies. Speaking in 1835, Dr. Lyman Beecher declared: "It is equally plain that the religious and political destiny of our nation is to be decided in the West," and he pointed out that the population of the West "is assembled from all the States of the Union and from all the nations of Europe, and is rushing in like the waters of the flood, demanding for its moral preservation the immediate and universal action of those institutions which discipline the mind and arm the conscience and the heart. And so various are the opinions and habits, and so recent and imperfect is the acquaintance, and so sparse are the settlements of the West, that no homogeneous public sentiment can be formed to legislate immediately into being the requisite institutions. And yet they are all needed immediately in their utmost perfection and power. A nation is being 'born in a day.' * * * But what will become of the West if her prosperity rushes up to such a majesty of power, while those great institutions linger which are necessary to form the mind and the conscience and the heart of that vast world. It must not

* Speech in the Senate, March 1, 1825; Register of Debates, 1, 721.

be permitted. * * * Let no man at the East quiet himself and dream of liberty, whatever may become of the West.

* * * Her destiny is our destiny.*

With the appeal to the conscience of New England, he adds appeals to her fears lest other religious sects anticipate her own. The New England preacher and school-teacher left their mark on the West. The dread of Western emancipation from New England's political and economic control was paralleled by her fears lest the West cut loose from her religion. Commenting in 1850 on reports that settlement was rapidly extending northward in Wisconsin, the editor of the *Home Missionary* writes: "We scarcely know whether to rejoice or mourn over this extension of our settlements. While we sympathize in whatever tends to increase the physical resources and prosperity of our country, we can not forget that with all these dispersions into remote and still remoter corners of the land the supply of the means of grace is becoming relatively less and less." Acting in accordance with such ideas, home missions were established and Western colleges were erected. As seaboard cities like Philadelphia, New York, and Baltimore strove for the mastery of Western trade, so the various denominations strove for the possession of the West. Thus an intellectual stream from New England sources fertilized the West. Other sections sent their missionaries; but the real struggle was between sects. The contest for power and the expansive tendency furnished to the various sects by the existence of a moving frontier must have had important results on the character of religious organization in the United States. The multiplication of rival churches in the little frontier towns had deep and lasting social effects. The religious aspects of the frontier make a chapter in our history which needs study.

INTELLECTUAL TRAITS.

From the conditions of frontier life came intellectual traits of profound importance. The works of travelers along each frontier from colonial days onward describe certain common traits, and these traits have, while softening down, still persisted as survivals in the place of their origin, even when a higher social organization succeeded. The result is that to the frontier the American intellect owes its striking characteristics. That coarseness and strength combined with acuteness and

*Plea for the West (Cincinnati, 1835), pp. 11 ff.

inquisitiveness; that practical, inventive turn of mind, quick to find expedients; that masterful grasp of material things, lacking in the artistic but powerful to effect great ends; that restless, nervous energy;* that dominant individualism, working for good and for evil, and withal that buoyancy and exuberance which comes with freedom—these are traits of the frontier, or traits called out elsewhere because of the existence of the frontier. Since the days when the fleet of Columbus sailed into the waters of the New World, America has been another name for opportunity, and the people of the United States have taken their tone from the incessant expansion which has not only been open but has even been forced upon them. He would be a rash prophet who should assert that the expansive character of American life has now entirely ceased. Movement has been its dominant fact, and, unless this training has no effect upon a people, the American energy will continually demand a wider field for its exercise. But never again will such gifts of free land offer themselves. For a moment, at the frontier, the bonds of custom are broken and unrestraint is triumphant. There is not *tabula rasa*. The stubborn American environment is there with its imperious summons to accept its conditions; the inherited ways of doing things are also there; and yet, in spite of environment, and in spite of custom, each frontier did indeed furnish a new field of opportunity, a gate of escape from the bondage of the past; and freshness, and confidence, and scorn of older society, impatience of its restraints and its ideas, and indifference to its lessons, have accompanied the frontier. What the Mediterranean Sea was to the Greeks, breaking the bond of custom, offering new experiences, calling out new institutions and activities, that, and more, the ever retreating frontier has been to the United States directly, and to the nations of Europe more remotely. And now, four centuries from the discovery of America, at the end of a hundred years of life under the Constitution, the frontier has gone, and with its going has closed the first period of American history.

* Colonial travelers agree in remarking on the phlegmatic characteristics of the colonists. It has frequently been asked how such a people could have developed that strained nervous energy now characteristic of them. Compare Sumner, Alexander Hamilton, p. 98, and Adams's History of the United States, I, p. 60; IX, pp. 240, 241. The transition appears to become marked at the close of the war of 1812, a period when interest centered upon the development of the West, and the West was noted for restless energy. Grund, Americans, II, ch. i.



XIX.—ROGER SHERMAN IN THE FEDERAL CONVENTION.

By LEWIS HENRY BOUTELL, LL. D.,
OF CHICAGO.



ROGER SHERMAN IN THE FEDERAL CONVENTION.

By LEWIS HENRY BOUTELL

The convention which framed our national constitution was about equally divided between the advocates of a national and the advocates of a confederate government. The great battle between these parties was fought over the question of representation in the national legislature. The details of that struggle and the compromise in which it ended have an un-failing interest for the student of political history. They have a fresh interest, at the present time, from the attempt recently made in Congress to change the method of electing Senators, and from certain misstatements made in a recent biographical work as to the authorship of that compromise.

The misstatements to which I refer are found in Dr. Stillé's very interesting life of John Dickinson. Dr. Stillé claims for Mr. Dickinson the honor of introducing and securing the adoption in the Federal Convention of 1787 of the provision giving the States an equal representation in the Senate. In proof of this claim, Dr. Stillé states that the convention "decided unanimously, on the 7th of June, on the motion of Mr. Dickinson, that the members of that body [the Senate] should be chosen, two for each State, by its legislature."

An examination of Madison's report of the Debates in the Federal Convention shows that every part of this statement is incorrect. Mr. Dickinson did not make the motion attributed to him, on the 7th of June, or at any other time. The motion made by Mr. Dickinson, on the 7th of June, related simply to the manner in which Senators should be chosen, and had no reference whatever to the number of Senators from each State.

Mr. Dickinson's motion was "that the members of the second branch [the Senate] ought to be chosen by the individual legislatures." He said he "had two reasons for this motion," first, because the sense of the States would be better col-

lected through their governments than immediately from the people at large; secondly, because he wished the Senate to consist of the most distinguished characters, distinguished for their rank in life and their weight of property, and bearing as strong a likeness to the British House of Lords as possible; and he thought such characters more likely to be selected by the State legislatures than in any other mode. In reply to Mr. Pinckney's objection that "if the small States should be allowed one Senator only the number will be too great, there will be eighty at least," Mr. Dickinson said the greatness of the number was no objection with him. He hoped there would be eighty and twice eighty of them. If their number should be small, the popular branch could not be balanced by them. The legislature of a numerous people ought to be a numerous body.

The proposition to give the States an equal vote in the Senate was not made till June 11, and then it was made, not by Mr. Dickinson, but by Roger Sherman. It was at first voted down, and not until after a long and severe controversy was the proposition adopted. It was adopted at last, by a vote of 5 to 4, on the 16th of July. The number of Senators from each State was fixed at two on the 23d of July, and at the same time it was decided that the Senators should vote per capita.

In the debate on this subject Mr. Dickinson took no part. On every occasion, from first to last, Mr. Sherman was the champion of the equal representation of the States in the Senate. The only occasion on which Mr. Dickinson spoke on this subject in the convention was on June 2, when, the executive being under discussion, he incidentally remarked, as to the point of representation in the National Legislature, as it might affect States of different sizes, that it must probably end in mutual concession. He hoped that each State would retain an equal voice, at least in one branch of the National Legislature. But two days before this, on the 31st of May, when the method of choosing Senators was under discussion, Mr. Sherman favored an election of one member by each of the State legislatures.

The position taken by Mr. Sherman on this subject was not a new one with him. Eleven years before, as a member of the Continental Congress, he advocated a representation in Congress of both population and States. On the 12th of July, 1776, Mr. Dickinson, on behalf of the Committee on Articles of Confederation, reported a plan in which it was provided

that "in determining questions each colony shall have one vote." This clause being under debate, on August 1, 1776, it was strongly opposed by Benjamin Franklin, John Adams, and others, as unjust to the larger States. Representation, they insisted, should be in proportion to taxation. As a compromise of the conflicting claims of the large and small States, Roger Sherman proposed that there should be a representation both of States and of population. His position is thus stated in the account of the debates in John Adams's diary (2 Adams's Works, 499):

Sherman thinks we ought not to vote according to numbers. We are representatives of States, not individuals. States of Holland. The consent of every one is necessary. Three colonies would govern the whole, but would not have a majority of strength to carry their votes into execution. The vote should be taken two ways; call the colonies and call the individuals, and have a majority of both.

Here we have, in substance, the great compromise of the Constitution between the large and the small States. This was the first expression of this plan, and the merit of originating it belongs to Roger Sherman. As Mr. Sherman in the Federal Convention represented a State intermediate in population between the largest and the smallest States, he stood in a position to be influential with both. Although he and his associates from Connecticut were disposed to preserve to the States as much of their sovereignty as possible, he was always amenable to reason, and was fruitful in resources to harmonize conflicting views. This can not be better illustrated than by a review of the debates in the Federal Convention on representation in the National Legislature.

The debates in the Federal Convention divide themselves into three distinct periods:

First. The debates in the Committee of the Whole on the state of the Union, which extended from May 30 to June 19.

From May 30 to June 13 the committee had under consideration the fifteen resolutions of Randolph, containing the leading principles which he thought should prevail in a National Constitution.

On June 13 the committee reported in favor of the Randolph resolutions as they had been amended in debate. This may be called the national plan.

On June 15 Mr. Patterson presented the resolutions known as the New Jersey or confederate plan. This plan was referred

to the Committee of the Whole and the national plan recommitted. These plans were debated till June 19, when the committee voted to rise and report in favor of the national plan.

Second. The second period consisted of the debates in the convention on the national plan, which extended from June 19 to July 26, when a committee of detail of five members was appointed to prepare and report a Constitution conformable to the twenty-three resolutions adopted by the convention.

Third. The debates in the convention on the detailed plan, which extended from August 6 to September 16, when the Constitution was adopted. On September 17 a few changes were made, the Constitution signed, and the convention adjourned.

In the first period, which lasted only twenty days, the debates were brief and comparatively calm.

In the second period, which lasted thirty-seven days, the great struggle between the national and confederate parties took place, which ended in the adoption of the compromise plan.

In the third period, which lasted forty-two days, the debate on details, which exhibited great diversity of opinion, was conducted without asperity. The slavery question excited a momentary feeling, but was soon disposed of.

I have spoken of the members of the convention as divided into two opposite parties—those who favored a strong and those who favored a weak general government, or, as we may for convenience call them, nationalists and confederates. But these parties were not organized like modern political parties. They did not vote solidly according to a scheme prearranged by a caucus. Indeed, they had no organization at all. More independent men never met together. Each man spoke and voted according to his individual convictions. Those who agreed on one point were often at variance on others equally important. There were all shades of nationalists and all shades of confederates, and some were partly the one and partly the other.

The leaders of the nationalists were Hamilton, Madison, Wilson, and Gouverneur Morris. The leaders of the confederates were Patterson, Lansing, and Luther Martin. Those most active in effecting compromises between the contending parties were Sherman, Franklin, Dickinson, and Gerry.

The point on which there was the bitterest and most prolonged controversy was, as I have stated, the rule of suffrage

in the legislature. The resolution on this subject was the second on Mr. Randolph's list. But when it was reached, at the request of Mr. Read, of Delaware, the consideration of it was postponed, "as the deputies from Delaware were restrained by their commission from assenting to any change in the rule of suffrage, and in case such a change should be fixed on it might become their duty to retire from the convention."

Accordingly the second resolution was not taken up till the other resolutions had been acted upon. This second resolution provided "that the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases." On the 9th of June the debate on the second resolution began. Mr. Briarly and Mr. Patterson, of New Jersey, spoke in opposition and Mr. Wilson in favor of it. On June 11 the debate was resumed.

Mr. Sherman proposed that the proportion of suffrage in the first branch (the House of Representatives) should be according to the respective numbers of free inhabitants; and that in the second branch, or Senate, each State should have one vote and no more. He said, as the States would remain possessed of certain individual rights, each State ought to be able to protect itself; otherwise a few large States will rule the rest. The House of Lords in England, he observed, had certain particular rights under the Constitution and hence they have an equal vote with the House of Commons, that they may be able to defend their rights.

This was the first presentation of that plan of compromise by which the conflicting claims of the large and the small States were finally adjusted. It was modified in some of its details, as we shall hereafter see, but the compromise, as finally adopted, was, in substance, representation according to population in the House of Representatives, and equal representation of the States in the Senate. Roger Sherman was thus the first to propose this important compromise, and his merit consists in this, that while the advocates of a strong general government were in favor of a representation in both houses of the legislature based on population, and the advocates of a weak general government were in favor of an equal representation of the States in both houses, Sherman, though sympathizing with the latter class, saw, at this early day, that it would be impossible to form a general government unless each

side yielded a portion of its claims. The national principle must prevail in one house and the confederate principle in the other. To Roger Sherman belongs the credit, not only of introducing this compromise in the convention, but also of bearing the brunt of the contest in its favor, through a long and severe struggle, till it was finally adopted.

After a brief discussion, it was decided by a vote of 9 to 2 that representation in the House should be in proportion to the whole number of free inhabitants and three-fifths of the slaves. New Jersey and Delaware were the only States voting in the negative.

Mr. Sherman then moved that a question be taken whether each State shall have one vote in the second branch. Everything, he said, depended on this. The smaller States would never agree to the plan on any other principle than an equality of suffrage in this branch. Mr. Ellsworth seconded the motion, and the vote was 5 yeas to 6 nays.

Mr. Wilson then moved that the right of suffrage in the Senate ought to be according to the same rule as in the first branch. On this motion the vote was 6 yeas to 5 nays.

In the resolutions reported to the convention by the committee of the whole, the national principle prevailed, except in the provision for electing the Senators by the State legislatures. The debate on those resolutions began June 20, and then the advocates of the confederate plan returned to the contest with renewed vigor. In the committee of the whole the resolution in favor of two houses of the legislature was adopted without debate. But when that resolution came up in the convention, Lansing, Luther Martin, Sherman, and W. S. Johnson made elaborate speeches against it. The keynote of the opposition to a legislature of two houses was struck in the opening remark of Mr. Lansing, "that the true question here was whether the convention would adhere to or depart from the foundation of the present confederacy."

Mr. Sherman, in his speech, said that "he admitted two branches to be necessary in the State legislatures, but saw no necessity in a confederacy of States." He closed his speech with the following remarks:

If the difficulty on the subject of representation can not be otherwise got over, I would agree to have two branches, and a proportional representation in one of them, provided each State had an equal voice in the other. This was necessary to secure the rights of the lesser States, otherwise three

or four of the large States would rule the others as they pleased. Each State, like each individual, had its peculiar habits, usages, and manners, which constituted its happiness. It would not, therefore, give to others a power over this happiness, any more than an individual would do, when he could avoid it.

Mr. Mason, Mr. Wilson, and Mr. Madison very ably supported the resolution; and the vote stood, yeas 7, nays 3. Maryland divided. The vote of Connecticut was in the affirmative.

The debate on the rules of suffrage in the two branches began on June 27 and was continued till July 16, when the compromise plan was adopted by a vote of 5 to 4. When the debate had lasted two days, and the prospect of harmonious action seemed to be diminishing rather than increasing, Dr. Franklin moved that the convention be opened each day with prayer. This motion was seconded by Mr. Sherman. It did not come to a vote, apparently from fear that it might excite alarm among the people.

On the 29th of June it was decided by a vote of 6 to 4 that the rule of suffrage in the first branch (the House of Representatives) ought not to be according to that established by the Articles of Confederation. Connecticut, New York, New Jersey, Delaware voted in the negative, and Maryland was divided.

After this vote was taken, Mr. Ellsworth moved that the rule of suffrage in the second branch (the Senate) be the same with that established by the Articles of Confederation. Mr. Baldwin, of Georgia, "thought the second branch ought to be the representation of property, and that in forming it, therefore, some reference ought to be had to the relative wealth of their constituents, and to the principles on which the senate of Massachusetts was constituted."

The debate on Mr. Ellsworth's motion was resumed on the 30th of June. In the course of this debate, Mr. Madison said that the difference in interest between the States depended not upon their size, but upon their being slave-holding or non-slave-holding States. The remedy for this difference which had occurred to him was that instead of proportioning the votes of the States, in both branches, to their respective numbers of inhabitants, computing the slaves in the ratio of 5 to 3, they should be represented in one branch according to the number of free inhabitants only; and in the other, according to the whole number, counting the slaves as free. By this

arrangement the Southern scale (States) would have the advantage in one house and the Northern in the other.

Mr. Wilson proposed one Senator for every 100,000 souls; the States not having that number to be allowed one.

Dr. Franklin proposed an equal number of Senators from each State; that in all questions touching the sovereignty of the States, or whereby the authority of the States over their own citizens may be diminished, or the authority of the General Government within the States increased, and in the appointment of civil officers, each State should have equal suffrage; that in money bills the delegates of the several States shall have suffrage in proportion to the contribution of their States to the Treasury. The debate on this day was very heated, Mr. Bedford, of Delaware, stating that the small States, rather than agree to the national plan, would prefer a foreign alliance.

On July 2 the vote on Mr. Ellsworth's motion was taken, and it was lost by an equal division, 5 to 5. Connecticut, New York, New Jersey, Delaware, Maryland, aye; Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, nay; Georgia, divided.

Mr. C. Pinckney proposed that the representation of the States in the Senate should vary according to population, but that the larger States should not have their full proportion.

Gen. C. C. Pinckney proposed a committee of one from each State to report a plan of compromise. This seemed to be felt by most to be a necessity.

Mr. Randolph said he would agree that, in the choice of an Executive, each State should have an equal vote. Vote for the committee: yeas, 9; nays, 2.

On July 5 the committee of 11 reported two propositions:

1. That in the House of Representatives there be one representative for every 40,000 inhabitants; each State to have at least one; all money bills to originate in the House, and not be amended in Senate; no money to be drawn from the Treasury but in pursuance of appropriations originated in the House.

2. In the Senate each State to have an equal vote.

Mr. Madison, in a note (5 Elliot, 274) says that this compromise was proposed by Dr. Franklin; that Mr. Sherman, who took the place of Mr. Ellsworth, proposed that each State should have an equal vote in the Senate, provided that no

decision thereon should prevail unless the majority of States concurring should also comprise a majority of the inhabitants of the United States, but it was not much deliberated on or approved in the committee. Mr. Madison says a similar provision was proposed in the debates on the Articles of Confederation. I can find no confirmation of this last statement. Probably Mr. Madison had in mind the proposition reported by Mr. Adams, to which reference has been made.

The debate which followed on this day and the next related principally to the question whether the giving to the House the sole right to originate money bills was really any concession to the large States. It was finally voted, 5 to 3, that the clause relating to money bills should stand as a part of the report.

On July 7 the question was taken up, Shall the clause allowing each State one vote in the second branch (the Senate) stand as a part of the report?

Mr. Sherman supposed it was the wish of every one that some general government should be established. An equal vote in the second branch would, he thought, be most likely to give it the necessary vigor. "The small States have more vigor in their government than the large ones; the more influence, therefore, the large ones have the weaker will be the government. In the large States it will be most difficult to collect the real and fair sense of the people; fallacy and undue influence will be practiced with the most success, and improper men will most easily get into office. If they vote by States in the second branch, and each State has an equal vote, there must be always a majority of States as well as a majority of the people on the side of public measures, and the Government will have decision and efficacy. If this be not the case in the second branch there may be a majority of States against public measures, and the difficulty of compelling them to abide by the public determination will render the Government feebler than it has ever yet been." The vote on this question stood, yeas 6, nays 3. Pennsylvania, Virginia, South Carolina, nay; Massachusetts and Georgia, divided.

From the 9th to the 14th of July the debate was on a variety of questions growing out of the provision relating to the number of members in the House of Representatives, such as slave representation, census, and representation of new States.

On the 14th of July, Mr. Rutledge proposed to reconsider

the two propositions touching the originating of money bills in the first, and the equality of votes in the second branch.

Mr. Gerry favored the reconsideration, with a view, not of destroying the equality of votes, but of providing that the States should vote per capita, which, he said, would prevent the delays and inconveniences that had been experienced in Congress, and would give a national aspect and spirit to the management of business.

This proposition of Mr. Gerry's that the Senators vote per capita, though not acted upon at this time, was renewed by Gouverneur Morris and Mr. King on July 23, and was then adopted. This was the last step in this controversy, and one of the most important. It must have seemed to the Nationalists a much greater concession than the giving to the House of Representatives the exclusive right to originate money bills. It removed from the proceedings of the Senate all appearances of State action, and, as Mr. Gerry said, it gave a national aspect and spirit to the management of business. Only the extreme State rights men, like Luther Martin, opposed it, and on the final vote Maryland was the only State voting in the negative. For this suggestion, Mr. Gerry is entitled to no small share of credit.

The reconsideration proposed by Mr. Rutledge having been agreed to, Mr. Pinckney moved that, instead of an equality of votes, the States should be represented in the Senate as follows: New Hampshire, 2; Massachusetts, 4; Rhode Island, 1; Connecticut, 3; New York, 3; New Jersey, 2; Pennsylvania, 4; Delaware, 1; Maryland, 3; Virginia, 5; North Carolina, 3; South Carolina, 3; Georgia, 2. Total, 36. This motion was seconded by Mr. Wilson.

Mr. Sherman urged the equality of votes, not so much as a security for the small States, as for the State governments, which could not be preserved unless they were represented and had a negative in the General Government. He had no objection to the members in the second branch voting per capita, as had been suggested by Mr. Gerry.

Strong speeches were made by King, Madison, and Wilson, against giving to the States an equality of votes in the Senate. Vote on Mr. Pinckney's motion: Yeas, 4; nays, 6.

On the 16th of July the vote was taken on the whole report as amended, including equality of votes in the Senate, and resulted in 5 yeas and 4 nays. Massachusetts divided.

On July 23, Gouverneur Morris and Mr. King moved that the Senators vote per capita. Mr. Ellsworth said he had always approved of voting in that mode. It was agreed to that the number of Senators be two from each State.

Mr. L. Martin was opposed to voting per capita, as departing from the idea of the States being represented in the second branch. Mr. Carroll was not struck with any particular objection against the mode; but he did not wish so hastily to make so material an innovation.

The vote on the whole motion, viz, "The second branch to consist of two members from each State, and to vote per capita," was, yeas, 9; nay, 1 (Maryland).

From this review of the proceedings in the Federal convention on the rule of suffrage in the two Houses of the National Legislature, we perceive:

(1) That the first motion that the States have an equal vote in the Senate was made in the Committee of the Whole, on June 9, by Roger Sherman, and was seconded by Oliver Ellsworth, and that this motion was negatived by a vote of 5 yeas to 6 nays.

(2) That immediately after this vote was taken, James Wilson moved that the right of suffrage in the Senate be the same as in the House of Representatives (that is, according to population), and that this motion prevailed by a vote of 6 yeas to 5 nays.

(3) That on June 13 the national plan was reported by the Committee of the Whole, which provided that the rule of suffrage, in both Houses, should be according to population.

(4) That in the debate in the convention, on this national plan, on June 29, Oliver Ellsworth moved that the rule of suffrage in the Senate be the same with that established by the Articles of Confederation. After a long debate, the vote was taken on this motion on July 2, and resulted in an equal division of the convention, 5 yeas and 5 nays, and Georgia divided.

(5) That to break this deadlock, a committee of eleven, one from each State, was appointed to see if they could not agree on a compromise plan.

On July 5 the committee of eleven reported a plan, which was, in substance, that in the House of Representatives representation be according to population; that money bills originate in the House, which shall not be altered or amended in the Senate; and that in the Senate each State shall have an equal

vote. After a long debate and various amendments, which only affected the representation in the House of Representatives, the compromise plan, giving the States an equal vote in the Senate, was, on July 16, adopted by a vote of 5 yeas to 4 nays, Massachusetts being divided.

(6) That the final action on this subject was taken on the 23d of July, when it was decided, by a vote of 9 yeas to 1 nay, that there be two Senators from each State, and that they vote per capita.

Beside the three main plans for representation in the two Houses, which I have called the national, the confederate, and the compromise plans; by the first of which, representation in both Houses was to be according to population; by the second, the States were to have an equal vote in both Houses; by the third, the States were to be represented according to population in the House, and to be equally represented in the Senate; besides these three main plans, a variety of other plans were suggested in the course of the debate. They were, as we have seen, the plans of Mr. Baldwin, of Mr. Madison, of Mr. Wilson, of Dr. Franklin, of Mr. C. Pinckney, and of Mr. Sherman, in the committee of eleven.

This plan of a double representation in our National Legislature, of population in one House and of States in the other, has generally been spoken of as a master stroke of statesmanship. We have seen that it was simply the result of a compromise. It originated in a groundless fear that the larger States would combine to oppress the smaller ones. It was in vain that Madison, and Wilson, and Hamilton pointed out that States would be led to act together, not from similarity in size, but from unity in interest, and that there was no such unity of interest in what were then the large States (Massachusetts, Pennsylvania, and Virginia) as to lead them to oppress the smaller States. As we read the debates we can not help feeling that a man of such strong sense as Roger Sherman must have felt the force of these arguments. That he did so seems apparent from the fact that toward the close of the debate he defended the equal representation of the States in the Senate on the ground that it was necessary to preserve the rights, not of the small States against the large States, but of all the States against the General Government.

Experience has shown that there never was the slightest danger that the large States would combine to oppress the

small ones; and that there was more danger to the National Government from the State governments than to the State governments from the National Government. But while these fears of the early advocates of State rights were groundless, Sherman and his associates were doubtless right in their belief that the majority of the people were in favor of an amendment of the Articles of Confederation rather than of a purely National Government, and that there was danger that they would reject a constitution which did not give to the States an equal representation in at least one House of the National Legislature. And so they insisted on a compromise which gave us not an ideally perfect National Government, but the best perhaps which the people were willing to bear.

Madison and his associates were right in pointing out that the danger to the nation was from the State-rights sentiment rather than from the national sentiment. Accordingly we find that the first mutterings of discontent were in the Kentucky nullification resolutions and in the Hartford Convention. Disloyalty took a more serious form, in Jackson's time, in the nullification proceedings in South Carolina. It culminated, in our own day, in secession and civil war.

The constitution of the Senate as the representative of the States did not produce the good anticipated, as the large States were never hostile to the small States, and the negative of the Senate was never invoked to guard the States against injurious legislation by the House of Representatives. Neither did it produce the evil feared, as the action of the Senate was never antinational. It did, however, produce what the advocates of a strong national government most desired, a small body of picked men, whose intelligence, character, and length of service have made them a fit check on the popular branch of the legislature, and a safe depository of the treaty-making power. We never think of the Senate as the guardian of State rights, but as the noblest embodiment of the legislative wisdom of the nation.

Throughout the debates in the convention, Roger Sherman showed himself in favor of amending the Articles of Confederation rather than of forming a strong national government. He expressed himself to this effect on the first day he took his seat in the convention. Luther Martin said in his report to the Maryland legislature that the members of the convention who prepared the resolutions for amending the Articles of

Confederation, presented by Patterson, were principally of the Connecticut, New York, New Jersey, Delaware, and Maryland delegations.

Sherman favored the election of both Representatives and Senators by the State legislatures rather than by the people, though he finally acquiesced in the election of Representatives by the people. He thought the President should be elected by the National Legislature, and should be absolutely dependent on it and removable by it at pleasure. He thought Representatives and Senators should be paid by the State and not by the National Legislature, but finally proposed that they be paid \$5 a day out of the National Treasury, and that any further emoluments be added by the States.

He thought the judges should be removed by the President, on the application of the Senate and House. He opposed inferior courts as a needless expense, as the State courts would answer the same purpose. Finally, he was willing the legislature should create them, but wished the State courts to be used when it could be done with safety to the general interest. He, however, expressed more confidence in the national judiciary than some did, and believed it a better tribunal for determining controversies between the States than the old method under the Confederation.

He favored the ratification of the Constitution by the State legislatures rather than by conventions of the people. To the clause relating to amendments, he moved to add that "no amendments shall be binding unless consented to by the several States." On the last day of debate he moved a proviso to the article on amendments, "that no State shall, without its consent, be affected in its internal police, or deprived of its equal suffrage in the Senate." The part relating to equal suffrage in the Senate was adopted.

In the plan for choosing a President by electors, it was provided that in case of a failure to choose, the Senate should choose a President out of the five highest candidates. It was thought this would strengthen the aristocratic influence of the Senate too much; so it was proposed that the choice should be by the legislature. Mr. Sherman then suggested that in that case the vote should be by States—"in favor of the small States, as the large States would have so great an advantage in nominating the candidates." Finally he suggested the plan which

was adopted, of a vote by the House of Representatives, the members from each State having one vote.

When the proposition for the election of Representatives by the people was first under discussion (May 31) Mr. Sherman opposed election by the people, insisting that it ought to be by the State legislatures. "The people," he said, "immediately should have as little to do as may be about the government. They want information, and are constantly liable to be misled."

When this matter was brought up the second time (June 6) Mr. Sherman said:

If it were in view to abolish the State governments the elections ought to be by the people. If the State governments are to be continued it is necessary, in order to preserve harmony between the National and State governments, that the elections to the former should be made by the latter. The right of participating in the National Government would be sufficiently secured to the people by their election of the State legislatures.

When the clause that the President should be chosen by the National Legislature was under discussion (July 17) Mr. Sherman thought that the sense of the nation would be better expressed by the legislature than by the people at large. "The latter will never be sufficiently informed of characters, and besides will never give a majority of votes to any one man. They will generally vote for some man in their own State, and the largest State will have the best chance for the appointment. If the choice be made by the legislature, a majority of voices may be made necessary to constitute an election."

In the speech above referred to, made on June 6, Mr. Sherman took a very limited view of the powers of the General Government. "The objects of the Union," he thought, "were few—first, defense against foreign danger; secondly, against internal disputes and a resort to force; thirdly, treaties with foreign nations; fourthly, regulating foreign commerce and deriving revenue from it. These, and perhaps a few lesser objects, alone rendered a confederation of the States necessary. All other matters, civil and criminal, would be much better in the hands of the States. The people are more happy in small than in large States. States may, indeed, be too small, as Rhode Island, and thereby be too subject to faction. Some others were, perhaps, too large, the powers of government not being able to pervade them." He was for giving the General Government power to legislate and execute within a definite province.

He was opposed to the appointment by the General Govern-

ment of the general officers of the militia. He was opposed to a tax on exports.

In view of the part which slavery has played in our national history, it strikes one as strange, at first, that it should have played so small a part in the Federal Convention. But at that time slavery was not confined to the Southern States and anti-slavery sentiments were not confined to the Northern States. Gouverneur Morris made a speech denouncing slavery which would have done credit to Wendell Phillips. But he was ably supported by Mason and Madison. Georgia and South Carolina were the only States that upheld it. Some years before Virginia had abolished the slave trade. It was natural, therefore, that the members of the convention should suppose that in a few years slavery would come to an end in most, if not all, the States. Mr. Ellsworth undoubtedly expressed the general belief when he said, "Slavery, in time, will not be a speck in our country."

The view which Mr. Sherman took of the matter was thus expressed by him: He disapproved of the slave trade; yet, as the States were now possessed of the right to import slaves, as the public good did not require it to be taken from them, and as it was expedient to have as few objections as possible to the proposed scheme of government, he thought it best to leave the matter as we find it. He observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the several States would probably by degrees complete it. He urged on the convention the necessity of dispatching its business.

One of the most surprising things in these debates is the hostility shown by some of the members to new States, and the absurd attempt to restrict their representation in the National Legislature. That so clear-headed and farsighted a man as Gouverneur Morris should have committed such a blunder is a most striking illustration of the proverb that "great men are not always wise."

This hostility found its formal expression in the motion made by Mr. Gerry, on the 14th of July, "that in order to secure the liberties of the States already confederated, the number of representatives in the first branch of the States which shall hereafter be established shall never exceed in number the representatives from such of the States as shall accede to this confederation."

Mr. Sherman made the only speech in opposition to this motion. He thought there was no probability that the number of future States would exceed that of the existing States. "If the event should ever happen, it is too remote to be taken into consideration at this time. Besides, we are providing for our posterity, for our children and our grandchildren, who would be as likely to be citizens of new Western States as of the old States. On this consideration alone we ought to make no such discrimination as is proposed by the motion."

And yet four States—Massachusetts, Connecticut, Delaware, and Maryland—voted in favor of Mr. Gerry's motion; Pennsylvania was divided, and only five States voted against the motion.

If we were to judge of the members of the Federal Convention by their mistakes and erroneous opinions, we should not form the highest estimate of their ability. But, judging them as men should always be judged—by their best work—they are deserving of the rare honor which belongs to the founders of empires. It is no detraction from that honor that they builded better than they knew. Judged by this test, Roger Sherman will ever be conspicuous as the statesman to whose wise and conciliatory spirit it was largely due that the Federal Convention was not held in vain.



XX.—THE HISTORICAL SIGNIFICANCE OF THE MISSOURI
COMPROMISE.

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THE HISTORICAL SIGNIFICANCE OF THE MISSOURI COMPROMISE.

By JAMES ALBERT WOODBURN.

The struggle for the restriction of African slavery in the United States is the central theme in American political history during the nineteenth century. That struggle suggests to the student of American politics a long series of contests culminating at last in one of the greatest civil wars in human history.

For more than a generation all other subjects in our Congressional history had sunk into a place of secondary or temporary importance; this, amid events of varying moment, held first rank until it passed for settlement from the forum to the field.

The struggle over the admission of Missouri into the Union (1818-1821), involves the merits of the whole controversy. The immediate result of that struggle was the admission of Missouri without restriction, accompanied with the provision that slavery should be forever excluded from all the Louisiana purchase north of 36° 30', the southern boundary of Missouri. In these few words is stated the substance of the Missouri compromise—the basis of adjustment of one of our most violent political struggles, the outcome of one of the ablest, the most prolonged and startling debates in the annals of the American Congress.

In attempting to interpret the significance of that struggle and to estimate the principles which it involved, it is first essential to have, if possible, a candid recital of the facts.

Preliminary to this recital, the true story of the struggle requires a brief mention of the principal ways in which the slavery question touched our history from 1789 to 1820.

Congress very early found it necessary to define its Constitutional powers affecting slavery. This was done March 23, 1790. An address in the shape of a memorial or petition had been presented to Congress on February 11, 1790, from the

Quaker Yearly Meeting in Pennsylvania, against the continuance of the African slave trade and praying Congress "to remove that reproach from the land." The motion to send this memorial to a committee for a report gave rise to an animated debate of considerable length on the merits of slavery and on the competency of Congress to consider such a subject. Congress resolved upon the report of the committee to which the memorial was referred, in substance, as follows:

1. That the General Government was prohibited from interfering with the slave trade for the domestic supply until 1808. Congress might lay a tax of \$10 on the importation.

2. That Congress had no power to interfere with slavery in the States, either to emancipate or to regulate the treatment of slaves. It remains alone with the several States to regulate their internal and domestic institutions.

3. That Congress could prevent the slave trade for foreign supply.

This assertion of the extent of the Constitutional power of Congress over slavery was universally accepted. There is no evidence that any considerable body of public opinion ever denied the correctness of this interpretation. Dr. Franklin, the president of the Pennsylvania Society for the Abolition of Slavery, who was said to be the author of this memorial, acquiesced in the decision and did not repeat the application.* The Liberty Party men of 1844, and the Free Soilers of 1848 and 1852, never materially denied these propositions.

By the enactment of the fugitive slave law of 1793 Congress proceeded to carry into effect the fugitive slave clause of the Constitution. No considerable voice of opposition was raised to this enactment. This law passed the Senate by a unanimous vote and the House by a vote of 48 to 7. Two of its clauses related to fugitives from justice and two to fugitives from labor, and it seemed to be taken for granted that one set of refugees should be returned as well as the other.

In the cession of their western territory to the General Government, North Carolina, in 1789, and Georgia, in 1802, stipulated that slavery should not be prohibited therein. It seems to have been agreed, after the restriction in the Northwest by the Ordinance of 1787, that the lands south of the Ohio should follow the condition of the States which ceded it. The Gen-

* Benton's Abridgments, Vol. 1, p. 239.

eral Government accepted the Southwestern Territory without objection to this condition of its cession.

In 1790 the treaty-making power was used with the Creek Indians to bind them to deliver up the slaves fled from Georgia. This brought the national power to the support of slavery. The right to do this existed, but it is not evident that it was the duty of the central Government to do so.

In 1802 a convention at Vincennes, Ind., over which William Henry Harrison presided, attempted to secure the repeal of the antislavery restriction in the Ordinance of 1787. The memorial which this convention sent to Congress was considered and its prayer rejected. Subsequent attempts in this direction were defeated, and Indiana, in 1816, came into the Union as a free State.

By the Louisiana treaty with France, in 1803, the people living in that Territory under French law were guaranteed all the rights of person and property which they were enjoying at the transfer. The third article of the Louisiana treaty provided,—

That the inhabitants of the Territory shall be incorporated in the United States and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

The right to their "property" included the right to their slaves, and it may be said that Louisiana came to us as slave territory. Louisiana was admitted to the Union in 1812, in harmony with this treaty. In the admission no discussion appears on the subject of slavery. The later proposed restriction on Missouri and Arkansas, parts of the original Louisiana purchase, appeared to the inhabitants of those Territories as an abolition of slavery, not as a restriction. Slavery had been legal in those Territories by the French law of Louisiana.

As to the slave trade, we prohibited it to carriers of other countries in 1794; we outlawed it entirely in 1807, the earliest possible constitutional date; in 1815 we united with England in the treaty of Ghent in agreement to suppress it; and in 1820 we declared the trade to be piracy.

Slavery existed in the District of Columbia, as it did in Missouri and Arkansas, because of the inertia of the Federal Government. Slavery existed in Maryland and Virginia, the States which ceded this territory; the District was contiguous

to these States, and the inference was that it should be let alone. On February 27, 1801, Congress declared the laws of Virginia and Maryland in force in the District, and henceforth slavery existed there by virtue of this law.

During the first two decades of this century there seems to have been but little probability that slavery would be abolished in the States which had not already made arrangement for emancipation. The tendency seems to have set in the other way. Washington had noticed, a few years before his death, the subsidence of the abolition spirit, and he had "despaired of seeing the spirit of freedom gain the upper hand." From the formation of the Union until the application of Maine, in the midst of the Missouri struggle, no free State had offered herself for statehood except from territory in which slavery had been prohibited by Federal authority. The preservation of the political equilibrium between the slave States and the free had already become a matter of the first importance. The steadiness with which this balance was preserved has, by students of to-day, been very generally observed. In 1789 the States were as follows:

Slave.—Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia—6.

Free.—New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania—7.

There were seven free States—or States soon sure to be free—and six slave States. Between 1789 and 1820 States were admitted as follows:

Slave.—1792, Kentucky; 1796, Tennessee; 1812, Louisiana; 1817, Mississippi; 1819, Alabama.

Free.—1791, Vermont; 1803, Ohio; 1816, Indiana; 1818, Illinois.

The slave States had gained one from the start; with the assurance of Alabama's admission, the balance would be struck, in numbers 11 to 11. It was in this distribution of political power between the sections as represented in the United States Senate that the struggle over Missouri arose.

We come now to the progress of the events in that struggle.

THE FIRST MISSOURI STRUGGLE.

The Fifteenth Congress assembled at Washington, December 1, 1817. Henry Clay was chosen as Speaker of the House. John Scott appeared as the delegate from the Missouri Terri-

tory. On March 16, 1818, Mr. Scott, the delegate from Missouri, presented a petition from Missouri praying for statehood, which together with former similar petitions was referred to a select committee.* On April 18, 1818, Mr. Scott, chairman of this committee, reported to the House a bill, an enabling act, to authorize Missouri Territory to form a constitution and State government and for the admission of the State into the Union on an equal footing with the other States. The bill was read twice and referred to the Committee of the Whole, where it slept for the remainder of the session.

The same Congress met again in second session, November 16, 1818. On December 18, 1818, the Speaker presented a memorial from the territorial legislature of Missouri again praying to be permitted to form a constitution and State government preparatory for admission. The memorial was referred. On Saturday, February 13, 1819, the House, on motion of Mr. Scott of Missouri, went into Committee of the Whole on the enabling acts for Missouri and Alabama. The Missouri bill was taken up first and Mr. James Tallmadge, jr., a representative from New York, offered the following amendment, which will be hereafter known in this discussion as the Tallmadge amendment:

Provided, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes whereof the party shall have been duly convicted; and that all children born within the said State after the admission thereof into the Union shall be free, but may be held to service until the age of twenty-five years.†

It is to be noticed that there were two distinct parts to this amendment:

- (1) Provision against the further introduction of slaves.
- (2) Provision for gradual emancipation of the slaves already there.

* At the same time Scott presented a petition from the inhabitants of the southern part of Missouri praying for a division of the Territory.

† In Seaton's Annals of Congress the last clause of this amendment reads: "That all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years." This statement is not so carefully guarded and does not protect from slavery the children of prospective freedmen who might be born to these before the age of twenty-five. The amendment as given in the text is taken from Greeley's Text-Book of 1860, p. 55, and is, no doubt, the correct legal expression of the amendment.

Neither of these was a radical proposition. Neither proposed to interfere with the rights of property in that Territory.

"The motion of Tallmadge," says the Annals, "gave rise to an interesting and pretty wide debate." The discussion continued during February 13 and 15 in Committee of the Whole, and on the 16th in the House; and on the 17th the House passed the bill with the Tallmadge amendment. The vote stood 87 to 76, one from the slave States favoring restriction and ten from the free States opposing restriction. It was clearly a sectional vote.

The House bill for Missouri reached the Senate February 17, 1819. It was read twice and referred to the Committee on the Memorial from Alabama. On February 21, Senator Tait, of Georgia, chairman of this committee, reported the bill back to the Senate with an amendment striking out restriction. On February 27 the bill "was again resumed," and various motions gave rise to a long and animated debate.* This debate the record does not report. The Senate, however, struck out the Tallmadge amendment, the latter clause which provided for gradual emancipation, by a vote of 31 to 7; the first clause which prohibited further introduction of slavery by a vote of 22 to 16, and on March 2, 1819, the amended bill passed the Senate.

On the return of the bill to the House, March 2, Tallmadge moved the indefinite postponement of the bill, a motion which was barely lost, and which would probably have been carried but for absentees. The House then refused to concur in the Senate amendments, and the bill was returned to the Senate with a message of nonconcurrence. A message came back immediately that the Senate still adhered to its amendment, and thereupon, by motion of Mr. Taylor, of New York, the House voted to adhere to its disagreement, and the bill was lost with the Fifteenth Congress in deadlock. This was the end of the first struggle.

Incidental to this stage of the discussion it is, however, important to notice that the struggle for restriction in the Fifteenth Congress was not confined, in the minds of the restrictionists, to the question of the admission of the new State of Missouri. The southern portion of that Territory was cut off from the proposed new State and organized as the Territory of Arkansas. During the consideration of the bill to provide

* Seaton's Annals of Congress.

a Territorial government for the Arkansas country, Mr. Taylor, of New York, moved an amendment containing the substance of the Tallmadge amendment to the Missouri bill—to prohibit the existence of slavery in the new Territory. "This motion," says the Annals, "gave rise to a wide and long-continued debate, covering part of the ground previously occupied on this subject, but differing in part, as the proposition for Arkansas was to impose a condition on a Territorial government instead of, as in the former case, to enjoin the adoption of the (prohibitive) principle in the constitution of a State." This distinction is important, in view of the fact that the chief argument against restriction on Missouri was based on the sovereignty and equality of the States. The fact of the discussion over Arkansas is important as indicating the temper of the lower House, and that the prime motive, the uppermost desire, of those who wished to impose conditions upon Missouri, was to limit the area of human slavery. The House first adopted one clause of the Taylor amendment, that providing for gradual emancipation in Arkansas, but by the casting vote of the Speaker, Mr. Clay, the bill was recommitted, and in the final decision the House determined by a majority of two votes to strike out all the antislavery restriction on the Territory of Arkansas. Territorial restriction failed only because of complication with the Missouri question. Thus, we see, the Fifteenth Congress expired with the House refusing to admit Missouri without restriction, the Senate refusing to admit her with restriction.

The fact that the Fifteenth Congress left Missouri without authority to organize as a State was the occasion of great excitement among the people of that Territory, and from the adjournment of the Fifteenth Congress to the assembling of the Sixteenth the whole Union was agitated. The legislatures of the States passed resolutions in favor of and against restriction, according to their respective sections, sending copies of these to one another and to the General Government;* popular assemblies in all parts of the country debated the question, adopted resolutions, petitioned Congress, and appealed to the public sentiment of the country in whatever demonstration they could use for their cause; the press kept up a continual agitation and a multitude of pamphleteers entered the field,

* See Niles Register, Vol. 17, p. 342.

adding to the momentum and excitement of the great national argument.*

SECOND MISSOURI STRUGGLE.

Such was the state of the public mind when the Sixteenth Congress assembled, December 6, 1819. Mr. Clay was again elected Speaker. On December 8, 1819, by motion of Scott, of Missouri, the memorial from that State praying for admission was referred to a select committee. On the same day Mr. Strong, of New York, gave notice of his intention to introduce a bill to prohibit the further extension of slavery in the Territories of the United States. On the following day, December 9, Scott, chairman of the special committee, all but one of whom were from the slave States, reported an enabling act for Missouri which was read twice and referred to the Committee of the Whole. At the same time Strong waived his notice of the previous day in view of the fact that the same issue would be presented in the proposed Missouri bill.

The Missouri bill did not again come up in the House till January 24, 1820. On the 26th Mr. Taylor, of New York, offered an amendment requiring that Missouri should "ordain and establish that there shall be neither slavery nor involuntary servitude, otherwise than in punishment of crimes whereof the party shall have been duly convicted," followed by the usual provision for the rendition of fugitive slaves.

This restrictive amendment was debated almost daily for nearly a month, until February 19, when a bill came down from the Senate "to admit the State of Maine into the Union," carrying the whole Missouri bill, without restriction, as a "rider."

A word of retrospect as to Maine: By an act of the State of Massachusetts of June 19, 1819, the people of that part of Massachusetts known as Maine were permitted to form themselves into an independent State. In this instance Massachusetts freely consented to her own division, but these proceedings were to be void unless Maine were admitted to the Union by March 4, 1820. Accordingly, the people of Maine formed a constitution, organized a State government, and petitioned Congress for admission to the Union. Her case was

* One of the ablest and most notable of the pamphlets was by Robert Walsh, jr., of Philadelphia, in favor of restriction. (See Niles Register, vol. 17, p. 307, and Madison's letter to Walsh, Vol. III, of Madison's Works.)

exactly parallel with that of Kentucky, and, as in Kentucky's case, it was only necessary that the bill admitting Maine should be a brief enactment, "that from and after March 3, 1820, the State of Maine is hereby declared to be one of the United States of America," and shall extend the United States laws over her territory and assign her a fair proportion of representatives. Ordinarily this simple process of admission would be an easy matter, and but for the issue over Missouri, Maine's admission would have passed unquestioned. The House had passed an ordinary Maine bill, January 3, 1820. The Senate had already passed a similar bill to a second reading, merely declaring the consent of Congress to Maine's admission as early as December 22, 1819, the first month of the session. It was not until January 6, 1820, three days after the House Maine bill had come to the Senate, that the scheme of carrying Missouri through on the back of Maine was put into formal shape. On that day the Senate Committee having the Maine bill in charge reported it with the Missouri "rider," but on the 13th the House Maine bill was substituted with the Missouri attachment.

It is not known what politician first suggested the party stroke of forcing this combination of the two bills in one—that the admission of Maine should be made dependent upon unconditional admission of Missouri. It is known, however, that Henry Clay gave public approval to the idea two weeks before in the House discussion on the Maine bill.

Holmes expressed the hope, in discussing the bill for Maine, that the question had not gone to the extent of making one distinct measure depend upon another, and that the admission of Maine did not depend upon giving up restriction on Missouri. Clay, in an undertone, said that it did, and then answering Holmes he asserted publicly that he did not intend to give his consent to the admission of Maine until the doctrine of imposing conditions were given up. This was in December, 1819. Clay gave, perhaps, the most plausible statement in defense of a position which is usually regarded only as a politician's resort of forcing a compensation for doing his duty. "A State in the quarter of the country from which I come," says Clay, "asks to be admitted to the Union. What say the gentlemen who ask the admission of Maine? Why, they will not admit Missouri without a condition which strips her of an essential attribute of sovereignty? What, then, do I say to

them? That justice is due to all parts of the Union; your State shall be admitted free of condition, but if you refuse to admit Missouri also free of condition we see no reason why you shall take to yourselves privileges which you deny to her, and until you grant them also to her we will not admit you. This notion of an equivalent is not a new one; it is one upon which commonwealths and States have acted from time immemorial." Holmes then pertinently remarked that in this Clay had taken the position that "unless others do what they think is wrong you will not do what you acknowledge to be right." And Livermore, of New Hampshire, pointedly inquired of Clay why he had not "called a pause" on the usual admission of States before the admission of Alabama in that very year. The situation clearly shows us that the real issue, that which divided men into party contestants and was decisive of their votes and conduct, was the question of slavery and its interests. The doctrine of the sovereignty and equality of States was put forward to defend the interests of slavery.

When the Maine bill was reported to the Senate by the committee, with the Missouri "rider," January 13, 1820, Senator Roberts, of Pennsylvania, endeavored to secure a recommitment of the bill with a view to their separation. Failing in this he moved, on January 17, an absolute antislavery restriction. After this was voted down the restrictionists in the Senate came again to the conflict by a motion from Senator Burrill, of Rhode Island, to apply to Missouri "the first three articles of compact in the ordinance of 1787." The great debate then continued in the Senate for a month, and on February 16, 1820, the Senate agreed to the amendment of its committee combining the Maine and Missouri bill in one. Then Mr. Thomas, of Illinois, amid the highest excitement of the debate, offered the following important amendment to the Missouri section of the bill:

And be it further enacted, That in all that territory ceded by France to the United States under the name of Louisiana, which lies north of 36° and 30' north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in punishment of crime whereof the party shall have been duly convicted, shall be and is hereby forever prohibited."

This amendment contains the substance of the final settlement. Barbour, of Virginia, attempted to have the line fixed at 40° and 30'; only three Senators voted for his proposition.

Eaton, of Tennessee, offered as a substitute for the Thomas amendment a section prescribing the same limits as the Thomas amendment, but providing that the restriction apply only while said portion of country remains a Territory. Eaton found it useless to press the substitute, which was merely an abstract declaration against the right of Congress to impose conditions upon a State, and he withdrew it. Trimble, of Ohio, proposed to make the restriction apply to all territory west of the Mississippi except Missouri. After these three suggestions had been made in vain the Thomas amendment was adopted the next day in the Senate by a vote of 34 to 10, without change and without debate, and on the 18th the Maine and Missouri bill in one, with the compromise amendment, was formally passed.

On February 19, 1820, the House took up these Senate amendments to the Maine bill. Taylor moved that the House disagree, whereupon Scott moved that the amendments be sent to the Committee of the Whole, which was then, and had been for days, considering the House Missouri bill. This motion took precedence and a spirited debate followed, but commitment was defeated by a vote of 107 to 70. The question then came up on the motion to disagree, which was debated for three days, when, on February 23, the House disagreed to the Missouri attachment by a vote of 93 to 73, and then to the restrictive amendment by 159 to 18. So the Senate Maine-Missouri bill with the Thomas amendment was defeated in the House. The House then went into the Committee of the Whole on its own bill with the Taylor restriction, which was still pending. The House continued the debate on this restrictive clause February 24 and 25. On the 26th Mr. Storrs, of New York, moved the substance of the Thomas amendment, and supported it in a speech "embracing *incidentally* an examination of the right of imposing the slavery restriction on Missouri."* On the 28th of February the Senate sent a message to the House saying that it insisted on its amendments. Taylor moved that the House insist upon its disagreement. By a vote of 97 to 76 the House again refused to agree to the log-rolling of Maine and Missouri into one bill. Then

* The italics are mine. This indicates what is clear throughout the debate, the distinction made by Congress between barring slavery from the Territories and imposing conditions on a State. Very few denied to Congress the former power.

disagreement to the restrictive compromise amendment was voted by 160 to 14, Lowndes, of South Carolina, explaining for the friends of Missouri that though he favored such a proposition yet, since the free admission of Missouri had been defeated, the restrictive amendment was useless, and there was no motive to vote for it with the Maine bill alone. The chief desire of the men for whom Lowndes spoke was to secure the immediate admission of Missouri without restriction; to that end they were ready to consent to restriction on the Territories. The House had again disagreed to both amendments of the Senate.

The Senate was then about to adjourn when the Clerk of the House presented himself at the door with a message that the House had insisted upon its disagreement. Mr. Thomas, of Illinois, then moved that a committee of conference be appointed, which was the occasion of a debate of "vehemence and warm feeling."* The Senate voted to request a conference, and Senators Thomas of Illinois, Pinkney of Maryland, and Barbour of Virginia, were appointed the Senate conferees. On the following day, February 29, the House agreed to confer, and Messrs. Holmes of Massachusetts, Taylor of New York, Lowndes of South Carolina, Parker of Massachusetts, and Kinsey of New Jersey, were appointed to manage the conference on the part of the House.

On March 1 the House passed its Missouri bill with restriction. It was immediately taken up in the Senate and on March 2 it was passed, after striking out restriction and substituting the Thomas compromise amendment. This agreed with what, it seemed to be understood, would be the report of the conference committee. This report was made in the House by Mr. Holmes on March 2. It contained three distinct recommendations:

- (1) The Senate should give up a combination of Missouri in the same bill with Maine, and Maine should be admitted.
- (2) The House should abandon the attempt to restrict slavery in Missouri.
- (3) Both Houses should agree to pass the Senate's Missouri bill with the Thomas restriction excluding slavery north and west of that State.

After the reading of the report the first and vital question was then put to the House: Will the House concur with the

* Seaton's Annals.

Senate in admitting Missouri without restriction as to slavery? On this vital question a last, short, fervent debate occurred. Lowndes of South Carolina, Holmes of Massachusetts,* and Mercer of Virginia, spoke vigorously. Kinsey, of New Jersey, as one of those holding the balance of power between the contending forces, voiced the opinion of the moderate restrictionists who were now ready to compromise. The cause upon which he relied was the cause of the Union, and to the desire and love of Union he appealed. This had been the cause of compromise before, as it was destined to be many a time since.

Kinsey in the closing debate said:

Now, sir, is to be tested whether this grand and hitherto successful experiment of free government is to continue, or after more than forty years enjoyment of the choicest blessings of heaven under its administration, we are to break asunder on a dispute concerning a division of territory. Gentlemen of the majority have treated the idea of a disunion with ridicule; but to my mind it presents itself in all the horrid gloomy features of reality. * * * On this question, which for near six weeks has agitated and convulsed this House, I have voted with the majority. But I am convinced should we persist to reject the olive branch now offered, the most disastrous consequences will follow. Those convictions are confirmed by that acerbity of expression arising from the most irritated feelings, wrought upon by what our Southern brethren conceive unkind, unjust, determined perseverance of the majority, and to those I now beg leave to address myself. Do our Southern brethren demand an equal division of this widespread fertile region, this common property purchased with the common funds of the nation? No; they have agreed to fix an irrevocable boundary beyond which slavery shall never pass; thereby surrendering to the claims of humanity and the nonslaveholding States, to the enterprising capitalist of the North, the Middle, and Eastern States, nine-tenths of the country in question. In rejecting so reasonable a proposition we must have strong and powerful reasons to justify our refusal. * * * Should we now numerically carry the question it will be a victory snatched from our brothers. It will be an inglorious triumph, gained at the hazard of the Union. Humanity shudders at the thought. National policy forbids it. It is an act at which no good man will rejoice, no friend of his country can approve. †

The House decided to give up restriction by a vote of 90 to 87. Fourteen of those who voted to forego restriction on Missouri were from the free States. Taylor, the persistent and valiant leader of the early free-soilers, who, as a member of the conference committee from the House, was the only one of all the committee who refused to concur in the report, made a last

* Holmes represented the district of Maine and was anxious for its admission as a State. He became one of Maine's first Senators.

† Annals of Congress, Sixteenth Congress, first session, vol. 2, p. 1579.

effort for his cause by endeavoring to secure the insertion of a line excluding slavery from all the territory west of the Mississippi except Missouri, Arkansas, and Louisiana, but the phalanx of restriction had been broken and his worthy effort failed. The Missouri bill, enabling Missouri to form her constitution, passed both Houses March 2, 1820. The following day the Maine bill passed the Senate. Maine was admitted, and the people of Missouri were authorized to form a State government and constitution. And this was the end of the second struggle.

In reviewing the struggle in his mind the careful student will distinguish here between the two totally distinct propositions in reference to restriction: (1) The original restriction of Tallmadge, which Clay vehemently opposed, proposed the exclusion of slavery from Missouri. This was restriction on a *State*, and was opposed on that ground. (2) The final restriction of Thomas proposed the exclusion of slavery from the Territories of the United States north and west of Missouri. This proposition was adopted; but it did not emanate from the original Missouri restrictionists, nor did it by any means satisfy them. The final compromise measure was proposed by a steadfast opponent of the original Tallmadge amendment. "The current assumption," says Greeley, "that this restriction was proposed by Rufus King, of New York, and mainly sustained by the antagonists of slavery, is wholly mistaken. The truth, doubtless, is that it was suggested by the more moderate opponents of restriction on Missouri as a means of overcoming the resistance of the House to slavery in Missouri. It was, in effect, an offer from the milder opponents of slavery restriction to the more moderate and flexible advocates of that restriction. 'Let us have slavery in Missouri and we will unite with you in excluding it from all the uninhabited territories north and west of that State.' It was in substance an agreement between the North and the South to that effect, though the more determined champions, whether of slavery extension or slavery restriction, did not unite in it."* This statement of Greeley is borne out by the record and the final vote. After the prolonged and bitter contest; after a debate, then without a parallel in the history of Congress, a debate equaled only in the Constitutional Convention of 1787, which itself had settled the slavery question by compromises; facing

* Political Text Book, 1860, p. 63.

bitter prophecies of disunion as an alternative; with earnest and impassioned appeals for peace and compromise still resounding in their ears, 87 original restrictionists still held out for restriction on Missouri. They would not consent to a single other slave State in the American Union, and restriction was finally abandoned only by a majority of three votes. Slavery was allowed in Missouri, and restriction was beaten only by the plan of proffering instead an exclusion of slavery from all the then Federal territory west and north of that State. Without this compromise, or its equivalent, the Northern votes needed to pass the bill could not have been obtained.*

THE THIRD MISSOURI STRUGGLE.

It seemed that, at last, this protracted struggle had been brought to a close. Maine was now admitted, coming in within the time assigned by Massachusetts. Nothing now remained but that Missouri should form her constitution, that it be formally accepted by Congress, and that the new State take her place with the rest.

A Missouri convention assembled at St. Louis and adopted a constitution for the new State July 19, 1820. The people of Missouri were displeased with the long delay which had been imposed upon them by the introduction of a subject which they felt was a concern of themselves alone. It was their right, in their opinion, to settle the slavery question for themselves. In this feeling of resentment, and led by extremists in the convention, they inserted a provision in their constitution declaring that "it shall be the duty of the general assembly, as soon as may be, to pass such laws as may be necessary to prevent free negroes or mulattoes from coming to or settling in this State under any pretext whatever."† This constitution was laid before Congress by Mr. Scott, the delegate from Missouri, on November 20, 1820. The objectionable clause in her constitution gave rise to a stouter and more serious contest than any which had preceded. There arose once more a bitter parliamentary struggle, which provoked dire threats of the dis-

* Greeley, Political Text Book, 1860.

†The constitution also forbade the legislative emancipation of slaves without the consent of the masters. These two new subjects were to be presented for the consideration of Congress, and it was evident that the whole subject would again be reopened. It seemed as if Missouri wished to meet Congress in a spirit of defiance.

solution of the Union. The lines of the old contest formed again. The antislavery men and restrictionists who had so hotly contested Missouri's admission as a slave State determined to continue that opposition. They were joined by some who had formerly voted against restriction, but who were now ready to vote against admission. They based their opposition upon the ground that the obnoxious clause in Missouri's constitution was an insulting reflection upon every State in which colored men were citizens, and that it was in direct contravention of that clause in the U. S. Constitution which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States."*

Missouri's constitution, upon its presentation, was referred to a committee of which Mr. Lowndes, of South Carolina, was chairman. Within a week the committee reported in favor of admission, proposing to effect this by a simple resolution, "that the State of Missouri shall be, and is hereby declared to be, one of the United States of America, and is admitted to the Union on an equal footing with the original States." The report considered the objection which had been urged to Missouri's ready admission, although this objection had not yet come under the cognizance of Congress.

Mr. Lowndes, in a notable speech advocating the immediate recognition of Missouri as a State, held that the enabling act of the former session was a complete act of admission, that the time and circumstances which made a people a State were the time at which its people formed a constitution, and the act of forming it. This view, Mr. Lowndes contended, was according to precedent. In the case of Indiana, December 11, 1816, the practice of a subsequent declaration of admission first occurred,

*Benton virtually acknowledges the presence of a defiant spirit in the Missouri convention. He says: "The State of Missouri made her constitution sanctioning slavery and forbidding her legislature to interfere with it. This prohibition, not usual in State constitutions, was the effect of the Missouri controversy and of foreign interference, and was adopted for the sake of peace to prevent the agitation of the slave question. I was myself the instigator of that prohibition and the cause of its being put into the constitution—though not a member of the convention—being equally opposed to slavery agitation and to slavery extension. There was also a clause prohibiting the emigration of free people of color into the State. This clause was laid hold of in Congress to resist the admission of the State; but the real point of objection was the slavery clause and the existence of slavery in the State." (Thirty Years' View, Vol. I, pp. 8, 9.)

and this declaration was but a formal notification to the other States that a new member had been admitted. The act of the last session which had been agreed to by the compromise after so long a struggle did not merely give to the people of Missouri the right to propose a constitution, but it conferred on that people all the rights of the proudest and oldest States. This is clearly seen, urged Mr. Lowndes, from the fact that while the act was under discussion Mr. Taylor, of New York, the leader of the restrictionists, had moved to insert an amendment providing that if the constitution of the new State "shall be approved by Congress, the said Territory shall be admitted as a State upon the same footing as the original States." This amendment was voted down, implying that Missouri would be admitted without such condition. We had given Missouri the right of self-government, and we cannot now take it from her.

Mr. Lowndes would not undertake to decide whether or not the objectionable clause was constitutional. He would leave that for the Supreme Court to determine. He was aware that a very large majority of the free blacks of the United States were not considered citizens in their respective States, and this provision of Missouri might be construed as intending to exempt from its provision such of the blacks as were citizens in other States. A similar provision discriminating against free colored persons was in the constitution of Delaware. No one contended that Congress could sit in judgment on the various constitutional provisions of the old States. The States, old and new, must be equal, and why should Missouri be singled out for invidious distinction? The question should be left to the Judiciary as the proper tribunal to interpret the law. When Tennessee presented herself for admission, having formed a constitution without an enabling act of Congress, Mr. Smith, of South Carolina, objected, on the ground that the constitution of Tennessee was incompatible with that of the United States; Mr. Baldwin replied that "if there should be things in the constitution of Tennessee not compatible with the Constitution of the United States it was well known that the Constitution of the United States would be paramount; they can therefore be of no effect." In that case the question of constitutional law was left to the supreme judicial tribunal.

Mr. Sergeant, of Pennsylvania, replied to Mr. Lowndes. He did not consider that a Territory became an independent and sovereign State at the time it formed a constitution. Congress

could not admit a State by anticipation. Congress could not bind itself to the admission of a State so as to have no choice but to accept such a constitution as that State chose to offer. Giving authority to the people of a Territory to form a State constitution did not admit them into the Union, unless their constitution should be such as the people of the United States, through their representatives, thought fit to accept as a fundamental rule of government. If it be true that Missouri has already the "rights of the oldest and proudest States" why are we deliberating? Why is this resolution now under consideration? Why are the Senators and the Representative from Missouri kept waiting at our doors until they learn the fate of this resolution? Why was Missouri's constitution submitted to a committee? Why has that committee made a report which we are now discussing? And why did the committee consider it necessary to go into an examination of a particular clause of that constitution, pointing out a mode by which Congress might relieve itself from the task of deciding on its constitutionality by leaving it to the judiciary? The reason assigned by the committee in the "whereas" of the resolution is that Missouri has formed a constitution in conformity with our act of the last session. How could the committee know this? In the act authorizing the formation of this constitution were found two limitations—that the constitution should be republican and that it should not be repugnant to the Constitution of the United States. Is it not indispensable before passing a resolution like this that the members of this House should be satisfied that these requisitions have been complied with? Can it be said that Congress has parted with the power of looking into the constitution of Missouri when it had expressly prescribed conditions which should be indispensable to its acceptance? If Missouri is now involved in difficulty it is the fault of the people of Missouri. This is a difficulty which they themselves have created; the failure to fulfill the compact is on the part of the people of that Territory. Would the people of Missouri think more highly of Congress were we to yield to them on this occasion? How much better it would be for Congress at once to take its ground and refuse to sanction the constitution of any State which is in any respect repugnant to that of the United States. Would any one pretend, if this constitution instead of being faulty in one particular were faulty from beginning to end, that Missouri would

be entitled to admission? Yet the surrender of our right to decide in one particular involved the whole. With respect to the proposition to turn the question over for decision to the Judiciary, Mr. Sergeant said that he must declare, with the greatest respect for that judicial body, that he could not consent, on a question which was properly presented for his own decision, to say, "Let the question sleep till some humble individual, some poor citizen, shall come forward and claim a decision of it." He would not leave to some individual to do what it was the duty of Congress to do. Such is a résumé of the initial speech in the renewed opposition to Missouri.

These speeches opened a long and animated debate. The principal theme of discussion was the citizenship of free persons of color, and the subject was examined from every point of view. Mr. Barbour, of Virginia, attempted a definition of the term citizen. There was not a State in the Union, in his opinion, in which colored men were citizens in the sense in which the Constitution uses the term—no State in which they have all the civil rights of other citizens, and therefore the constitution of Missouri did not infringe the Constitution of the United States.

Mr. Archer, of Virginia, remarked that if there were colored persons who were citizens in some of the States, there was notoriously a much larger class who did not belong to this description, and the clause in Missouri's constitution might be considered as operating only on this latter class. To reject her constitution in the present state of the public mind would lead to suspicion that the policy of restriction was to be reopened; in that case the wound inflicted on the harmony of the country would be incurable; every man must perceive that the Union would be gone.

Mr. McLane, of Delaware, asserted that free negroes and mulattoes are not that description of citizens contemplated by the Constitution of the United States as entitled to Federal rights. What rights they have are of a local nature, dependent upon the gratuitous favor of the municipal authorities of the States; these rights are limited to the States granting them and confer no Federal privileges and immunities. The free negro must be shown to be of "that description of citizen" to whom the Constitution meant to guarantee equal rights in every State.

Mr. McLane was answered by Mr. Eustis, of Massachusetts,

who showed that the rights of citizenship in the States were left to the States themselves and that in Massachusetts the free negro was in the enjoyment of equal citizenship under the laws; there the free negro was in the enjoyment of civil rights, which were guaranteed to him by the Constitution of the United States, and of which he should not be deprived.

On December 13, 1820, the House rejected the resolution for the admission of Missouri by a vote of 93 to 79. Mr. Lowndes then said that while he did not wish to be disrespectful to the majority of the House, he now called upon that majority "to devise and propose means necessary to protect the Territory, property, and rights of the United States in the Missouri country." The Missouri question now disappears from the Congressional debates for two weeks. On January 5, 1821, Mr. Archer of Virginia, offered in the House a resolution instructing the Committee on the Judiciary to inquire into the legal relation of Missouri to the United States—to ascertain whether there were United States tribunals there "competent to exercise jurisdiction and to determine controversies, and if there be no such tribunals, to report such measures as will cause the laws of the United States to be respected there." Mr. Archer asserted that in his opinion Missouri stood entirely disconnected from any legal or political relation with the United States Government. "With our own hands we have cut all the moorings, and she floats entirely liberated and at large. She stood formerly in the relation of a Territory; she had proposed to assume the relation of a State. This House had refused her permission to do so, and Missouri stands discharged from all relation to the Union." This resolution was the next phase of the Missouri question, which gave rise to a spirited debate. The friends of Missouri held that their position was anomalous. She was not a Territory, she was not a State; the authority of the Union hung over her, but there was no legal mode by which it could be exercised—the channels by which the authority of the United States Government could be exercised had been cut off. On the other hand, the opponents of Missouri's admission held that her relation to the Union were as they had been, and they succeeded in laying the Archer resolution of inquiry on the table. This prevented the House Judiciary Committee from giving a public legal declaration of Missouri's relations and rights, and by this action the

House assumed the existence of the Territorial relation, without, however, any express settlement of the question.

Missouri next came up in the House debates on a question of amending the Journal. On January 11 Mr. Lowndes presented three memorials from the senate and house of representatives of Missouri. On the 12th Mr. Cobb, of Georgia, moved to amend the Journal by inserting the words "the State of" before the word "Missouri." After some rapid sparring in debate the parties ranged themselves for another vote, and the motion of Mr. Cobb was lost by the casting vote of the Speaker, and the House thus again refused to recognize Missouri as a State. Mr. Parker, of Virginia, then moved to amend the Journal by inserting before "Missouri" the words "the Territory of." The House had denied what Missouri is not, they must now say what she is. The Speaker then explained from the chair that the Journal should be prepared by the Clerk. The rules of the House made it the duty of the Speaker "to examine and correct the Journal before it is read." In this case the memorials had been purposely made to read so as neither to affirm nor deny that Missouri was a State, since the House was divided upon that question. In the course of the debate which continued, Mr. Parker, who had made his motion for the purpose of bringing the House to a decision, said: "I say Missouri is a State; and were I a citizen of that State, I would never, at your suggestion, strike out that clause in her constitution to which objection has been made. If I found it convenient to myself to do so I would; but I would not do it on your recommendation, even for the important boon of being admitted in the Union. I would rather be trodden down by the armies from the North and East than yield this point. If ever a people on earth has been maltreated it is this people." The motion of Mr. Parker was voted down, and the House proceeded to discuss the right of the Speaker to make the alterations in the Journal which he had made in these memorials. Thus, while refusing to acknowledge Missouri as a State, the House refused to declare that she was a Territory. It left the question in statu quo.

On January 24, 1820, Mr. Eustis, of Massachusetts, offered a resolution declaring the admission of Missouri on condition that the objectionable clause in her constitution be expunged. His object was to remove the only objection to the admission of Missouri. This resolution was negatived by a large majority.

On January 29, 1820, a resolution from the Senate came to the House and was taken up there in Committee of the Whole. This Senate resolution admitted Missouri, provided—

That nothing herein contained shall be so construed so as to give the assent of Congress to any provision in the constitution of Missouri (if any such there be) which contravenes that clause of the Constitution of the United States which declares that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States.

One objection which had been urged to admitting Missouri with her objectionable constitution was that to do so would be to consent to the unconstitutional provision of her fundamental law. The Senate resolution was intended to meet this objection. It admitted the probability that Missouri's objectionable clause contravened the Constitution of the United States and merely asserted the Senate's unwillingness to have its admission of Missouri interpreted as making Congress a party to such violation. This was not satisfactory to the opponents of Missouri, who held that the responsibility was on Congress; it was the duty of Congress to prevent a violation of the Constitution, and this resolution merely shirked the responsibility. It was seen that the resolution would be rejected by the House.

Between January 29 and February 2 no less than six amendments were proposed in the nature of binding Missouri either to expunge the offensive clause of her constitution or never to enact a law in obedience to that clause. The debates of these days covered the evils of slavery, the rights of the South, the balance of power, the nature, obligations, and benefits of the Union. On February 2 Mr. Clay, seeing that all efforts at amendment had failed, and anxious to make a last effort to settle this distracting question, moved to refer the Senate's resolution to a special committee of thirteen members.*

REPORT OF COMMITTEE OF THIRTEEN.

On February 10 Mr. Clay, on behalf of the Committee of Thirteen, reported. The committee had desired to arrive at a conclu-

*The Committee of Thirteen consisted of the following: Clay of Kentucky, Eustis of Massachusetts, Smith of Maryland, Sergeant of Pennsylvania, Lowndes of South Carolina, Ford of New York, Archer of Virginia, Hackley of New York, S. Moore of Pennsylvania, Cobb of Georgia, Tomlinson, of Connecticut, Butler of New Hampshire, Campbell of Ohio.

sion which would give general satisfaction; they had sought a full and frank comparison of opinion among themselves; the committee was of the unanimous opinion that no condition ought to be imposed on Missouri except those suggested at the last session of Congress, i. e., that her constitution should be republican and in conformity with the Constitution of the United States; that the question of restriction should not be raised. This limited the consideration of the committee to the question whether Missouri's constitution was in conformity with these conditions, and it was found that the only objection to her constitution was the clause to which exception had been taken. On that clause the same diversity of opinion appeared in the committee which had been made manifest in the House. "With these conflicting opinions the committee thought it best that, without either side abandoning its opinion, an endeavor should be made to form an amendment to the Senate resolution which should contain an adequate security against the violation of the privileges and immunities of citizens of other states in Missouri." Accordingly, Missouri is to be admitted into the Union "upon the fundamental condition that she shall never pass any laws preventing any description of persons from going to or settling in the said State who now are, or hereafter may become, citizens of any of the States of this Union; and upon the legislature of the said State signifying its assent to that condition, by a solemn public act, which is to be communicated to the President of the United States, he is to proclaim the fact, and thereupon the admission of the said State is to be complete. To prevent, however, this amendment from being considered as impairing any right which may appertain to Missouri, in common with other States, to exclude from her jurisdiction persons under peculiar circumstances (as paupers and vagabonds), a further proviso is added declaring Missouri's right to exercise any power which the original States may constitutionally exercise."

This report from the special Committee of Thirteen, made on the 10th of February, was laid on the table until February 12. The debate was then again renewed, involving charges and countercharges on the balance of power between the sections and on the matter of slave representation. The majority in opposition to Missouri was still obdurate, and the Senate resolution, amendment and all, was rejected by the close vote of 83 to 80. Members in ill health, who had not been in the hall

when their names were called, appeared and asked to have their votes recorded. This could not be done except by unanimous consent. This was not given and the work of the Committee of Thirteen seemed to have come to nothing. Mr. Livermore, however, an opponent of Missouri, who had objected to the contested votes, gave notice of a motion to reconsider in order that the question might be fairly tested in a full vote of the House. On the next day, February 13, 1821, Mr. Livermore made his motion for reconsideration. Some of the friends of Missouri opposed the motion for reconsideration, partly because they would not have Missouri burdened with any conditions whatever, holding that she was only kept out of the Union by violence and injustice; partly because, as in the case of Mr. Randolph, of Virginia, they held that the battle had been fairly fought and won by the other side, and that another way must be found to settle this question. Mr. Clay made a successful plea for reconsideration, and again the House plunged into a heated debate. At this stage of the controversy Mr. Pinckney, of South Carolina, made a notable speech. He considered that the country "had now arrived at the most awful period which had hitherto occurred on this delicate and distressing subject." He quoted from a letter of Jefferson, lately published, indicating the portentous character of the Missouri question.* "I agree perfectly with him," said Mr. Pinckney, "and I consider this, beyond all comparison, the second question in importance which has been agitated among us since our revolt from the parent State. The first was the memorable declaration which confirmed the Union and gave birth to the independence of our country. This is the only one which may, in its consequences, lead to the dissolution of that very Union, and prove the deathblow to all our political happiness and national importance. I express this fear from the fact that gentlemen of the opposition have seen fit to throw off the veil and expressly declare their intention to leave this question to the next Congress; to leave to them unfettered by any act of ours the power to decide how far the true interests of the Union may make it necessary to renew the struggle for restriction of slavery in Missouri—a

* "The Missouri question is the most portentous one that ever threatened our Union. In the gloomiest moments of the Revolutionary war I never had any apprehension equal to that I feel now from this source."—(Jefferson.)

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struggle which has during the last three sessions shaken the Union to its very foundations. They openly avow that they do not consider themselves bound by the compact of last year, but aver, if they have the strength to do so, to leave the next Congress free to decide this question as they please." Mr. Pinckney then went into an examination of the constitution of Missouri, claiming for it an excellence and superiority over the constitutions of other States. "Can it be possible," he asked, "that so excellent a system can be rejected for the trifling reason that it inadvertently contains a provision prohibiting the settlement of free negroes and mulattoes among them Or is it not infinitely more probable that other reasons of a much more serious nature, and pregnant with the most disastrous events to the future union and peace of these States, are at the bottom of this unexpected and inexcusable opposition? The article of the Constitution on which now so much stress is laid—'the citizens in each State shall be entitled to all the privileges and immunities in every State,'—having been made by me, it is supposed that I must know, or perfectly recollect, what I meant by it. In answer, I say that, at the time I drew that article, I perfectly knew that there did not then exist such a thing in the Union as a black or colored citizen, nor could I have conceived it possible such a thing could ever have existed in it.* Missouri having no idea of the existence of such a thing as a black or colored citizen of the United States, and knowing that all the Southern and Western States had for many years passed laws to the same effect, which laws are well known to Congress, being at this moment in their library and within the walls of the Capitol, and which were never before objected to by them or their courts, they (the people of Missouri) were no doubt warranted in supposing they had the same right. The silence of Congress on the antecedent laws of Southern and Western States might fairly be considered a sanction to Missouri's proceeding."

This speech of Mr. Pinckney gave indirect public expression to the charge, which had been frequently bandied in political circles, that the anti-slavery restrictionists, having secured the admission of Maine, were now not willing to fulfill the terms of the compromise; that they were guilty of a breach of faith. The injustice of this view is indicated by the fact that some members who had voted against restriction on Missouri in the

*Gen. Pinckney was a member of the Constitutional Convention of 1787.

previous session, were now opposing her admission under her objectionable constitution. Mr. Foot, of Connecticut, was of this number, and he asserted at this stage of the controversy that he would never vote for Missouri's admission unless the offensive clause were expunged. It was evident that Missouri's objectionable clause had aroused the temper of the House and excited its antagonism. But, no doubt, the original restrictionists were ready to seize this opportunity to put an obstacle in the way of the admission of another slave State. Mr. Clay, struggling for conciliation, closed the debate. He alternately reasoned, remonstrated, and entreated the House, but his effort was in vain, and his compromise resolution was rejected by a vote of 88 to 82.

It was the day after this seemingly final rejection of Missouri that the two Houses were appointed to meet to count the electoral vote for President and Vice-President. It had been seen, of course, that the question would arise whether the vote of Missouri should be counted, or whether it was entitled to be cast. It had not yet been decided whether Missouri was a State. In order to come to some arrangement by which the Houses could avoid this question when they should come into joint session, Mr. Clay had, ten days before, on February 4, offered in the House a resolution providing that if any objection be made to the vote of Missouri the President of the Senate, who was to preside on this occasion, should be directed to announce what the result would be if the votes of Missouri were counted and what it would be if the votes of Missouri were not counted; "but in either case A. B. is elected President of the United States."

This resolution was adopted only after considerable debate as to the status of Missouri. The Senate also agreed to this plan. There was still much fear, however, that it would not be successful in keeping the peace. The fear was realized. The joint meeting of the two Houses on the 14th of February was one of turbulent excitement. It was frequently interrupted by simultaneous challenges of Missouri's vote. When the vote of Missouri was announced Mr. Livermore, of New Hampshire, arose and said: "Mr. President and Mr. Speaker, I object to receiving any votes for President and Vice-President from Missouri, as Missouri is not a State of this Union." This objection was numerous and clamorously seconded. Confusion and tumult followed, till "at last a Senator, with a

voice above the wildness of the scene, moved that the Senate withdraw, which was immediately obeyed, and the House was left in sole possession of the field."* Disorder continued in the House after the Senate's withdrawal, one member crying "Missouri is not a State," another shouting, "Missouri is a State." An hour of wrangling followed. When order was restored, Mr. Floyd, of Virginia, rose and offered the following resolution:†

Resolved, That Missouri is one of the States of this Union, and her votes for President and Vice-President of the United States ought to be received and counted.

Mr. Floyd said that he now considered the House brought to the brink of the precipice. "The votes of other States had been received and counted before their admission had been formally declared. The question of Missouri was now brought fairly to issue. Let us know whether Missouri be a State in the Union or not. If not, let us send her an ambassador, and treat for her admission. Sir, we can not take another step without hurling this Government into the gulf of destruction. For one, I say I have gone as far as I can go in the way of compromise, and if there is to be a compromise beyond that point, it must be at the edge of the sword."

Mr. Archer, of Maryland, moved the indefinite postponement of Mr. Floyd's resolution. He was a friend of Missouri, but he could not assert by his vote that she was a member of the Union without the acceptance of her constitution by Congress, as much as he "reprobated the foul combination for her rejection."

John Randolph, of Virginia, considered that in this resolution Missouri had for the first time presented herself in visible and tangible shape. "Now comes the question whether we will not merely repel her, but repel her with scorn and contumely." He would have had this question of Missouri at an earlier stage of the proceedings in this concrete shape, as, for instance, the right of her representatives to a seat on the floor. Missouri's vote was now presented in her own person and Congress had no power to reject. Randolph here laid down the strange doctrine that the electoral college was as independent of Congress as Congress was of the college. The duty of the Houses in counting the vote was purely ministerial; it is to

* Cotton's Works of Clay, Vol. I, p. 283.

† Seaton's Annals.

count the votes, not to reject; there was power to receive the return, but no power to pass judgment on the validity of the return. It must count the vote; but it had no power to determine what were votes. "This was the first instance in which Missouri had knocked at the door and demanded her rights. It is now for us to determine whether she shall now be one of our commonwealths. No doubt Congress may drive Missouri into the wilderness, like another son of Hagar, but if we do we drive her at our own peril."

After this spirited and heated debate, in which Mr. Clay took a prominent part, the resolution of Mr. Floyd was laid on the table, and a message was sent to the Senate that the House was again ready to receive it for the purpose of counting the electoral vote. I quote from the *Annals of Congress*: "The Senate again appeared and took seats in the House as before. The President of the Senate, in the presence of both Houses, proceeded to open the certificates of the electors of the State of Missouri, which he delivered to the tellers, by whom it was read and who registered the same.

"And the votes of all the States having been thus counted, registered, and the list thereof compared, they were delivered to the President of the Senate, by whom they were read as already printed.

"The President of the Senate then, in pursuance of the resolution adopted by the two Houses, proceeded to announce the vote as follows:

"Were the vote of Missouri to be counted, the result would be for James Monroe, of Virginia, for President of the United States, 231 votes; if not counted, for James Monroe, of Virginia, 228 votes. For Daniel D. Tompkins, of New York, for Vice-President of the United States, 218 votes; if not counted, for Daniel D. Tompkins, of New York, for Vice-President, 215. But in either event, James Monroe, of Virginia, has a majority of the votes of the whole number of electors for President, and Daniel D. Tompkins, of New York, a majority of the whole number of electors for Vice-President of the United States.

"The President of the Senate had proceeded thus far, or nearly thus far, in the proclamation when Mr. Floyd, of Virginia, addressed the Chair and inquired whether the votes of Missouri were or were not counted.

"Cries of 'Order! Order!' were so loud as to drown Mr.

Floyd's voice. The President of the Senate had hesitated in the proclamation on Mr. Floyd's addressing the Chair.

"Mr. Randolph rose and was addressing the Chair, when loud cries of 'Order! Order!' resounded from many voices.

"The Speaker pronounced Mr. Randolph to be out of order and invited him to take his seat.

"Mr. Brush demanded that Mr. Randolph should be allowed to proceed, and declared his determination to sustain his right to do so.

"Mr. Floyd was also declared out of order, and though there was considerable murmuring at the decision, order was restored and the President of the Senate completed the announcement of the election of Monroe and Tompkins.

"Mr. Randolph addressed the Chair, but was required to take his seat. On motion, the Senate retired from the Hall. After they retired, the House being called to order, Mr. Randolph, who had still retained the floor, was heard addressing the Chair. He spoke for some time without being distinctly heard, owing to the confusion in the Hall. 'He had,' he said, 'seen every election of President of the United States except that of the present chief magistrate, and he had never before heard any other form of proclamation than that such was the whole number of votes given in. Sir, your election is vitiated; you have flinched from the question; you have attempted to evade the decision of that which was essential to the determination of who is or who is not elected chief magistrate of the United States.' And Mr. Randolph concluded his remarks with resolutions declaring the election illegal. When he suspended his remarks to reduce his resolutions to writing, a motion was made and carried to adjourn the House."

This scene well illustrates the hot and bitter strife which the contest had engendered. There were now but three more weeks of the session, and it seems that the combatants for Missouri had despaired of reaching a settlement. The next day, February 15, the formal resolution was again repeated by Mr. Clark, of New York, to admit Missouri on condition that she expunge the objectionable clause, but the resolution was laid over without discussion. The House was tired of all the old aspects of the question. The next aspect of the question which excited discussion arose on the proposition of Mr. Brown, of Kentucky, made February 21, to repeal the enabling act for

Missouri. Missouri had not been admitted according to the terms of the compact, and Mr. Brown now demanded, "on the principles of justice which governs contracts, that the anti-slavery restriction should be raised from the rest of the territory. The consideration promised for this restriction has not been paid; the plighted faith of Congress for the admission of Missouri has been violated; then take off the restriction. Sir, the course of the majority can be justified by no principle of reason or sound policy, but must rest for its support on pious fraud." On the day following this speech of Brown Mr. Clay moved the appointment of a joint committee, to consist of 23 members on the part of the House, to take into consideration the admission of Missouri. The committee appointed by ballot reported, on February 24, the report embodying substantially the conclusions of the former committee of thirteen. It was agreed that "Missouri shall be admitted into this Union on an equal footing with the original States, upon the fundamental condition," that the objectionable clause of her constitution should "never be construed to authorize the passage of any laws, and that no law should ever be passed, by which any citizen of either of the States of the Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States; that the legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition." Upon the transmission of this act to the chief executive, the President was to proclaim the admission of Missouri.

This report came back to the two Houses with the unanimous approval of the committee from the Senate and with almost the unanimous vote of the committee of the House. But it did not pass the House without another animated debate; and it then passed only by the close vote of 86 to 82. And the Missouri struggle was ended.*

It was in this last phase of the struggle—which seems only like an appendix to the real issue itself—in which Mr. Clay took such an active and prominent part, a part which helped to gain for him the title of "Pacifator." It was in this final compromise, not in the former and more important one, that

*Missouri agreed to the "fundamental condition of her admission" June 26, 1821, and the President's proclamation announcing her admission was dated August 10, 1821.

Mr. Clay was the leading spirit. The final phase of the Missouri struggle has almost disappeared from general knowledge. The first struggle and compromise involved the chief merits of the controversy and dealt with the subjects of permanent interest. But it was in the last phase that the greatest excitement, antagonism, and bitterness were aroused, and it was in this stage that the struggle appeared the most dangerous. But the excitement and danger which this involved were merely temporary. The enduring nature of the Missouri question was involved, not in the final heated struggle, but in the original contest over restriction and the compromise by which this was settled. The subsequent and permanent interest attaching to the subject of this compromise calls for a brief review of the argument brought out by the opposing forces in the original contest for restriction.

THE DEBATE ON SLAVERY RESTRICTIONS.

The argument for the admission of Missouri without restriction rested chiefly on a strict construction of the Constitution. The argument denied the constitutional power of Congress to impose any restriction upon a sovereign State. If a single restriction could be imposed, there was no limit to restriction. A new State might as well be required to abolish any other municipal regulation, or to annihilate any other attribute of sovereignty. Then the discretion of Congress and not the Constitution would be the law for the admission of States. Mr. Pinckney, of Maryland, made the strongest argument, in a notable speech, from this standpoint. He based his opposition to restriction on the constitutional nature of the Union. The Union was a kind of "international compact" between coequal members. No terms can be imposed upon one member of the partnership which are not imposed upon all. "Congress may admit new States into this Union"—this implies that Congress may have power to refuse, but it does not involve power to exact terms. "You must look to the result which is the object of the power. Whether you will arrive at the result may depend upon your will, but you can not compromise with the result intended and professed. What is the proposed result? To admit a State into this Union. What is this Union? A confederacy of coequal sovereigns." Pinckney then affirmed that the Union into which Missouri was to come was to be the Union as originally established. No doubt the rights of the

original thirteen States had been absolutely equal. A discrimination in favor of any one, or against another, would have prevented the formation of the Union. If this discrimination is to meet Missouri, then she is admitted not to this Union but to an entirely different Union. The original thirteen States had, and have to-day, the undoubted right to forbid or to allow slavery. If this right be not allowed to a new State, the Union no longer consists of equal members. "Admit or not, as you choose; but if you admit you must take the new member into this Union, into a union where the new State will be an equal companion with its fellows. Maine is to be seated by the side of her respectable parent, coordinate in authority and honor, but Missouri is to be repelled with harshness and forbidden to come at all unless with the iron collar of servitude about her neck instead of the civic crown of republican freedom upon her brow."* This view considered Missouri already a State, a State applying for admission, with all the rights of a State already appertaining to her. On the basis of the States-rights view that the Union was a compact between the States and that the new State was already as one of these, the argument of Pinckney seems unanswerable. But the argument was strong only on this basis, and by consenting that the rights of a State pertained to the Territory of Missouri. The same argument made by Pindall, of Virginia, is summarized by Von Holst as follows: "The Federal Government has only the powers granted it by the sovereign States; newly admitted States become members of the Union with equal rights; no other grants of power can therefore be demanded from them than those voluntarily made by the original thirteen States; no one affirms that the thirteen original States gave up the right to decide whether slavery should be permitted or prohibited within their borders."†

The principle of nationality was not boldly asserted in answer to this view, which indicates the prevalence and dominance of the States-rights view of the nature of the Union. ✕

It was urged, also, that there had never been a precedent ✕ for the imposition of a condition upon a State. The limitations placed on Louisiana in 1812 could not be compared to those proposed for Missouri. In the case of Louisiana it was only required that her laws and constitution should conform

* Pinckney's Speech, Seaton's Annals.

† See von Holst, Const. Hist. U. S., Vol. I, p. 364.

to the Constitution of the United States. These conditions, and any others that had ever been imposed on any preceding State, were minor and self-evident; this was fundamental, touching a subject of abiding interest, on which the original States had full freedom of action. The Constitution rested on the equality of members of the Union; it was evident Maine and Missouri would not come in as equal States if Maine could come in as she pleased and Missouri could not. The argument that the States of the Northwest were so conditioned by the Ordinance of 1787 was not analogous; that restriction was imposed in pursuance of a compact; Congress was thus only carrying into effect the disposition of Virginia with reference to this Territory; and it was, moreover, proclaimed at a time when few, if any, settlements were formed within that tract of country. Scott, of Missouri, asserted that in his opinion it was "competent for any of those States admitted in pursuance of the Ordinance of 1787 to call a convention and so alter their constitutions as to allow the introduction of slaves, if they thought proper to do so."

The friends of Missouri also urged that Louisiana, of which Missouri was a part, had been obtained at the cost of the whole Union, and it would be unjust to deprive the people of half the Union of the right to colonize it. The rights of the Southern people to migrate to this Territory involved with them the right to carry their slaves. Besides, slavery already existed in Missouri, and the proposed restriction would be in the nature of an abolition. Slavery existed in this Territory when it was purchased from France. Louisiana had been admitted without disturbing this relation; why should abolition be attempted now? The inhabitants of the Territory had been guaranteed by the treaty of cession in 1803 to all their rights of property, and they had been promised admission. The advocates of Missouri rested heavily on this phase of the argument. This treaty had applied to retain slavery in Louisiana; why not in Missouri?

Nor did the contention for Missouri omit the plea of humanity. Mr. Clay, in speaking against restriction, particularly emphasized the plea that to enlarge the area of slavery would only "dilute" the evil, that it would serve to relieve congestion and suffering in thickly populated slave areas. Slavery in Missouri would "not add to the slave population

* See Art. III, Louisiana treaty.

a single soul, but, on the other hand, would alleviate the unhappy lot of those hemmed in within too narrow lines."

It does not appear that any of those who argued for the free admission of Missouri ventured to defend the institution of slavery. It was generally recognized, on that side of the argument, as a public evil. The defense for Missouri rested almost altogether on the strictly constitutional phases of the question. They touched the evils of slavery only in minor and incidental ways, and only as they were urged to by the attacks of their opponents.

On the other hand, the argument for restriction on Missouri rested mainly on the evils of slavery, and on the political justice and wisdom of restricting the slave area. The greater part of their speeches were occupied in portraying the evils of slavery, and urging the expediency of restriction. They urged that restriction had been the policy of the fathers as seen in the ordinance of 1787, a policy which ought never to have been departed from and which ought now to be resumed and recognized once for all. Their chief concern was to save the territory beyond the Mississippi for free soil, for the benefit of the free laborer. "Give such a man the fee simple of a barren rock, and he will cover it with verdure; plant him in a desert, and fertility will spring around him. Convenience and content are the companions of his toil, and wealth follows in the train of industrious freedom. On the contrary, the slave and his taskmaster, placed in a land flowing with milk and honey, would convert even the Garden of Eden into a desert and a waste.* This from the speech of Plumer represents the general antislavery plea.

The antislavery advocates, however, did not avoid the constitutional argument. Rufus King, of New York, gave the best summary of this argument. He rested his case upon two clauses in the Constitution:

(1) "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States." To make all needful rules implies the right to determine what rules are needful. The power is so manifest and unambiguous that commentary could not make it plainer. It was absurd to say that an act enabling a Territory to become a State could not bind the Territory because it had already become a State. The rights of the

* Plumer's speech, Seaton's Annals.

original States did not pertain to the territories recently acquired until the exercise of those rights was agreed to by Congress.

(2) "Congress may admit new States into this Union." This clearly implies the right to refuse, and also to indicate upon what terms it will consent. The question respecting slavery in the old thirteen States had been decided and settled before the adoption of the Constitution. This document grants no power to Congress to interfere with or change what had been settled; the slave States are therefore free to do as they will. But this agreement did not guarantee forever the admission of whatever other States might wish to come in. On the other hand, the Constitution gives powers of restriction to Congress. Since 1808 Congress had had power to prohibit the migration or importation of slaves into any of the thirteen States; at all times under the Constitution Congress had power to prohibit the migration of slaves to the Territories. The restrictive ordinance of 1787 occurred under a constitution which conferred no such power. The Constitution of 1787 supplied the defect of the Articles of Confederation, and the United States ratified the ordinance. Although Congress possess the power of making the exclusion of slavery a condition of admission it may, in special cases and for sufficient reasons, forbear to exercise this power. This forbearance had been exercised in reference to slavery in the cases of Kentucky, Tennessee, Louisiana, and Mississippi; but in these cases the principle of imposing conditions had been recognized. As Plumer pointed out, Kentucky had been allowed by Virginia to become an independent State only on the express condition that the ordinance of 1787 be applied to her (except the clause on slavery) and that she would never tax the land of nonresidents higher than residents, and would leave the navigation of the Ohio free to all citizens of the United States. No matter by whom the condition was imposed Kentucky had become a State under conditions. The other side had based their argument on the idea and definition of a State. The word implied, according to Clay, a political community possessing the same rights and powers and in all respects resembling the original parties to the compact. But New Hampshire retained the sovereign right to tax the lands of nonresidents higher than the lands of residents; in Kentucky they can not. She does not possess all the attributes of sovereign self-government. The same

conditions were imposed on Tennessee. In the case of Louisiana there were still more notable conditions. In 1804, when the United States took possession of Louisiana, it was estimated to contain about 50,000 whites, 40,000 slaves, and 2,000 free colored people. Four-fifths of the whites, and nearly all the slaves, were in New Orleans and the adjacent territory. About 1,300 slaves were dispersed throughout the country now included in the Arkansas and Missouri territories. Most of these were in Missouri, removing from the old French settlements east of the Mississippi after the ordinance of 1787. In 1812 Louisiana was admitted after Congress had stipulated that her constitution should provide for civil and religious liberty; her laws, records, legislative, and judicial proceedings should be kept in the English language, and the lands of non-residents be subject only to equal taxation. The habits of the people and the number of slaves by whom the labor of New Orleans territory was performed account for the omission of the antislavery restriction. Certainly it could not be the right to impose conditions which the friends of Missouri were objecting to, but rather the nature of the condition suggested. But this very condition itself had been imposed in the cases of Ohio, Indiana, and Illinois, and expediency now demanded that this condition be imposed on Missouri. The "equal rights" to which new States are to be admitted mean equal federal rights, not equal State rights. States are dissimilar, and do not all exercise the same rights.

Nor was Congress barred from exercising this power by the terms of the Louisiana treaty. True, "the inhabitants of the territory shall be incorporated in the United States and admitted as soon as possible according to the principles of the Federal Constitution * * * and they shall be maintained and protected in the free enjoyment of their property." But the treaty power was not the admitting power, and it could not bind Congress to admit a new State from this region under whatever unexpected, unrepugnant, and monarchical conditions it might choose to present itself. Moreover, the term "property" does not include slaves in international law, for all nations do not permit slavery, and in treaties the term "property" does not include them; when stipulations respecting slaves are desired, "slaves" or "negroes" is used. And even if it had been the intention in this stipulation to include slave property, it was only a temporary guarantee applying to the

property then possessed, not to property acquired under the laws of the United States, but to that acquired under the laws of Louisiana. It is absurd to assert that this stipulation secured to the slave owner and his descendants an unlimited right of property in his slaves and their posterity to all eternity.

It had been asserted, also, that the restriction would be nugatory, for the new State in its sovereignty would annul its consent and thus annul the article by which slavery is excluded. This would violate good faith; a State might thus violate any article of the compact by which it was admitted. The judicial power of the United States would be the means by which this wrong could be prevented.

Turning from the constitutional aspects of the question, Mr. King considers the question in its political relations. We may readily suppose that the argument which he makes on this phase of the subject was the most weighty of all considerations with his northern constituency. In American political history two motives have united to lead men into political cooperation to resist the extension of slavery. In 1854-'55 Sumner went into the Republican party chiefly because of his moral hatred of slavery; Seward did so chiefly from political considerations, from the sense of injustice which he felt at the disproportion of political power which the slave system gave to the slave States of the Union. In 1820 King occupied the position of Seward. He did not disregard the evils of slavery, but he looked at the question more as a statesman than as a moralist; he particularly emphasized the political significance and injustice which the admission of slave States involved. King was the antislavery statesman of the Missouri conflict. His argument on this occasion and on this theme best sets forth the merits of the situation and it deserves to be reproduced. He said:

The rule of representation had been conceded by the free States in 1787 with reluctance, largely in deference to the maxim that representation and taxation should go together. It had been agreed by the Congress of the Confederation and by a majority of the States that direct taxes should be apportioned on the basis of all free and three-fifths of all other persons. But if this is as fair a rule as is practicable for apportioning taxes, it does not follow that a like rule for apportioning representation would be equally fair. The principle of the English constitution on which we had opposed England was that a colony or district is not to be taxed which is not represented, not that its number of representatives should be ascertained by its quota of taxes. This would be to establish the prin-

We have said that King did not disregard the moral aspects of the question. It had been asserted that only domestic slaves would be taken to Missouri, and thus slavery would be "diluted." With the slaves thus dispersed their condition would be bettered, their numbers would be the same, and their health and comfort would be increased. Jefferson and Clay had both made this plea.* King, and Roberts, of Pennsylvania, both pointed out that the extension could only result in an extension of the market, an increase in the price, and an impulse to the foreign supply. The theory of "dilution" was disproved by thousands of fresh slaves who, in violation of our laws, are annually imported into Alabama, Louisiana, and Mississippi. "Renewed efforts, new laws, new penalties," said King, "will not put an end to the slave trade; so long as markets are open to the purchase of slaves, so long they will be supplied; and so long as we permit the existence of slavery in our frontier States so long slave markets will exist. The plea of humanity is not admissible. No one who has seen will ever believe that the slave is made happier by separating him from family and home and taking him to a distant State."

"Slavery," King concludes, "can not exist in Missouri without the consent of Congress. The question may therefore be considered, in certain lights, as a new one. The Territory of Missouri is beyond our ancient limits, and the inquiry whether slavery shall exist there is open to many of the arguments that might be employed had slavery never existed within the United States. It is a question of no ordinary importance. Freedom and slavery are the parties which stand this day before the Senate; and upon its decision the empire of the one or the other will be established in the new State which we are about to admit into the Union."†

PERMANENT SIGNIFICANCE OF THE STRUGGLE.

Let us now look to the significance of this struggle:

1. In the first place it should be noticed that the immediate contest was not over the question of the prohibition of slavery in the Territories. The great struggle lasted for nearly three years, but the final proposition which closed the controversy

*Jefferson's Works, Vol. VII, p. 194.

†This speech of King's is not reported in the Annals. The author furnished it from notes and memory to Niles's Register, "substantially as he made it." (See Niles, Vol. XVII, p. 215, 1819.)

and which prohibited slavery in almost all the then Federal territory was probably not debated more than three hours. It was accepted without discussion by the great bulk of the advocates of Missouri's free admission. Very few slavery extensionists questioned the right and power of Congress to prevent the spread of slavery to the Territories. That question, in the minds of those who opposed restriction in Missouri, was incidental to the question of the right of Congress to impose conditions upon a State. Incidentally the question of slavery in the Territories came up in the case of Arkansas, a country south of Missouri, in which slavery was already a fact. The restrictionists themselves recognized the fact that the plain, simple issue of limiting the area of human slavery would be strengthened by bringing it before the country unincumbered with the question of imposing conditions on a State, though most of them never wavered in their belief that conditions might be imposed. On the one hand it was only Southern zealots who denied to Congress the power to prohibit slavery in the Territories; on the other hand many in the North who opposed slavery believed that Congress might not impose conditions upon a State. In the cabinet of Monroe, in which sat Wirt, Crawford, and Calhoun, it was unanimously agreed that Congress had power to prohibit slavery in the Territories. But John Quincy Adams, also a member of that cabinet, who hated slavery with all the strength of his soul, thought it was unconstitutional to bind a State by conditions. "This is a question," he says, "between the rights of human nature and the Constitution of the United States."

Feeling the loss of support for their purpose from such views, the friends of restriction in the interest of human freedom and the "rights of human nature" made repeated attempts to present their cause unincumbered by the rights of a State. After the failure of their effort to bar slavery from Arkansas, in which the conditions were all against them, the restrictionists attempted to force to the front the pure, unincumbered issue of restriction. On December 14, 1819, very early in the session of the Sixteenth Congress, before the Missouri bill could have come before the House for discussion, Mr. Taylor, of New York, the champion of the Restrictionists, secured the appointment of a committee to consider the expediency of restricting slavery in all Territories west of the Mississippi, and he then moved the postponement of the Missouri bill until this committee might

have an opportunity to report. It was then that Scott, the Delegate from Missouri, said that if the Missouri bill ultimately failed, the people of that Territory would form a government of their own without waiting to apply again to Congress. Taylor was disappointed in the conduct of the committee on general restriction; a majority of its members were not ready to cooperate with him for fear, it is reasonable to say, that their action would prejudice the case of Missouri. The committee was discharged at Taylor's request, who then moved, December 28, still before the Missouri bill came up in the Sixteenth Congress, that a committee be appointed with instructions to report a bill prohibiting the further admission of slaves into the Territories west of the Mississippi. This was done in order to present alone the single issue of slavery restriction and to get the question before the House in a distinct shape. Mr. Lowndes, of South Carolina, Mr. Rhea, of Tennessee, and Mr. Holmes, of Massachusetts, all of whom afterwards voted for Territorial restriction under other conditions, objected to this resolution on the ground that it was unbecoming in the House to express an opinion on a subject where views so conflicted until the question was fairly before the House; the resolution, in the view of these gentlemen, took the merits of the question for granted and would commit the House to the restrictive policy; this they were not willing to have done while the Missouri bill was pending. Their course on the policy of general restriction was determined by its bearing on Missouri's admission. Mr. Taylor then explained that he supposed a bill would be the way for the House to come at the question. In directing the committee to prepare a bill he did not intend the House to express an opinion on the principle of the bill. He presumed no member—he knew of none—doubted the constitutional power of Congress to impose such a restriction on the Territories; the only question here was one of expediency. On that question of expediency, if it had been fairly presented as Taylor desired, there would have been a difference of opinion, for the slavery question affected the interests of men; but no considerable body of opinion appeared to combat, with any approach to success, the sovereign power of the nation to control the Territories. Although it was asserted by extreme slavery advocates that the rights of property pertained to the ownership of the slave, guaranteeing its protection in the Territories equally with all other property, yet all

the burden of precedent in the Missouri struggle and its settlement favored the constitutional power of Congress to exclude slavery from the Territories. The conflict of debate was upon another question, and its settlement seemed to take this view for granted. The power of Congress over the Territories included this prohibition.

2. In the second place, the contest was entirely unexpected, without any premonition of its coming. This Mr. Blaine calls the "most remarkable fact" in all the excitement attending the question. The last real political contest in the country had been in 1812, when Madison had beaten DeWitt Clinton. Monroe had been elected both in 1816 and 1820 practically without opposition, and the Federalists in the latter year disappeared from the political arena. "The discussion of the Missouri question," says John Quincy Adams, "disclosed a secret; it revealed the basis for a new organization of parties. Here was a new party ready formed—terrible to the whole Union, but portentously terrible to the South—threatening in its progress the emancipation of all their slaves, threatening in its immediate effect that southern domination which has swayed the Union for the last twenty years."* The unsettlement of the compromise as arranged in 1820 brought back exactly these conditions, and fulfilled the prophecy a generation later.

3. In the third place, the struggle indicated a notable change in the southern mind on the slavery question, and that a slave power was forming which would attempt to control all legislation of the federal Union affecting slavery.

"The philosophic antislavery sentiments of the Revolutionary period," says Mr. Schurz, "had disappeared, or were fast disappearing; they had ceased to have any influence upon current thought in the South." †

This change in the southern mind, both as to the moral and the economic aspect of slavery, had been brought about chiefly by the growth in the cotton plant. Eli Whitney invented the cotton gin in 1793. ‡ Cotton had been exported from the United States for the first time in 1791. When Jay negotiated his treaty with England in 1795, he evidently did not know that cotton was an object of export in America. In 1800 the exporta-

*Memoirs, Vol. iv., p. 529.

†Schurz's Life of Clay, Vol. I, p. 172.

‡Ibid., p. 173.

tion of cotton from the United States was valued at \$5,700,000; in 1820 the value of the cotton export was nearly \$20,000,000, almost all of it the product of slave labor.* This involved an increase in the price of slaves. Dr. Von Holst pointedly reminds us that the vague dreams of emancipation in which the people of the northern slave States indulged during the early years of the Republic had a realistic basis. Slave labor was very unsatisfactory. This was certainly not so in the South after the cotton gin. The value of slaves was thus trebled in twenty years. We are reminded again of John Adams' assertion in the Revolutionary Congress, that "reason, justice, equity never had weight enough on the face of the earth to govern the councils of men; it is interest alone which does it, and it is interest alone which can be trusted." The South had begun to draw a threefold greater moneyed interest from slavery, and "under such circumstances" it is easy for men to convince themselves that an institution so conducive to their material interests is not so wicked and hurtful after all. This was what the South thought as they were reminded of the antislavery sentiments of their revolutionary father.

There was no such change of opinion, because no such relative change of conditions, in the North. There slavery had not yet become, or rather was ceasing to become, a subject of controversy. It had disappeared in their States, and they had taken it for granted that it would soon disappear everywhere. It was, therefore, "a great surprise" again to quote Mr. Schurz in his life of Clay, "to most Northern people that so natural a proposition (as the restriction of slavery in Missouri) should be resisted so fiercely on the part of the South." They were surprised at the spirit with which slavery was defended. Taylor, in the Missouri debates, referred to the authority of an honorable representative from Virginia for saying that the sixth article in the ordinance of 1787 prohibiting slavery in the Northwest was proposed by a delegate from that State. That ordinance was passed by a unanimous vote. Its enactment was then considered by all the States, slaveholding as well as nonslaveholding, not only as within the legitimate powers of Congress, but especially recommended by considerations of public policy. Was that the sentiment of 1820? Public journals had denounced the restrictive feature of the ordinance; public men in both Houses of Congress proclaimed it a

* Schurz's Clay, Vol. I, p. 173.

rank usurpation; and one legislative Assembly had threatened resistance if Congress should apply the same principle to Missouri. No new State had been admitted to the Union since 1791 which had not established slavery by law, except those in which it was prohibited by Congress. The Missouri debate revealed the fact that the slaveholding spirit was gaining ground in the Union.

4. In the fourth place, the struggle and the compromise afford the first clear demarcation between the sections. From this time the equilibrium of political power was a matter of first concern to a section of States and to a powerful political interest. Mason and Dixon's line is extended toward the west, and now marks a political division. The slave States were now, and for the first time, clearly separated from the free. A geographical line dividing the sections was established. The slaveholders had ceased to look to the ultimate extinction and were now looking to the perpetuation of slavery. To them the question of sectional power had become one of first importance, and to that end came the necessity for more slave States. Here they first came to believe that the issue of this struggle for more slave States involved their political destiny and identity. This is the true significance of the Missouri question. It was this aspect of the question which gave Mr. Jefferson alarm, and which caused him to say that the trouble sounded "like an alarm bell rung at midnight." He wrote to a member of Congress at the time: "The Missouri question is the most portentous one which has ever threatened the Union. In the gloomiest hour of the Revolutionary war I never had any apprehensions equal to those which I feel from this source."

5. In the fifth place, and as a corollary of this, it became evident in this discussion that whenever slavery came to be the dominant issue in American politics, or when its interests should be seriously threatened by national action, the slave States would solidify in its defense. Even then Southerners had arrived at the blind and fatal conclusion that a struggle for slavery meant a struggle "for their political existence."* For the first time the "South" comes to be identified with slavery. Their public men had not yet come to defend the institution as a "positive good;" public opinion seemed yet to

* Tucker, of Virginia; Debates of Congress.

allow the concession from their advocates in Congress that slavery was a great evil to be deplored. As we have seen, Clay apologized for consenting to its continuance in Missouri by calling extension "diffusion," and upon the weak plea that thus the evil would be diluted and the oppression and wrong to other slaves alleviated. But at this time was first clearly marked the habit which prevailed subsequently for forty years, that whenever an attack was made in Congressional halls against slavery, or any part of the slave system, or an assertion of the right of the black man to life and liberty, every such utterance was resented by Southern men as an attack upon the "South." It here appeared that slavery was to be defended by the rights of States and the rights of property. The equilibrium of political power for the South meant equilibrium for slavery; equal rights in the Territories for the South meant equal rights for slavery. Unfortunately for that great people and the interests of mankind the interests of human slavery now first confronted the nation with a solid South.

6. In the sixth place, besides the fact that a precedent was set in favor of the right of Congress to restrict slavery in the Territories, the burden of argument proved the right of Congress, if proof were needed, to impose conditions upon a State. No one now, so far as we know, questions that right. The extent to which it is now exercised by the General Government is very much greater than was dreamed of by the Federal legislators in the early days of the Republic. The earliest enabling acts, those admitting Kentucky and Vermont, simply consented to the admission of the new States. These lands never belonged to the Union as Territories. Now, in the admission of a State we have an elaborate law undertaking to limit the power of the people over their State constitution. These restraining acts were originally confined to provisions setting aside lands and townships for schools, universities, and roads; but recently an enabling act went so far as to deny the franchise to all people who profess the Mormon faith. While these laws can not be binding upon the people of the States, and can not prevent their amendment of their constitution in direct contravention of the enabling acts, they indicate a general acceptance of the idea, an understanding that the General Government, or the nation, has the right to insist that a Territory seeking statehood shall possess certain qualifications and make certain pledges before it can be admitted to become a member

of the Union. And there is no doubt that a very large number of the people would consider the subsequent adoption of a constitutional amendment opposed to the provisions of the enabling act as a breach of faith. Such an act might be set aside by the national judiciary. Subsequent history has vindicated those in 1820 who insisted on the right to impose conditions on an incoming State.

7. Lastly, in this controversy we stand at the threshold of the struggle that produced the civil war. Here the issues were defined. It was here the nation first definitely met the crisis. John Quincy Adams recognized with prophetic wisdom the importance of that crisis. "Never since human sentiments and human conduct were influenced by human speech," says he, "was there a theme for eloquence like the free side of this question now before the Congress of the United States. Time can only show whether the contest may ever be with equal advantage renewed." Time, alas, showed that an equal advantage for the cause of free soil never came again. In the beginning of the spread of an evil is the time to resist it. Statesmanship and foresight were not then wanting, but their warnings were unheeded, their counsels were not dominant. *If*, if only the policy of the restrictionists had then been adopted, if this policy had been established never again to be brought into question, an historic imagination may lead us to assert that the long years of painful controversy might have been escaped, the four years of disunion and civil strife might have been avoided. In that case, as far as human insight can discover, freedom would have become national and slavery would have been easily confined to local limits. The contest did not concern Missouri alone. Two principles were at stake, the principle of free labor and nationality. "At the last moment," says Von Holst, in the night between March 2 and 3, 1820, "free labor and nationality yielded to slavery and State sovereignty." How important, then, it was to have done what Lincoln said thirty-eight years later must be done for the salvation of the Republic, "to arrest the further spread of slavery and to place it where the public mind shall rest in the belief that it is in the course of ultimate extinction." "A house divided against itself can not stand." Our National House was now for the first time clearly divided against itself. In the Missouri struggle the issue was definitely made up which afterward passed beyond the era of compromise, and the South

came to the defense of slavery as an institution on which she staked her hopes of prosperity and power. Tallmadge, who offered the restrictive amendment, recognized the nature of the conflict. He believed that the nation was standing in the nick of time; that if the evil of slavery was ever to be arrested then was the time to arrest it. He said:

Has it already come to this: That in the Congress of the United States—that in the legislative councils of the American Republic the subject of slavery has become the subject of so much feeling, of such delicacy, of such danger, that it can not safely be discussed? Are members who express their sentiments upon this subject to be accused of talking to the galleries with intent to excite a servile war, and of meriting the fate of Arbutnot and Ambrister? Are we to be told of the dissolution of the Union, of civil war, and of seas of blood? And yet, with such awful threatenings before us do gentlemen in the same breath insist upon the encouragement of this evil, upon the extension of this monstrous scourge of the human race? An evil so fraught with such dire calamities to us as individuals and to our nation, and threatening in its progress to overwhelm the civil and religious institutions of the country, with the liberties of the nation, ought at once to be met and to be controlled. If its power, its influence, and its impending dangers have already arrived at such a point that it is not safe to discuss it upon this floor, and it cannot be considered as a proper subject for general legislation, what will be the result when it is spread through your widely extended domain? Its present threatening aspect, and the violence of its supporters, so far from inducing me to yield to its progress, prompt me to resist its march. *Now is the time.* It must now be met, and the extension of the evil must now be prevented, or the occasion is irrevocably lost and the evil can never be controlled.

When we come to view the repeal of the Missouri compromise in 1854, to find new lands for slavery, we appreciate the force of these words of the early restrictionist.



XXI.—THE FIRST LEGISLATIVE ASSEMBLY IN AMERICA.

By HON. WILLIAM WIRT HENRY,
OF RICHMOND, VIRGINIA.



THE FIRST LEGISLATIVE ASSEMBLY IN AMERICA.

By WILLIAM WIRT HENRY.

A stranger visiting for the first time our Republic during this year of grateful celebration of the discovery of America, can not fail to be struck with its millions of people who are educated, intelligent, and prosperous, and who are not only contented with their form of government, but devoted to it. If the visitor be unfamiliar with our history, he will naturally inquire for the vital principle which has sustained and developed our civil institutions, and brought them and our people into such happy and prosperous relations. To such an inquiry he will soon find an answer. He will be informed that the principle which pervades our institutions, and to which we owe our happiness as a people, is the right of the people to govern themselves, a right exercised through their chosen representatives. The exercise of this right is based upon, and stimulates the growth of, the intelligence and virtue of the people, and as it involves the right of the majority to rule, it exemplifies the Christian doctrine of the brotherhood of mankind, and of their equality in the sight of God, who is no respecter of persons. It involves also another great principle, namely, that rulers are but servants of the people; and this was also taught by the founder of Christianity, when he said to his disciples "whosoever of you will be the chiefest shall be servant of all."

The Spaniards and French, who settled in America, brought with them the impress of imperialism, which had cursed the countries from whence they came. The English, on the contrary, who settled these United States, brought with them the free institutions of England, which had grown up under the rights and privileges of the House of Commons, first firmly established in the reign of Edward I. This great monarch not only confirmed the great charter, which had been wrung from the treacherous John at Runymede, but he converted into an established law a privilege of which the people had previously only

a precarious enjoyment, namely, the sole and exclusive right of Parliament to levy taxes.

The memorable words of this statute, which purports to be the language of the King, were "Nullum tallagium vel auxilium per nos, vel haeredes nostros in regno nostro, ponatur sine levetur, sine voluntate et assensu archie-piscoporum, episcoporum, comitum, baronum, militum, burgensium, et aliorum liberorum hominum de regno nostro." "A most important statute this" says DeLolme, "which, in conjunction with Magna Charta, forms the basis of the English constitution. If from the latter the English are to date the origin of their liberty, from the former they are to date the establishment of it; and as the Great Charter was the bulwark that protected the freedom of individuals, so was the statute in question the engine which protected the charter itself, and by the help of which the people were thenceforth to make legal conquests over the authority of the crown." This powerful weapon of defense and offense was like the sword of the Archangel, of which we are told:

* * * The sword

Of Michael from the armory of God

Was given him tempered so, that neither keen

Nor solid might resist that edge.

With it the English people, after many a stubborn conflict with the royal prerogative, had, in the beginning of the seventeenth century, so firmly established their political rights, that they were recognized as the freest people upon the earth. Not that their struggle was entirely ended, but so powerful had become the Commons, that usurping kings found themselves engaged in an unequal conflict, in which a Charles lost his head, and a James his kingdom, and thenceforth the kings of England were forced to govern according to the provisions of the bill of rights of 1688-89, under which the supremacy of Parliament was established.

The English colonists who first settled in America at Jamestown brought with them, by their charter, all the rights of Englishmen. But local self-government was not accorded to the Virginians at first. They suffered great hardships for twelve years under what resembled a military government, until the year 1619, when the colony was deemed sufficiently grown to warrant an assembly. In that year Sir George Yeardley arrived with the commission of governor-general from the London company, which had planted and governed

the colony. Among his instructions was one, also called a commission, that brought joy to the hearts of the colonists. It was, as they described it, "that they might have a hande in the governinge of themselves, it was granted that a general assemblie should be helde yearly once, whereat were to be present the Gov^r and Counsell, with two Burgesses from each plantation freely to be elected by the inhabitants thereof; this Assembly have power to make and ordaine whatsoever laws and orders should by them be thought good and proffittable for our subsistance."

This commission, the real Magna Charta of Virginia, was issued in London the 28th of November, 1618. That night a flaming comet appeared in the heavens, which was considered then an ill omen, but which might more properly have been taken as a heavenly recognition of the great boon which had been bestowed on America. The comet was visible till the 26th of December, and the prevailing superstition prevented the sailing of Governor Yeardley till it was safely departed. He, therefore, sailed with his commission and instructions the 29th of January, 1619, more than a year before the sailing of the Pilgrims.

In accordance with this commission, in June, Governor Yeardley sent his summons all over the country, as well to invite those of the council of State that were absent, as for the election of two burgesses from each of the plantations, to meet at Jamestown on the 30th of July, 1619 (O. S.). As this was the first legislative assembly which met in America, antedating by fifteen years the assembly of any other colony, and was the beginning of the free institutions which we now enjoy, I have thought it would be of interest to give some account of it and of its proceedings.

The place of meeting was the Episcopal Church, a wooden building 60 feet long and 24 wide. Its communion table was of black walnut; its pulpit, chancel, and pews of cedar. It had handsome wide windows, also made of cedar, which could be shut and opened according to the weather. A green velvet chair was placed in the choir, in which the governor sat. The building was so constructed as to be very light within, and we are told that the governor caused it to be kept "passing sweet and trimmed up with divers flowers." The native Virginia flowers in season were doubtless used. There might be seen festoons of the trumpet creeper, with its splendid scarlet flower,

mingled with the sweet-smelling white honeysuckle and clematis, some of the latter with beautiful white clusters, and others with lovely bell-shaped leathery flowers, cream-colored and touched with purple, while the pulpit and communion table were decked with pink sweetbrier and swamp roses, and red swamp lilies.

On the memorable morning of the 30th of July, 1619, the governor went in state to the church. He was accompanied by the councillors and officers of the colony, with a guard of halberdiers dressed in the governor's livery. Behind them walked, with becoming dignity, the 22 newly elected burgesses.

In the contemporaneous account sent to England by the speaker, we are told: "The most convenient place we could finde to sitt in was the Quire of the Church, where Sir George Yeardley, the Governour, being sett down in his accustomed place, those of the Counsel of Estate sate nexte him on both handes, excepte only the Secretary, then appointed Speaker, who sate right before him, John Twine, Clerke of the General Assembly, being placed nexte the Speaker, and Thomas Pierse, the Sergeant, standing at the barre, to be ready for any service the Assembly shoulde command him. But forasmuche as men's affaires doe little prosper where God's service is neglected, all the Burgesses tooke their places in the Quire till a prayer was said by Mr. Bucke, the minister, that it would please God to guide and sanctifie all our proceedings to his owne glory, and the good of this plantation. Prayer being ended, to the intente that as we had begun at God Almighty, so we might proceed with awful and due respecte towards the Lieutenant, our most gracious and dread Sovereigne, all the Burgesses were intreated to retyre themselves into the body of the Church, which being done, before they were freely admitted, they were called to order and by name, and so every man (none staggering at it) tooke the oathe of Supremacy, and then entered the Assembly."

And now that the Assembly has been duly constituted let us look upon the men who composed it. They were all Englishmen of a high type, and, following ancient custom, they sat with their hats on. Sir George Yeardley was the first cousin of the stepfather of John Harvard, founder of Harvard College. He had been educated to arms in Holland, where he had fought for Protestantism in the cruel war waged for its extermination by Spain. He had been a subscriber to the London Company

under its second charter, and had come to Virginia with Sir Thomas Gates in 1609, escaping the dangers of the famous wreck on the Bermudas, which, it is said, suggested to Shakespeare "The Tempest." He had acted as governor for a year after the departure of Sir Thomas Dale in 1616, and then, having married, he had visited England, where he was commissioned as governor on the 18th of November, 1618, to succeed the treacherous Argall. Upon his appointment he had been knighted by the King at New Market, and was proud of his newly acquired honor. This he showed in his bearing. He was a man of wealth and of well deserved influence. The councilors who sat on his right and his left were men of mark. Let us note them. Capt. Francis West, the son of Sir Thomas West, the second Lord De la Warr, had come to Virginia with Newport in July, 1608, and had been made a member of the council the next year. He had also subscribed under the second charter. He had been put in command of the fort at the Falls of James river (Richmond), and had been president of the council in 1612. He had settled at West Hundred, since known as Westover, around which was gathered so much of historic interest before and during the Revolution and in the late war. He was subsequently to become the governor of Virginia. He was a direct descendant of William the Conqueror, and proved himself to be a man of nerve in his resistance to the planting of Maryland by Lord Baltimore within the limits of Virginia.

Capt. Nathaniel Powell had come with the first colonists; had been with Newport when he explored the York River, and with Smith when he explored the Chesapeake Bay. He was a man of culture, and kept an account of occurrences in the colony, which was freely used by Capt. Smith in his history of Virginia. Both he and his wife were afterwards among the victims of the Indian massacre, which occurred March 22, 1622.

John Rolfe had come to Virginia with Sir Thomas Gates, and had been in the wreck upon the Bermudas. In 1612 he had introduced the systematic culture of tobacco in Virginia. In 1614 he had married the Princess Pochahontas, whom he carried to England in 1616. On their way homeward the princess had died at Gravesend in March, 1617. He was also a man of cultivation, and had written one or more tracts upon Virginia.

The Rev. William Wickham was of a prominent family, engaged in the East India service, a member of which is said to have first introduced tea into England. He added the dignity of the clergy to the assembly in which he sat.

Capt. Samuel Maycock was a Cambridge scholar, a gentleman of birth, virtue, and industry, who was also doomed to fall in the Indian massacre.

John Pory, secretary of the colony, sat as the speaker of the burgesses. He had been educated at Cambridge, and was an accomplished scholar. He was a disciple of the celebrated Hackluyt, who left the highest testimonial to his learning. He had been a great traveler, and had published, in 1600, a geographical history of Africa, which contained a good account of Abyssinia, a map of Africa, and a tracing of the Nile from an inland lake. Having served in Parliament, he was able to give order to their proceedings and proper form to their acts.

The names of John Twine, clerk, and Thomas Pierse, sergeant, suggest at once the actors in a famous litigation, one of the leading cases in English jurisprudence. It is known as Twine's case, and is reported by Lord Coke. Pierse was indebted to Twine £400, and conveyed his property, valued at £300, to secure the debt. But the conveyance was declared to be void, as in conflict with the statute of 13 Elizabeth against fraudulent conveyances. If not the parties to the litigation, these men were doubtless their kinsmen.

Turning now to the burgesses, we find Capt. William Powell and Ensign William Spence sitting for James City. Capt. Powell, a subscriber under the second charter, came to Virginia with Gates in 1611, and was the gunner at Jamestown. He was one of the first to whom the plot of the Indians for murdering the colonists was revealed, and was instrumental in giving warning to the plantations nearest Jamestown. He became very active afterwards in taking revenge upon the Indians for the massacre, and it is believed that he was killed by them on the Chickahominy in January, 1623.

The representatives for Charles City were Samuel Sharp and Samuel Jordon, names that have been honored in the subsequent history of Virginia. Samuel Sharp had been in the colony since 1610, and received more than once the suffrages of his neighbors as a burgess. Samuel Jordon came to Virginia at an early date. His plantation was perhaps the first in Virginia to which an alliterative name was given. It was called

“Jordon’s Journey,” and was afterwards the home of the celebrated Richard Bland of the Revolution. He survived the Indian massacre, and gathered some of the stragglers about him at a place called “Beggars Bush,” where we are told, “he fortified and lived in despite of the enemy.” Within a few weeks after his death, in 1623, his widow, Cicely, distinguished herself greatly by introducing into the colony the art of flirting, an art which has been practiced somewhat in Virginia ever since. It was alleged that she had accepted two suitors, the Rev. Greville Pooley, and Mr. William Ferrar. Each claimed her hand. Their hot dispute was carried before the council. That body, after solemn consideration, declared that the case was too knotty for them, and referred it to the council in London. We are not informed as to their decision, but the widow is said to have married Ferrar.

Thomas Dowse and John Polentine represented the city of Henricus, located at what is now known as Dutch Gap. The first came to Virginia as early as 1608, and was one of the few of the early settlers that survived. The second survived the massacre, and visited England in 1626.

For Kiccowtan, Capt. William Tucker and William Capp sat. The first, a subscriber under the third charter, after sending over two men with Ralph Hamor in January, 1617, came soon after to Virginia himself. He was a merchant and trader, and made frequent voyages to England. He was the first of our merchant princes. After 1619 he served for many years as a councillor. He was one of the most active and efficient in avenging upon the Indians their cruel massacre of 1622.

William Capp was an ancient planter, and one of the first settlers. We find him surviving all the dangers of the colony, and living as late as 1630. In 1626 the King granted him the privilege of erecting salt works, the first erected in the colony.

Capt. Thomas Graves and Mr. Walter Shelley sat for Smythe’s Hundred. The first, a subscriber under the second charter, had come to Virginia in 1608. We find him soon after this assembly living on the eastern shore, and representing Accomac as a burgess. He was a member of the first regular vestry of the parish of that county in 1635.

Walter Shelley, to whom, doubtless, the poet was related, was one of the original subscribers to the London Company who afterwards came to the colony. On the third day of the

assembly, we find the following brief but touching entry in the Journal: "Sunday, August the first, Mr. Shelley, one of the burgesses, deceased."

The representatives for Martin's Hundred were John Boys and John Jackson. The first was a victim of the Indian massacre of 1622. The second, whose name seems sometimes to have been spelled Juxon, was a kinsman of Bishop William Juxon, who attended Charles the First on the scaffold, and to whom the King is said to have addressed his last mysterious word, "Remember."

Capt. Thomas Pawlett and Mr. Gourgainy represented Argall's Guifte. Capt. Pawlett was a brother of John Pawlett, who was elevated to the peerage in 1627, as Baron Pawlett of Hinton, St. George. In 1637 Capt. Pawlett owned Westover, which he left at his death to his brother, Lord Pawlett, whose son sold the property to Theodoric Bland in April, 1665. The tract then contained 1,200 acres, and was sold for 170 pounds.

Flouer dieu Hundred was represented by Ensign Rosingham (a nephew of the governor) and Mr. Jefferson, with whom the celebrated Thomas Jefferson claimed relationship. Rosingham afterwards lived in London, and employed his time in writing for newspapers.

Capt. Christopher Lawne and Ensign Washer represented Capt. Lawne's Plantation, afterward's known as "Isle of Wight Plantation." Capt. Lawne had lately come to Virginia, and he lived but a year after the meeting of the assembly.

Capt. Warde's plantation was only commenced in 1618, and was represented by Capt. Warde himself and Lieut. Gibbes. The latter was doubtless a son of Thomas Gibbes, who was a member of His Majesty's council for the Virginia Company in London.

Thomas Davis and Robert Stacy, who had been sent from Capt. John Martin's plantation, had been excluded from the assembly. Davis, however, took his seat some years afterwards as a burgess from Warwick County.

The Rev. Richard Bucke, the officiating minister, was educated at Oxford, and was an able and learned divine. He came to Virginia in 1609, and was wrecked on the Bermudas, where he christened a child of John Rolfe's, born on that island. He married in Virginia, and was the minister at Jamestown, where, in 1614, he performed the marriage ceremony between Rolfe and

the Indian princess Pocahontas. Rolfe described him as “a verie good preacher.” The church in which the assembly met had been built for him, “wholly at the charge of the inhabitants of James City.” He was on intimate terms with Rolfe, and was one of the witnesses to his will in March, 1621.

After a session of five days the body adjourned, “being constrained,” as they expressed it, “by the intemperature of the weather and the falling sick of diverse of the burgesses, to break up so abruptly—before they had so much as putt their lawes to engrossing; this they wholly comited to the fidelity of their speaker.” During these five days much was accomplished.

When we look at the acts of this body we are struck with their just conception of their rights as an assembly. They asserted the right to judge of the election and return of their members, and, in its exercise, excluded the delegates sent from the plantation of Capt. John Martin, because, by the terms of his patent, he appeared to be exempt from the general form of government which had been given the colony; and, in addition, they petitioned the London Company that they would examine the patent of Capt. Martin, and “in case they shall finde anything in this, or in any other parte of his graunte whereby that clause towards the conclusion of the great charter (viz, that all grauntes, as well of the one sorte as of the other, respectively, be made with equal favour, and graunts of like liberties and imunities as neer as may be, to the ende that all complainte of partiality and indifferency may be avoided) might in any sorte be contradicted, or the uniformity and equality of lawes and orders extending over the whole Colony might be impeached; that they would be pleased to remove any such hindrance as may divert out of the true course the free and public current of Justice.” Thus early did Virginia insist upon the equality of her citizens before the law, a principle inserted in her declaration of rights in 1776, when she became a State, in the provisions, “that no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services;” and, “that the people have a right to uniform government, and therefore that no government separate from or independent of the government of Virginia ought to be erected or established within the limits thereof.”

Having thus purged their roll, the assembly proceeded,

according to their speaker's report, as follows: "The Speaker, who a long time had been extreame sickly, and therefore not able to passe through long harangues, delivered in briefto the whole assembly the occassions of their meetings. Which done, he read unto them the commission for establishing the counsell of estate, and the general assembly, wherein their duties were described to the life. Having thus prepared them, he read over unto them the greate Charter, or commission of priviledges, orders, and lawes, sent by Sir George Yeardley out of Englande; which, for the more ease of the committees, having divided into fower books, he read the former two the same forenoon, for expeditions sake, a second time over, and so they were referred to the perusall of two committees, which did reciprocally consider of either, and accordingly brought in their opinions * * * in case we should finde ought not perfectly squaring with the state of this Colony, or any lawe which did presse or binde too harde, that we might, by waye of humble petition, seeke to have it redressed, especially because this great Charter is to binde us and our heyers forever."

Nothing can throw a clearer light on the state of the colony than the acts of this assembly; and in them we can discern the germs of the free institutions of the United States of to-day, germs which reappeared in the colonies subsequently planted.

The committees, when they reported on the first two books, submitted six petitions to be sent to the Virginia Company of London. They were wisely framed in view of the needs of the colony, and were agreed to by the assembly.

The first was that the lands theretofore granted by patent to the planters be not taken from them in the allotments of lands to the governor and his council, the officers of incorporations, and the members of the London Company. The second, that the London Company send, with convenient speed, men to occupy their lands belonging to the four corporations, and also tenants for the glebe land of the ministers of these corporations. The third, that the planters who came before Sir Thomas Dale's departure in 1616 be put upon the same footing with those to whom land was granted afterwards, and that a single share apiece be granted to the male children born in Virginia, and to their wives, "because," they say, "that in a newe plantation it is not known whether man or woman be the more necessary." The importance of this petition will appear, when we remember that on the return of Dale in July,

1616, the London Company determined to give the planters a fixed property in the soil, and to confirm every man's portion "as a state of inheritance to him and his heyers forever, with bounds and limits under the Companies seale, to be holden of his Majestie as of his Manour of East Greenwich, in socage tenure, and not in capite." The fourth petition was that a sub-treasurer be appointed here to collect the rents of the London Company, instead of requiring the impossibility of paying them in England, "and that they would enjoin the said subtreasurer not precisely according to the letter of the charter to exacte money of us (whereof we have none at all, as we have no minte), but the true value of the rente in comodity." The fifth, that "towards the erecting of the university and college, they will sende, when they shall thinke it most convenient, workmen of all sortes, fitt for that purpose." The sixth, that the savage name of Kiccowtan be changed, and a new name be given to that incorporation. When this was done the place was named Hampton.

The purpose of establishing a university and college, thus early manifested by the Virginians, was to be advanced by working a large tract of land granted for that purpose at Henrico, or Henricus, some 12 miles below Richmond. The plantation unfortunately was broken up by the Indian massacre in 1622, and the establishment of the college was thus postponed till the reign of William and Mary, and then it was located at Williamsburg, and named after the two sovereigns.

The Speaker's report continued as follows: "These petitions thus concluded on, those two committees brought a reporte what they had observed in the two latter bookes, which was nothing else but that the perfection of them was such as that they could find nothing in them subject to exception, * * * at the same time there remaining no farther scruple in the mindes of the Assembly touching the said great Charter of Lawes, orders and privileges, the Speaker putt the same to the question, and so it hath both a general assent and the applause of the whole Assembly. * * * This being dispatched, we fell once more debating of such instructions given by the Counsell in England to several Governors as might be converted into lawes."

Of these which were enacted into laws, the first fixed the value of tobacco to be taken either for commodities, or for bills, at 3 shillings a pound for the best, and 18 pence a pound

for the second quality. Then followed laws against idleness, gaming, drunkenness, and excess in apparel. The provision concerning apparel is interesting. It was "That every man be cessed (assessed) in the Church for all publique contributions; if he be unmarried according to his owne apparell; if he be married, according to his owne and his wives, or either of their apparell." It may be safely surmised that had female suffrage existed in the colony, this church tax would have been placed entirely on the unmarried men.

Others of this class of laws related to intercourse with the Indians, and to educating and Christianizing them, to the planting of corn, mulberry trees, silk flax, hemp, and grape vines, to the regulation of contracts with trades people, tenants, and servants, and to the management of the magazine or storehouse of the colony.

On the 3d of August the assembly entered upon the consideration of the third sort of laws. "Suche as might proceed out of every man's private conceipt." They were referred to the two committees, and were reported and adopted the next day. These allowed freemen to trade with the Indians, but contained stringent enactments against selling or giving them hoes, dogs, shot, powder, or firearms. As to these three last named the penalty was death. Fines were imposed on persons going 20 miles from home, or absenting themselves seven days, or visiting the Indians, without leave of the governor or of the commander of the place of their habitation. Provision was made for taking a census of the inhabitants, and for record and report by the ministers of all christenings, burials, and marriages. The killing of neat cattle and oxen without leave of the governor was forbidden. The taking of the boats, oars, and canoes of neighbors, and thefts from the Indians, were made punishable. Ministers were required to conduct worship according to the laws and orders of the Church of England, and to catechise every Sunday afternoon those "not yet ripe to come to the communion." The ministers and church wardens were required to present all ungodly disorders, and a fine of 5 shillings for the use of the church was imposed upon those who were guilty of swearing, after thrice admonition. All persons were required to attend divine service on the Sabbath day; the men to come with their firearms. Persons trading in the bay were required to give security that they would not

wrong the Indians; and the marriages and contracts of servants were regulated.

The assembly sat as a court in two matters brought before it. The first was on the complaint of Capt. William Powell against one Thomas Garnett, his indented servant. The behavior of the servant had been so wicked and obscene that he was condemned to have his ears nailed to the pillory for four days and to be publicly whipped each day. This seemingly harsh punishment should be viewed in the light of the age, which had little of the humanitarian feeling of the present day; and, beside, the colony was limited in the punishments it could employ.

The other case was that of Capt. Henry Spelman. Robert Poole, the interpreter of the Indian language, charged him with speaking irreverently and maliciously of the governor to Opechancano, the great Indian chief. Part of the words charged to have been spoken Spelman confessed, but the greater part he denied. The assembly was unwilling to inflict the severest punishment on him upon the testimony of one witness. It was determined, however, in view of what he confessed, to degrade him from his title and position as a captain and to require him to serve the colony for seven years as an interpreter to the governor.

This Henry Spelman had a notable career. He was the third son of the distinguished antiquarian, Sir Henry Spelman, of Congham, Norfolk, England. He was a wild boy. He came to Virginia in 1609, when about 21 years of age, "being in displeasuer of my friendes and desirous to see other countreyes," as he tells us. He relates that soon after his arrival Capt. John Smith, then president of the colony, carried him to the falls of James River and sold him to the Indian chieftain, Little Powhatan, for a town called Powhatan. It is stated, however, in Smith's General History, that when Capt. Sickelmore, with some thirty others, were slain by Powhatan in 1609, Pocahontas saved the life of Henry Spelman and he lived many years afterwards with the Indians. He afterward visited England, and on his return to Virginia was made a captain. He was sent with 26 men, in 1623, to trade in the river Potomac, and was surprised and slain, with five of his men, by the Indians. He left an account of his observations while living with the Indians, which was discovered at the sale of a library by James F. Hunniwell, esq., who published it in 1872.

Before adjourning the assembly provided for its officers. Every male above 16 was required to contribute one pound of best tobacco for compensation to the speaker, clerk, sergeant, and provost-marshal of James City.

The session concluded with four petitions to the London company. The first two were that the body be excused for incompleteness in their work and record, because of the heat and their sickness. The last two were in these words:

"Thirdly, the General Assembly doth humbly beseeche the said Treasurer, counsell, and Company, that albeit it belongeth to them onely to allowe or to abrogate any lawes which we shall here make, and that it is their right so to doe, yet that it would please them not to take it in ill parte if these lawes which we have nowe brought to light, do passe currant and be of force till suche time as we may knowe their farther pleasure out of Englande, for otherwise, this people (who now at length have gotten the raines of former servitude into their owne swinge) would in shorte time grow so insolent, as they would shake off all government, and there would be no living among them. Their last humble suite is, that the said Counsell and Company would be pleased, so soon as they shall finde it convenient, to make good their promise sett down at the conclusion of their commission, for establishing the counsel of estate and the General Assembly, namely, that they will give us power to allowe or disallowe of their orders of courte, as his Majesty hath given them power to allowe or to reject our lawes."

The question of the validity of the acts of the assembly, till they were disallowed by the authorities in England was one which was unsettled in the year 1758, when the act passed which permitted debts contracted to be paid in tobacco to be solved in currency at a fixed rate, the resistance to which, by the clergy gave rise to the famous "Parson's cause." The power to disallow the orders of the London Company was a great stride in the direction of independent local government, and the promise of it by the London Company shows to what extent the spirit of liberty was nourished in that celebrated body during the arbitrary reign of James the First, a fact that excited his hatred of the corporation and caused him to take from it its charter.

Hutchinson, the Tory historian, wrote: "In 1619 a house of burgesses broke out at Jamestown." He evidently regarded

it as if it had been the plague, and a plague it was to all those who endeavored to tyrannize the colony. As early as 1623 the assembly enacted That "the governor shall not lay any taxes or ympositions upon the Colony, their lands, or comodities, other way than by the authority of the General Assembly, to be leyved and ymployed as the said Assembly shall appoynt." In 1631 they enacted that "the Governor and Council shall not lay any taxes and ympositions, etc.," including in the prohibition the council with the governor. In 1632 this latter act was reenacted verbatim. The same thing occurred in 1642. In 1645 they enacted that "no leavies be raised within the Colony but by a general Grand Assembly." In 1651, when they agreed with the commissioners sent out by Cromwell, one article was, "that Virginia shall be free from all taxes, customes, and impositions whatsoever, and none to be imposed on them without consent of the Grand Assembly." In 1666, upon the request of Governor Berkley, "that two or more of the Council might join with the house in granting and confirming the levy," the house answered, "that they conceive it their privilege to lay the levy in the House, and that the House will admit nothing without reference from the honorable Governour, unless it be before adjudged and confirmed by act or order, and after passing in the house shall be humbly presented to their honours for approbation or dissent." These were not vain repetitions, but were earnest reiterations of the sole right of the people to tax themselves through their representatives, made during contests with the executive power, and they indicate a stubborn determination to defend the great bulwark of English liberty. So exasperated had the burgesses become in these contests that we find them at length challenging the right of the governor to veto their acts. In 1686 James the Second wrote a sharp letter ordering the assembly to be dissolved, because the house of burgesses "have presumed so far as to raise contests touching the power of the negative voice, wherewith our Governor is intrusted by us." As a result of their struggles, the assembly exclusively enjoyed this great right of taxation until 1765, when Parliament undertook to tax Virginia without the consent of her assembly. We can well understand the alarm which this attempt produced, and can appreciate the inherited fortitude of the burgesses of that year in adopting their famous resolutions against the stamp act, in which they boldly took issue with Parliament and declared "that the General Assem-

bly of this Colony have the sole right and power to lay taxes, and impositions upon the inhabitants of this Colony; and that every attempt to vest such power in any person or persons whatsoever, other than the General Assembly aforesaid, has a manifest tendency to destroy British, as well as American freedom."

The publication of these resolves, as is well known, fired the colonies, they all having continuously claimed the same right for their assemblies, and "set in motion the ball of the Revolution," the glorious results of which we this day enjoy; and not we alone, for it was truly declared by one of England's greatest statesmen that the American Revolution saved the liberties of mankind.

XXII.—NATURALIZATION IN THE ENGLISH COLONIES OF
AMERICA.

By MISS CORA START,
OF WORCESTER, MASS.



NATURALIZATION IN THE ENGLISH COLONIES IN AMERICA.

By CORA START.

Almost none of the phases of naturalization and immigration, which are the problems of the day, existed as such before the Revolution. The excellent character of the foreigners who first came to America and the conditions of colonial life which made a welcome to them imperative, rendered any policy which would exclude them or reduce their numbers, inexpedient. The chief object of the alien in seeking naturalization, too, was quite different from that of the alien of to-day, which seems to be the acquisition of the ability to vote. The growing tendency to regard this rather as a civil right than a political privilege is the cause of the generally current but incorrect view that the suffrage is coextensive with citizenship. Citizenship signified before the Revolution, as it does now, the incorporation of the individual with the body politic, nothing more. It carried with it civil rights, but no political privileges.

The present importance of the suffrage did not exist in the colonies. Manhood suffrage depended, not on citizenship alone, as to-day, but on the property qualification of the individual. Back of this was the English law that an alien could neither hold nor bequeath any real property whatsoever in the realm, and that if he acquired such it escheated to the Crown on his decease. Besides this, when one remembers that he came to a new country, where the suffrage had but small local and no national significance, that coming to stay, his first thought was the taking up of land, and his own and his children's legal title to the same, it is sufficiently apparent that the suffrage was of but secondary consideration with him. The universal lack of mention of the elective franchise among the privileges granted to the naturalized subject in the colonies is the most striking

thing noted in the examination of early naturalization documents. All of these, however, bear the marks of this close connection with the possession and inheritance of property. All the questions involved in naturalization were those of buying, possessing, trading, bequeathing, and inheriting, never of enfranchising.

The colonies were always subject to a twofold jurisdiction, to that of the home authorities and their representatives in the colonies, and to that of the colonial legislatures. The apportionment of power between the two was often but imperfectly defined, and this is particularly true of naturalization. As a result there were two species in the colonies—naturalization as prescribed by English law and naturalization by the colonists, by methods of their own adoption.

Besides the initiative in legislation, England had control of the naturalization in the colonies through the strong influence exercised by the Government officials on the colonial governors, and in the royal veto—the disallowance of the naturalization bills of the colonial legislatures.

That any naturalization other than the usual one in England would become necessary was not foreseen. In the charters, in nearly every instance, permission is given to transport subjects and such strangers as will become subjects. This was manifestly intended to mean naturalization before transportation, and the first foreigners coming to America were thus naturalized. With the middle of the seventeenth century, when the European exodus began, it was impossible that all should go to England for this purpose, and probably the bulk of emigration was directly to America. This would have resulted in a rapidly increasing resident alien population; for Parliament passed no law providing for naturalization after arrival until a century later, and the colonists, therefore, were forced into taking measures for naturalization themselves.

Two methods were open to the foreigner who sought naturalization in England before setting out for the colonies—by letters patent of denization, issued by the King, and by special act of Parliament. These two are found side by side in England, growing in inverse ratio with the increase of the power of Parliament and the decadence of the power of the Crown.

NATURALIZATION BEFORE TRANSPORTATION—DENIZATION.

Denization is the earlier process and represents royal permission to inhabit royal territory and to enjoy some of the privileges of natural born subjects. It is the freedom of England extended *ex donatione regis*.

The resident alien in England could lay claim to little but protection of life and the possession of personal property, and his burdens, mercantile and otherwise, were very heavy. Denization removed the most salient only of these disabilities. The person denized could buy, sell, possess real property and bequeath such to any issue he might have after his denization. Children born before, being children of an alien, had no inheritable blood transmitted to them, and two sons of an alien father, even if natural born English subjects by being born on English soil, could not inherit from him or each other. The denizen had to pay an alien's duties. He could not be of the Privy Council, occupy a seat in Parliament, hold any office of trust, civil or military, or receive any grants from the Crown. Even his tenure was uncertain, as his letters patent might be revoked. It seems to have been a very incomplete naturalization, but it was evidently regarded as an adequate one and was particularly popular with foreigners who were in England simply for their naturalization, as it took less time than a special act of Parliament.

NATURALIZATION BEFORE TRANSPORTATION—NATURALIZATION BY SPECIAL ACT.

Special legislation by Parliament is a later development, as it implies a national consent to admission to membership in the body politic. This was naturalization in the general acceptance of the term, and the only disability which the alien thus naturalized was subject to was that in regard to officeholding and receiving grants from the Crown, a disability which he shared with the denizen subject and with Catholics, but one which did not operate to its full extent in the colonies, as naturalized subjects are found in colonial offices.

Almost the first concern of the foreigner on his arrival in America was the registration of his name as a naturalized subject at the clerk's office, and his concern seems to have been in proportion to the amount of his property.

It is impossible now to determine the number thus naturalized before transportation, but it is probable that was it less

used as naturalization in the colonies became a settled practice.

NATURALIZATION AFTER TRANSPORTATION.

It is difficult to understand why Parliament did not provide a means for the naturalization of the alien after his arrival in the New World. Penn, in his "Suggestions Respecting the Plantations," in 1701, mentions the need of a general law of this nature, but no such bill was passed until 1740. This bill was made to include the Moravians in 1747, and in 1763 a bill was passed for the naturalization of Protestant foreigners who had served as soldiers in the royal army in America and who had bought land and settled. These three constitute the entire legislation on the subject.

This law of 1740 was an admirable one in many ways. Under it naturalization was more easily accomplished, and at smaller expense than by any of the colonial methods. It made the alien an English subject, anywhere in the realm, as naturalization by the colonists did not, and the reason why it was not used in preference, or even to the exclusion of the colonial methods is not apparent. It did not, however, supersede them, and in some of the colonies it was practically inoperative. It is possible that a reason may be found in the term of residence required, seven years. A fixed term never found favor with the colonists as but two instances are found, one, of one year, in an unexecuted law of Massachusetts Bay, in 1731, and another of four, in a Virginia bill of 1658. Occasionally foreigners are found applying to the colonial legislatures for a naturalization, on the ground that they have not been in the colony long enough to take advantage of the law of 1740, and fearing their decease during the time required by it, pray a naturalization that their children may inherit such property as they may have acquired.

By this law any alien not a Catholic could be naturalized by taking the oaths at the nearest court of record, his term of residence being completed. The fee was small, but 2 shillings, and could not be increased. It was practically the only legislation in naturalization. This lack of timely and necessary legislation has its counterpart in the official instructions to governors and in the infrequent disallowance of naturalization bills previous to the reign of George III. During this period of neglect, the most significant instruction was that in 1699 forbidding denization by the colonial governors. With the

beginning of the struggle for the supremacy of Parliament, however, they increase in number. The most important are those regarding grants of lands to the alien coming from a country where the possession of land was a patent of nobility and where he could never hope to hold any, the ease with which he might become, here, a large landed proprietor was one of the chief attractions of the New World. Prohibition of land granting was a serious blow to immigration and of course decreased naturalization.

Such prohibitions are found in nearly all the colonies after 1760, and an order in council in 1773 forbids all governors making any further grants. In the same year they are forbidden to give their assent to any naturalization bill. This put an end to naturalization in all the colonies except Rhode Island and Connecticut, where, by virtue of the liberality of their charters, they could legislate as it pleased them.

The royal veto might have been of great benefit in disallowing irregular naturalization legislation, thus forming a settled practice, had it been used wisely in the earlier days. But colonial bills of doubtful legality were allowed to become laws, and it was not until the fifteen years before the Revolution that it was used to any extent, and then not in the interest of good legislation but as a disciplinary measure.

NATURALIZATION IN THE COLONIES.

The action of England then, was for the most part negative. The colonists were forced to naturalize the large numbers of foreigners pouring into the country, and they seem to have done so without much investigation of their authority in the matter. All authority came through the charters from the King, who could transfer no power which he had not himself. In naturalization proper, as a function of Parliament, he had no jurisdiction, and the power to issue letters patent of denization was, as Blackstone called it, "a high and incommunicable branch of the royal prerogative." It was incommunicable from its nature of a favor extended by the Sovereign himself. A far more potent reason for their not exercising such a power lay in the fact that naturalization was a matter affecting the whole nation, and that no inferior part could legislate for the whole realm, as would have been the case could the colonial legislatures have made aliens subjects of the King.

Not going back of the charters, however, three clauses are of und which might convey a vestige of authority. These give permission to transport subjects and such strangers as

will become liege subjects; to admit freemen to the companies, and to make laws not repugnant to those of England. The first has been seen to mean naturalization before transportation. The second, the admission of freemen, could not justly inure as naturalization, although it conveyed all the privileges of residence, since it did not make the alien an English subject. Naturalization was not generally demanded as a prerequisite to admission, there being but two cases on record. The third, the power to legislate, is almost as elastic as the general welfare clause of the Constitution. It was doubtless the ground on which they naturalized, but in a last reduction is not adequate, considering the national import of naturalization, and also that in many cases the naturalization legislation was distinctly repugnant to that of England. In the Virginia charter of 1611 alone, a distinct power to naturalize is given. In the proprietary governments of East Jersey and the Carolinas, the Lords Proprietors authorize their assemblies in the Articles of Agreement to grant "unto all strangers as to them shall seem meet a naturalization."* This at best was but a twice delegated power of a twice doubtful character.

The colonists however, were not deterred, as no investigation seems to have been made. It was not until they had exercised such a power for some time that the question of the nature of this naturalization of theirs arose in England, and it was then called up by the necessity of determining the trading privileges of naturalized subjects under the Navigation Acts. It was decided that the colonial legislatures, being sovereign only within the bounds of the colony, could make no laws which would operate without the colony. This made colonial naturalization local only. Foreigners naturalized in a colony were subjects of the King when in the colony, aliens when out. This seemed clear; but later still the question arose whether naturalization of an alien in one colony did not hold good in another. This, too, received a negative construction, and is of particular interest, as it would have established an inter-colonial citizenship quite apart from the English citizenship. Nothing so strongly unifying could ever have found recognition in England.

A somewhat imperfect analogy to English and colonial naturalization is found in the naturalization under the Constitution. Congress is given power to pass uniform laws of natu-

* Art. of Agr., N. C., 1666; item 8, N. C. Rec., 1, 83. E. J., 1665; item 8, N. J., Archives 1, 30.

ralization. Persons thus naturalized are citizens of the United States as aliens naturalized in England or by the law of 1740 were subjects of the King anywhere in the realm or when abroad. But the States may and do confer privileges, such as the suffrage on aliens for local purposes. This corresponds in a way to the local colonial naturalization.

This local construction materially affected the privileges of the alien naturalized in the colony, as by the 12 & 13 Car. II, ch. 2, the term English subject was explained to mean persons born in Great Britain, Ireland, or the Plantations, and those naturalized in England. This excluded aliens naturalized in the colonies from the usual trading privileges, which were confined to English subjects by the Acts, or rather would have had the Acts been enforced or had the colonists recognized the distinction. Aliens thus naturalized, who were tried in the courts of admiralty for illegal trading plead the acts of colonial legislatures for their naturalization in extenuation and "the American courts of justice," Chalmers, in his *Political Annals*, complains "with a still grosser spirit supported their pretensions in opposition to the Acts of Navigation"* It is on this ground of power to trade illegally that most of the bills which met with disallowance at all, were vetoed.

The colonists in attempting naturalization drew from their English models. Denization was the first form adopted in the colonies, the letters patent being issued by the governor, under the mistaken opinion that such power was his as the King's deputy. It is found in New York, Pennsylvania, Virginia, and continued until its prohibition at the end of the seventeenth century. The cost of denization was greater than other forms of naturalization. Lord Bellemont complained in 1699 that he could obtain but 12 shillings for his denizations, while his predecessor in New York, Governor Fletcher, received £10 for himself and £5 for the attorney-general.† Fees for naturalization in general ranged from 2 to 50 shillings.

Cut off from denization, a hybrid species, neither denization nor naturalization was tried. This took the form of naturalization by letters patent issued by the governor, and for which there exists not the slightest warrant, as the governor could have no authority, communicated or otherwise, for naturalization.

**Political Annals*, pp. 315-317.

†Documents relating to Colonial History of New York, IV, 520.

Special legislation is found as early as 1666 in Maryland, but the colonies in general did not begin to use it until the beginning of the next century. It continued to be used more and more, supplanting other processes, until at the time of the Revolution it is the only recognized method. Special bills are found in all the colonies but Massachusetts-Bay and South Carolina.

In Maryland, foreigners who have been denized are found applying to the assembly for a naturalization, evidently to preclude the possibility of the disinheritance of their children.

It was impossible that all the aliens who took up lands should be sufficiently informed regarding the land laws to seek a naturalization first. There resulted from this practice such a number of defective titles that it was found necessary to remedy the matter by general bills settling their titles en masse. The first remedy was of a rather peculiar nature, being none other than the naturalization of the alien after his decease. The *ex post facto* nature of this soon brought it into disuse and simple confirmation of title was substituted.

No persons were excluded from naturalization in the colonies but Catholics, and even these were naturalized in Rhode Island. Jews had provision made for them in the bills by the usual omission from the oaths of the words "on the true faith of a Christian," and Quakers were allowed to affirm. One illustration of another kind of naturalization is found in America—naturalization after conquest. This takes place either by provisions in the treaty or "by act and operation of law." The Dutch and Swedes included in the grant to the Duke of York became English subjects in this manner in 1665.

Action in naturalization differs in each colony, yet a similarity exists in each of the three groups, the New England, the Middle, and the Southern.

The causes of the homogeneity of the population in New England, climatic, religious, and political, need little mention. Perhaps more effective than all in excluding foreigners was the fact that large grants of land were impossible under the township system.

The foreigner was not attracted thither, and had he been, would not have been welcomed. In Massachusetts there is practically no naturalization. Eleven were naturalized by the only law found in the province, that of 1731, and but four can

be found who were naturalized under the English law of 1740. Rhode Island, with characteristic independence, seems to have made the admission as freemen a substitute until she adopted special legislation. Connecticut naturalized almost none at all until the other colonies were prohibited in 1773, after which special bills are found.

The only naturalization of an Indian is found in Connecticut, in 1695. It was enacted in favor of Abimelech, the grandson of Uncas, the Mohegan chief who had been such a staunch friend of the first Connecticut settlers. It was passed that he might have the protection and use of the courts in a controversy concerning some lands.

The bulk of naturalization fell to the Middle colonies, for both there and in the South were found the exact opposites of the features which rendered New England unattractive. New York, New Jersey, and Pennsylvania naturalized large numbers, and all the methods are illustrated.

Maryland was the first colony to extend a welcome to foreigners, in the proclamation of Lord Baltimore in 1648. Naturalization was begun almost immediately and continued without interruption in one form or another, until 1773. In Maryland is found the curious naturalization of children born of foreign parents in the province. Curious, because by the standard by which allegiance was adjudged, i. e., by birth on the royal domain, and also by the terms of the charter, children born in the province were English subjects. It is yet another illustration of the precautionary measures taken to avoid disinheritance of children of an alien.

White people of any description were at a premium in the South and foreigners were eagerly welcomed and naturalized except in North Carolina, where little or no naturalization is found. This is peculiar because she had every inducement to do so. The foreigners in the colony were of unexceptionable character; power had been given to the assembly to naturalize in the Articles of Agreement, and at least on one occasion instruction is given by the home authorities to naturalize some foreigners sent there. Furthermore, it was in constant use in the colonies on either side. None, however, is found except an isolated special act and a few in Orange and Rowan counties under the law of 1740.

Naturalization in the colonies kept pace with the trend of the state toward republican institutions. It was gradually

transferred from the executive to the legislative branch until the only change to be made under the Constitution was from the several legislatures to the national legislature. As in many other instances of colonial legal practice, the feudal features did not take root in American soil. Denization has no place in a republic, but is still one of the prerogatives of the Queen.

Naturalization under the Constitution makes the foreigner before the law exactly as if naturally born. Technically, such complete unrestricted naturalization did not exist before the Revolution, though in the colonies the liberality of the colonists or the evasion of English law gave him all the privileges of the native colonist. The disapproval of the latter of the measures taken in England to exclude foreigners from the New World after 1760 was strong enough to find statement among the grievances set forth in the Declaration. Public sentiment was ripe for the foundation of the cosmopolitan state. To one fresh from the study of the development of Teutonic institutions through the Anglo-Saxon race, the fact comes as a surprise that a cosmopolitan state was founded and not an England *in petto*. A more intimate knowledge, however, of the foreign strata of colonial society partially removes this, and leaves a doubt whether a due prominence has hitherto been given in elementary American history, at least, to the fact that such a foundation was possible only by reason of the presence, and strong influence on American institutions of other peoples than the English. One cannot but feel, after studying the naturalization in the colonies, that the present policy of discrimination in nationality, or that any policy of exclusion other than that demanded by the preservation of autonomy, is a departure from the original intention of the founders. They were not exclusively English in origin, and it was not as "We the English in America," but as "We, the people of the United States," that they set about their work and put into verbal form the first cosmopolitan state.

XXIII.—THE ESTABLISHMENT OF THE FIRST SOUTHERN
BOUNDARY OF THE UNITED STATES.

By PROF. B. A. HINSDALE,
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THE ESTABLISHMENT OF THE FIRST SOUTHERN BOUNDARY OF THE UNITED STATES.

By B. A. HINSDALE.

The purpose of this paper is to direct attention to a comparatively small but very important division of a large subject. This subject is the relations of the United States to the Mississippi River and the Gulf of Mexico from 1779 to 1819, or what may be called "The Southwestern Question." The branch of this subject to be treated is the establishment of our first southern boundary. To make the theme in hand fully intelligible it will be necessary briefly to state some preliminary facts.

The Carolina charter of 1663 gave to the lords proprietors a territory that extended "southerly as far as the river St. Matthias, which bordereth upon the coast of Florida, and within one and thirty degrees of northern latitude."* This is the first mention of the thirty-first parallel that is made in American history. From this time England regarded the line as the proper southern limit of her possessions in America. This line Spain never recognized. By the treaty of 1670, sometimes called "The American Treaty,"† His Catholic Majesty acknowledged that His Britannic Majesty had dominions in America, the title and sovereignty of which ought not to be called in question, but the two powers never reached an agreement as to their common boundary. In 1763 Spain ceded Florida to England, without assigning any limits to the province whatever. At the same time France ceded to the same power not only Canada but all her possessions in North America lying east of a line drawn through the middle

* Poore: Charters and Constitutions, Vol. I, p. 1382.

† Chalmers: A collection of Treaties, Vol. II, p. 34.

of the Mississippi from its source to the Iberville, and thence through the middle of that stream and Lakes Maurepas and Pontchartrain to the sea, including the river and port of Mobile. The navigation of the Mississippi was made as free to the subjects of Great Britain as to those of France, from its source to the sea.* At a somewhat earlier date France, by a secret treaty, had ceded to Spain all her possessions west of the Mississippi, and also the island and town of New Orleans on the east side of that river.

On October 7, 1763, George III, by proclamation, divided his new possessions on the Gulf into the provinces of East and West Florida, bounding them on the north by the thirty-first parallel of north latitude from the Mississippi to the Chattahoochee, by a line drawn straight from the junction of the Chattahoochee and the Flint to the source of the St. Marys, and by the St. Marys from its source to the sea, and separating them by the Appalachian.† This is the second mention of parallel thirty-one.

In 1764 the lords of trade represented to the King that the boundary fixed for West Florida would leave not only very considerable settlements upon the east bank of the Mississippi, but also the town and settlement of Mobile, to the north, and so beyond the limits of that government. This, they said, surveys made within the year established. Accordingly a new boundary was fixed, viz., the parallel running through the junction of the Yazoo and the Mississippi; in consequence of which a parallelogram of territory as long as the whole width of the States of Mississippi and Alabama, and more than a degree in breadth, was added to that province.‡ The fact is that Mobile lies south of parallel thirty-one, while it is at least doubtful whether there were at the time any living settlements at all on the east side of the Mississippi north of that line. Nevertheless the action taken was a hinge upon which important events afterwards turned.

British officers took possession of West Florida in 1764. Fort Rosalie, which had been destroyed in the Indian wars,

* Chalmers: A Collection of Treaties, Vol. 1, p. 467.

† The Annual Register for 1763, p. 208.

‡ A Valuable Collection of Documents in Regard to the Boundary of Georgia and Florida, furnished by George Chalmers, of the Office for Trade, Whitehall, will be found in American State Papers: Public Lands, Vol. 1, p. 36, *et seqq.*

was reoccupied and rebuilt and named Fort Panmure. Fort Bute was afterwards built at Bayou Manshac, the southern point, belonging to England, lying on the river. At once emigration began to flow into the province from England and Ireland, and especially from the old English colonies. A North Carolina emigration, about 1765, began the settlement of Feliciana, on the Spanish side of the line. In the Natchez district large grants of land were patented, some to famous Englishmen and Americans. On a tract of 25,000 acres, what is known in Mississippi history as "the Jersey settlement" was founded in 1772, and soon became very flourishing.* On 20,000 acres, patented to Thaddeus Lyman for himself and others, a Connecticut colony was established in 1775.† A Mississippi historian, marking the superiority of the English over the earlier French emigration to the banks of the lower Mississippi, uses this language: ‡

* "The Jersey settlement, begun in 1772, by men of intelligence, energy and high moral character, became prosperous and rich, densely populated, highly cultivated, distinguished for its churches and schools, its hospitality, and refinement. And in the course of years it sent its thrifty colonists into many counties, carrying with them the characteristics of the parent hive."—Claiborne: *Mississippi as a Province, Territory, and State*, p. 107.

† The history of this Connecticut colony is of tragic interest. Gen. Phineas Lyman, of Connecticut, distinguished himself in the French and Indian War, as well as at the siege of Havana, where he commanded the provincial troops, as in the wilderness of New York and Canada. The war over, he went to England to procure for the military adventurers, consisting of himself and other colonial officers and soldiers, a grant of lands on the Mississippi. Here he remained for years, neglected, anxious, miserable, and disappointed, before he obtained the object of his wishes. On his return to New England he found that some of his associates were dead, while others had lost interest in the enterprise. But Gen. Lyman, his son, and a few others, including Gen. Israel Putnam, visited the Natchez district, with a view to making a settlement. Lyman's health was thoroughly broken by his painful experience in England, and he died soon after reaching the banks of the Mississippi. His son and widow did not long survive him. Gen. Putnam returned to Connecticut. Such was the beginning of the Connecticut colony. Gen. Lyman was a devoted loyalist, and it is curious to speculate what he might have been had he spent the years following the French-Indian War in New England instead of Old England.—Parkman: *Montcalm, and Wolfe*; Bancroft: *History of the United States*; Sabine: *American Loyalists* (*see indexes of these books*); Claiborne: *Mississippi*, pp. 107-108; Martin: *History of Louisiana*, p. 221; Peabody: *Life of Israel Putnam*, in Sparks's *Library of American Biography*, Vol. VII.

‡ Claiborne: *Mississippi*, p. 115.

The only inducement the British authority held out for immigration was a liberal dispensation of land to those that rendered service to the Crown. No transportation was furnished; few military posts established; no vain search after metals. Those that came came at their own expense. They crossed the mountains to Pittsburg or to the head waters of Tennessee, where they often made a crop of corn and wheat the first season, and then built their boats and brought down with them to their point of destination their families, their slaves and stock, and a year's supply of provisions. Or they came from Georgia and Carolina, the overland journey on pack horses, through the Creek and Choctaw territories; or by sea from more northern posts to Pensacola and New Orleans, and then by boats to their respective stations. Nine-tenths of them came to cultivate the soil; they brought intelligence and capital, and they embarked at once into the production of supplies for home consumption, and selected indigo as their crop for exportation. Tobacco was next introduced, and subsequently cotton. All the necessaries of life were in abundance and cheap.

From the time that they were admitted to the river, the British vessels and traders made the most of their opportunities, and progressively they got nearly all the trade of the Louisiana planters into their hands, the Spanish authorities at New Orleans winking at the illicit commerce.

The Revolution stimulated rather than retarded the Mississippi settlement. West Florida served a purpose not unlike that of Halifax and Texas in after days. Adventurers, outlaws, and fugitives from justice flocked to Natchez; but these were balanced by emigrants of cultivation and wealth who sought on the Mississippi or on the Gulf of Mexico an asylum from the storms of war that were then sweeping over the Atlantic slope. These emigrants, it is almost unnecessary to say, inclined to the royal side. Some fled from proscription, some from the alternative of taking up arms at home against their kindred and friends. The landholders were for the most part educated men. Many of them had held commissions in the British or the provincial army; others had held civil offices under the Crown or the colonies, and had been accustomed to the administration of the laws of England. "Plantations rapidly multiplied, the planters established credits in London, Pensacola, and Jamacia, and received their merchandise and negroes direct from those ports." "Profound peace and good order prevailed in West Florida, and no colony in the British Empire or elsewhere was in a condition more happy and prosperous." But the issues of the war were too far-reaching for the lower Mississippi to escape them. At its beginning a

number of merchants from Boston, New York, and Philadelphia, who were well disposed toward the American cause, established themselves in New Orleans. The most prominent of these was Oliver Pollock, who became the accredited agent of Congress. With the full knowledge of the Spanish governor, arms and ammunition were collected and conveyed up the river to Pittsburg. Natchez was the rendezvous of British agents, who incited the Indians to fall upon the frontiers of the States; but the Mississippi settlement as a whole appears to have preserved neutrality. The colonists were the less disposed to side with the United States, because, in the event of war coming to their doors, the Government could render them no real assistance. Moreover, the powerful tribes of Indians lying between them and the Atlantic States were attached to the royal cause. One attempt was made to bring West Florida under the patriot flag. In 1778 Capt. Willing, of Philadelphia, commanding a small force, and armed with a commission from Congress, descended from Pittsburg to the lower Mississippi, his ostensible mission being to induce the inhabitants to maintain a strict neutrality throughout the war. In the Natchez district a large number of the inhabitants took such an oath, and Willing promised them protection in return. His operations were without influence upon the general course of events.*

By Article XI of the treaty of alliance that he entered into with Congress February 6, 1778, the Most Christian King of France guaranteed to the United States their liberty, sovereignty, and independence, absolute and unlimited, as well in

* "From Pittsburg and Kaskaskia to the Spanish boundary of Florida the United States in 1779 were alone in possession of the Ohio and the left bank of the Mississippi."—Baneroft: *History of the United States*, vol. v., pp. 315-316. The Southwestern historians make Willing little better than a marauder, and facts soon to be stated will show that Mr. Baneroft attributes an exaggerated importance to his operations. Martin, writing from the standpoint of New Orleans, says Willing laid waste plantations, destroying stock, burning houses, and carrying off slaves, adding: "Although the government and people of Louisiana were well disposed towards the United States, this cruel, wanton, and unprovoked conduct towards a helpless community was viewed with great indignation and horror, much increased by the circumstance of Willing having been hospitably received and entertained the preceding year in several houses which he now committed to the flames."—*History of Louisiana*, p. 224. See also Claiborne: *Mississippi*, pp. 117-221.

matters of government as commerce, and also their possessions.* As the war, to which France now became a party, wore on and its burdens became heavier and heavier, that power became somewhat less regardful of American interests and rights, and finally assumed a tone that was little less than dictatorial. Early in 1779, in consequence of the compact between the two branches of the Bourbon family, she succeeded in making Spain a party to the war against England. This was a happy circumstance for the Americans, in so far as it arrayed another power against her enemy; at the same time it brought into the field the most dangerous of foes to their territorial integrity. Moreover, the danger from this quarter was all the greater because the treaty of alliance with France contained no enumeration or description of the possessions of the United States, leaving that question wholly open to the hazards of war and of diplomacy.

In May, 1779, the King of Spain declared war against England, and in July he authorized his subjects in the Indies to take part in it. Don Bernardo de Galvez, the ablest of all the Spanish governors of Louisiana, immediately took the offensive, and by the end of September had reduced all the British posts on the Mississippi. In March, 1780, he captured Fort Carolini and the whole Mobile district. In May, 1781, the British authorities surrendered to his arms the town and fortifications of Pensacola and the whole province of West Florida.† These Spanish successes were immediately favor-

*Treaties and conventions concluded between United States of America and other powers since July 4, 1776, p. 307.

† While Galvez was absent at Pensacola, events occurred at Natchez that led to one of the tragic episodes of the Revolution. Hearing that a British fleet had been sighted off the coast, and knowing that the governor was absent from New Orleans, many of the inhabitants of the district, including nearly the whole of the Connecticut colony, rose in opposition to the Spanish authority, raised the British flag, and compelled the surrender of Fort Panmure. Learning their error and fearing the governor's wrath on his return, a large company of the insurgents resolved on abandoning their homes and marching through the wilderness to Savannah, the nearest post then in possession of the English forces. "The war and their political sympathies rendered a direct journey dangerous, and they accordingly selected a route which caused them to travel upwards of 1,300 miles and occupied one hundred and forty-nine days. They were all mounted on horseback, but the ruggedness of the ground often required them to travel long distances on foot. Women and children and infants at the breast formed a part of the returning and suffering band. Some

able to the American cause, but in the end they jeopardized important interests, since they put the whole Southwest into Spanish hands, including a large territory that the United States claimed for their own.

To keep the faith that in the family compact he had plighted to his royal cousin, the King of France, was only one of the motives that led His Spanish Majesty to declare war against England. He was ambitious to recover dominions once his, now lost. Nor was it merely the Floridas, which he had surrendered in exchange for Havana in 1763, that he sought to recover. He remembered that once Florida was the name of a region spreading from the Gulf of Mexico to the springs of the Mississippi, and from the Atlantic to New Spain. He remembered, also, that once his predecessors had claimed a shore line that was unbroken from the bays of New England to the waters of the Orinoco. In the seventeenth century England had seized upon the Atlantic slope and France upon the Mississippi Valley. His Majesty could not be blind to the fact that the Atlantic front of the continent was lost to him forever, but he thought its interior might yet be saved. He now held New Orleans, the western half of the Mississippi Valley, and the Spanish islands, which afforded him the best possible base of operations for carrying out his purpose. The Mississippi led straight from the western American settlements to his dearest possessions, Cuba and the mines of Mexico and Peru. Louisiana for the time served as a screen for these possessions, still it seemed to him highly desirable to seize not only Florida but also the eastern bank of the Mississippi and the streams cutting it, thus shutting the Americans up within the Alleghenies and the Atlantic. Such was his vision. It was as unsubstantial as alluring.

Taking advantage of the Spanish declaration of war against

were sick; all endured the most exhausting fatigue, were in constant dread of meeting with savages, and were sometimes without sufficient food and water. After reaching Georgia the party formed themselves into two companies. One division became the prisoners of the Whigs; the other, after surmounting many difficulties, reached Savannah in safety. The captives were soon released. Among those who arrived at Savannah were two daughters of General Lyman, both of whom died at that place. Such was the calamitous issue of the life of a gentleman who enjoyed, before the Revolution, a reputation possessed by few of our countrymen; such, too, the sad end of several members of his family." Sabine: *The Loyalists of the American Revolution*. Vol. II, pp. 37, 38.

England, Congress sent John Jay to Madrid towards the close of 1779 to negotiate, if possible, treaties similar to those that had been already entered into with France. He was authorized to guarantee the Floridas to Spain, provided the fortunes of war should place them in her hands, and also instructed to insist upon the free navigation of the Mississippi into and from the sea, and to procure a concession of commercial privileges south of the parallel of thirty-one degrees.* This line Congress had already declared the southern boundary of the United States from the Mississippi to the Chattahoochee.† The Spanish court refused to receive Mr. Jay, but discussed with him the objects of his mission informally and unofficially.‡ The trouble was that Congress had instructed its representative to insist upon concessions of navigation and commerce. When all is said, Spain had entered upon the war with only half a heart; and France, becoming weary of the struggle herself and anxious to induce Spain to recognize the independence of the United States and thus to close the triple alliance, prevailed upon Congress to withdraw the offensive ultimatum.§ This action, however, made no difference; the Spanish court still refused to treat with the American commissioner. So matters stood when Mr. Jay left Madrid for Paris in the summer of 1782. In the meantime events had not stood still in America.

Galvez's brilliant successes seemed to demonstrate the feasibility of the Spanish plan to recover the Floridas and the eastern half of the Mississippi Valley, thus restoring an unbroken Spanish coast line from the capes of Florida to the confines of Brazil. The Spanish court became less and less disposed to treat with Congress as time went on. Besides the Spanish victories in the Southwest, the commandant at St. Louis sent a force across the frozen prairies of Illinois, Indiana, and Michigan, in the winter of 1780-'81, that seized St. Joseph, on the river of that name, capturing the garrison, taking formal possession of the country, and carrying off the British colors as a trophy of victory and an evidence of conquest.|| The

* Secret Journals of the Congress of the Confederation, Vol. II, p. 261.

† *Ibid.*, Vol. II, p. 225.

‡ The Diplomatic Correspondence of the American Revolution, edited by Jared Sparks, Vol. VIII.

§ Secret Journals, Vol. II, p. 393.

|| See "The March of the Spaniards across Illinois," a paper read before the American Historical Association by Edward G. Mason, esq., of Chicago, and printed in full in the Magazine of American History, May, 1886; also "Narrative and Critical History," Vol. VI, Chap. IX.

avowed object of this expedition was to give Spain a ground of claim to the Northwest like that which she had already acquired to the Southwest. The proceeding was the more audacious, as at this very time Illinois was in possession of American troops.

Even to summarize the history of the long negotiation for peace that opened in Paris early in 1782, and much more to deal with the controversies to which these negotiations have given rise, is quite beyond the present purpose. However, it is important to state three or four leading facts attending the negotiations before passing to the results reached that are most pertinent to the present inquiry.

England strove to limit the western extension of the United States. First, she proposed the Allegheny Mountains as a boundary, and afterwards the Ohio River. Spain opposed a still more determined resistance to such extension. Her first proposition was the Alleghenies; afterwards she proposed a line that was more favorable to the United States, but still one that excluded her from the Mississippi throughout its entire length. As we have already seen, the treaty of alliance did not commit France to any particular American boundaries; and Count de Vergennes, as one of the last writers upon the subject states the case, avowedly directed his representatives in Philadelphia "to represent to Congress (1) that France herself would look forward, if the war continued, to regain her own control of Canada and the fisheries, and that she was unwilling to see Spain disturbed on the Mississippi; and (2) that the United States, by asking so much, might drive Great Britain to desperation, and, by awakening again the war fever in England, wantonly protract the war."* All objections and resistance from whatever

*For the Negotiations at Paris, 1782-'83, see *Diplomatic Correspondence of the Revolution*, Vol. x, p. 7 (report made by the American commissioners); *id.*, Vol. VIII, pp. 21, 129 (*Jay's Letters*); Bancroft: *History*, Vol. v, Chaps. v-vii; John Jay: *The Peace Negotiations of 1782-'83*, an address delivered before the New York Historical Society, November 27, 1883, *Narrative and Critical History*, Vol. VII, Chap. II (the Peace Negotiations of 1782-'83); Winsor: *Narrative and Critical History* (editorial notes to Vol. VII, Chap. VII); Wharton: *International Law of the United States*, Vol. III, Appendix (Peace Negotiations of 1782-'83 with Great Britain); Angell: *Narrative and Critical History*, Vol. VII, Chap. VII (the diplomacy of the United States); Lyman: *The Diplomacy of the United States*, Vol. I; Lecky: *History of England in the Eighteenth Century*, Vol. IV, Chap. XV; Lord Fitzmaurice: *Life of William Earl Shelburne*, Vol. III, Chaps. IV, VI; John Adams: *Works*, Vol. I (Appendix 6).

source proved unavailing. The American commissioners, disregarding their instructions to consult the King of France in the negotiations for peace or truce at every step, entered into a separate and secret preliminary treaty with Great Britain, to which, however, the King afterward consented. On the west and south the lines laid down in 1763 became the national boundaries; the middle of the Mississippi to the thirty-first parallel, and the thirty-first parallel, a straight line drawn from the junction of the Chattahoochee and the Flint to the head of the St. Marys, and the St. Marys to the sea. On November 30, 1782, when this treaty was executed, England, France, and Spain were still engaged in active war; and the English diplomatists at Paris prevailed upon the Americans to agree to this separate article, which, for a time, was kept a profound secret. "It is hereby understood and agreed that in case Great Britain, at the conclusion of the present war, shall recover or be put in possession of West Florida, the line of north boundary between the said province and the United States shall be a line drawn from the mouth of the river Yassous, where it unites with the Mississippi, due east to the river Appalachicola."* On September 3, 1783, the preliminary treaty agreed upon the previous November, with the omission of the separate article, became the definitive treaty between the two nations. Great Britain had not recovered or been put in possession of West Florida. On the contrary, in the treaty of peace entered into by England, France, and Spain at the same date, His Britannic Majesty ceded and guarantied to His Catholic Majesty, in full right, both East and West Florida.† At the conclusion of these negotiations two facts boded ill to the future peace of the United States. First, England had ceded to Spain West Florida without any description of boundaries whatever, thus leaving its extent to be determined from the facts of history. The United States could urge that the original northern boundary of West Florida and the treaty boundary of 1782-'83 exactly coincided; but Spain could reply that the line of 1764 had superseded that of the previous year, and that her troops were actually in possession of the left bank of the Mississippi for a considerable distance north of parallel thirty-one at the

*Treaties and Conventions concluded between the United States of America and other Powers, p. 373.

† Chalmers: A Collection of Treaties, Vol. I, p. 495.

time when England had ceded it to the United States. At one time Spain seemed to acquiesce in the southern boundary that England made. At least Lafayette, in February, 1783, received assurances in Madrid that the Spanish court had fully accepted the preliminary treaty between the United States and the Court of London, Count de Florida Blanca giving his word of honor to that effect. The Marquis was also assured that fear of raising an object of dissension was the only objection that the King had to the free navigation of the Mississippi.* But His Catholic Majesty did not long remain of this way of thinking. He soon began to plead that he held not merely West Florida up to the line of 1764 by right of conquest, but also a region extending far to the north of that line. When the secret article of the treaty of 1782 became known, His Catholic Majesty fairly blazed with indignation. He declared that the two contracting powers had no right to dispose of territory that was at the time in the possession of his own troops. Furthermore, the subject was complicated with the navigation of the Mississippi. His Majesty denied that the concession of the free navigation of the river which France had made to England in 1763, and which was the basis of the article in the treaty of 1783 whereby the United States and England had guaranteed to each other the free navigation of the river, was in any way binding upon him; and he protested that he would not permit any nation to navigate between the banks of the Mississippi as far northward as his royal arms held possession of the country. Secondly, at the close of the war England was in possession of the Northwestern posts extending from Oswego to Mackinaw, and stoutly refused to surrender them. Thus both the Southwestern and Northwestern limbs of the Republic remained in possession of foreign powers. The positions that Spain and England held within the national territory on the Mississippi and on the Great Lakes, in addition to being irritating and confining to the United States, enabled those powers to make the most of any mishap that might befall the new member of the family of nations.

So the treaties required to close the cycle of the American Revolution were concluded without an adjustment of the Southwestern question, in either of its phases, being reached. Con-

* American State Papers: Foreign Relations, Vol. I, pp. 250, 251.

gress recovered from the panic in which, obediently to the dictation of France, it had modified its instructions to Mr. Jay, and on June 3, 1784, instructed its diplomatic representatives in Europe, in any negotiation that they might enter upon with that power, not to relinquish or cede to Spain, in any event whatsoever, the right of the citizens of the United States to the free navigation of the river Mississippi from its source to its mouth.*

His Catholic Majesty took immediate steps to secure his position. In May, 1784, acting-Governor Miro, of New Orleans, held the first of a series of Congresses with the Indians of the Southwest, with the object of attaching them firmly to the Spanish interest. Spanish agents also incited the Indians to hostilities against the United States, and furnished them with arms and ammunition. Treaties between the Indians and the United States were prevented or broken up. In 1794 Governor-General Carondelet boasted that he could at any time bring twenty thousand warriors into the field against the Americans. In July, 1788, a detachment of the Louisiana regiment was sent to fortify New Madrid. Natchez, Walnut Hills, and Chickasaw Bluffs, all on the east side of the river, were more strongly fortified. Armed galleys patrolled the river. Land grants were freely made in the disputed district, and surveyors were actually engaged in running out such grants when the American commissioner arrived in 1797 to run the international boundary. More than all, repeated attempts were made to seduce the Western people from their allegiance, and to bring about their union with Louisiana.

In the mean time attempts were made to adjust the pending difficulties. To enter upon a particular account of the negotiations with Spain between 1783 and 1795, or to investigate those causes, as the growth of population west of the Alleghenies, its character and geographical and commercial relations, which made a settlement increasingly important and also difficult, is foreign to the present purpose. A general characterization of the negotiations will suffice.

In 1784 His Catholic Majesty sent Don Diego de Gardoqui to reside near Congress in the quality of Encargado de Negocios, commissioning him to treat concerning the limits of the two countries and other matters about which it was desirable

* The Secret Journals, Vol. III, p. 510.

that there should be a good understanding between the two powers. In July of the following year Congress invested Mr. Jay, then Secretary to the United States for Foreign Affairs, with power to treat with the Encargado, subject to its own instructions.* For three years the negotiation dragged its slow length along. The Encargado was perfectly willing to make liberal commercial concessions, which Mr. Jay was very anxious to secure, but he would not yield either the boundaries or the right of navigation. Jay was willing, for the time, to waive the right of navigation, and even to yield something as to limits. The New England members of Congress, eager for commercial privileges and indifferent to the West, agreed with him. The Southern members, indifferent to commerce and keenly interested in the West, strongly dissented.† The Middle State members were divided, but the majorities of the delegations voted with the Secretary. In August, 1786, Congress went so far as to withdraw its previous insistence upon the navigation and the treaty line of 1782-'83, but the

* The Secret Journals, Vol. III, p. 570.

† How fully informed of western matters Washington was, and how deeply interested in them, is a common place. His celebrated letter to Governor Harrison, of Virginia, written in 1784, is well known. But I do not remember to have seen attention directed to an equally interesting letter written to Richard Henry Lee, President of Congress, August 22, 1785, at the very time when Jay was entering into the discussion with Gardoqui. "However singular the opinion may be," he wrote, "I can not divest myself of it, that the navigation of the Mississippi, at this time, ought to be no object with us. On the contrary, until we have a little time allowed to open and make easy the ways between the Atlantic States and the western territory, the obstructions had better remain. There is nothing which binds one country or one state to another but interest. Without this cement the western inhabitants, who more than probably will be composed in a great degree of foreigners, can have no predilection for us, and a commercial connection is the only tie we can have upon them. It is clear to me that the trade of the lakes, and of the river Ohio, as low as the Great Kenhawa if not to the Falls, may be brought to the Atlantic ports easier and cheaper, taking the whole voyage together, than it can be carried to New Orleans; but, once open the door to the latter before the obstructions are removed from the former, let commercial connections, which lead to others, be formed, and the habit of that trade be well established, and it will be found to be no easy matter to divert it; and *vice versa*. When the settlements are stronger and more extended to the westward, the navigation of the Mississippi will be an object of importance, and we shall then be able, reserving our claims, to speak a more efficacious language than policy, I think, dictates at present."—Sparks: Writings of Washington, Vol. IX, p. 119.

vote, which stood 7 to 5,* was insufficient to ratify a treaty had one been concluded, to say nothing of the storm of opposition that it stirred up throughout the South and West. So no conclusion was reached. The last action that the old Congress took in relation to foreign affairs, so far as the Secret Journals show, was the adoption of a resolution, September 16, 1788,† which referred the negotiations with Spain to the new government about to be organized under the Constitution. In one of his communications to Congress, Mr. Jay expressed the opinion that the Encargado, notwithstanding the much greater extent of the Spanish territorial claims, would yield all territory north of the Yazoo line, provided other matters could be satisfactorily adjusted. In 1789 Gardoqui returned to Spain. He had been in the country more than four years; he had observed its internal dissensions and weakness, and formed the opinion that any foreign power which pleased could safely take a high hand with the Government; he had failed in a negotiation that he had much at heart, and his observation and experience vexed not a little the course of the negotiation undertaken in Madrid four years later.‡

Towards the close of 1791, Mr. Jefferson conveyed to the President intelligence which he had received from Madrid, to the effect that the Court of Spain was ready to enter into a negotiation at Madrid respecting the navigation of the Mississippi. Washington accordingly appointed two commissioners, William Carmichael and William Short, then *charges des affaires* of the United States at Madrid and Paris, respectively, to conduct such negotiation. Subsequently its scope was enlarged so as to include commerce. For the guidance of the commissioners, the Secretary of State drew up an elaborate letter of instruction regarding the Mississippi, the boundary, and commercial relations. Unfortunately, the Spanish Court intrusted the negotiation to Gardoqui, the same who had conducted the earlier discussion with Mr. Jay. There were frequent delays. The American commissioners reported from time to time that the phases of the discussion changed frequently, responding to the changes of European politics. On

* Secret Journals, Vol. iv, p. 109, 110.

† *Ibid.*, Vol. iv, p. 454.

‡ The Jay-Gardoqui correspondence is found in the Diplomatic Correspondence of the United States from 1783 to 1789, Vol. III, pp. 135-281, and in the State Papers: Foreign Relations, Vol. I, pp. 248, 252.

June 6, 1793, they wrote that Spain would consider herself better secured against the United States whilst united with England against France, which was already attacked by the most formidable powers of Europe, then whilst united with France, whose partiality for us she distrusted, and opposed to England, whose concert with us she would have apprehended. The English ambassador, they had reason to think, influenced the negotiation unfavorably. France was an uncertain factor in the problem. Nothing but fear of England would constrain Spain to yield the American claims. The sentiment of the Spanish Court, owing to its present partiality for London, had changed since their commission was given them. Gardoqui remembered with bitterness his failure at New York, and charged a policy of delay upon Congress. He seemed to think that the people of the West could be driven to separate from the Union and to ally themselves with Spain, if the navigation of the Mississippi were denied. The breakup of the Union he thought certain. So the commissioners ceased to press their case. They did not believe that anything could be gained by forcing Spain into the arms of the Court of London and into refusing the American claims as a finality. Time confirmed the insight of the commissioners. Spain never yielded the points in controversy until driven to do so by her fears growing out of European complications.*

The Spanish commissioners at Philadelphia having represented that the way was again open to renew negotiations at Madrid, President Washington appointed, November 24, 1794, Thomas Pinckney, then minister at the Court of St. James, envoy extraordinary and sole commissioner plenipotentiary to proceed to Spain upon such a mission. The subjects of negotiation were to be the navigation of the Mississippi, the boundaries, and commerce. Mr. Pinckney accordingly proceeded to Spain, where he entered into a discussion of these subjects with the Duke de la Alcudia, otherwise known as the Prince of Peace. Mr. Pinckney encountered the delays incident to Spanish negotiations.

Writing to the Secretary of State July 21 of the next year, Mr. Pinckney said he had found the Spanish court still anxious for further delay, which to them was an equivalent to a cession

* The documentary history of this negotiation is found in the American State Papers: Foreign Relations, Vol. 1, pp. 252-286, including Mr. Jefferson's elaborate letter of instructions to the Commissioners.

of our rights so long as they were in possession of the objects of controversy. He said it was important to close the business before the war with England should come to an end. He reported that the court had submitted various propositions, as that the negotiations depended upon the relations of Spain and France, and that those two powers and the United States should form a triple alliance. On August 11 he wrote that the court was still pursuing its system of delay; also that he had been asked to agree to the insertion in the treaty of a guaranty by the United States of Spain's American possessions, which he had refused, very much to the mortification of the Prince of Peace. He expressed, however, the opinion that the new position of Spain would induce the court to come to a decision. The main points of difficulty, as before, were the boundaries and the navigation of the Mississippi.

On August 10, 1795, Mr. Pinckney submitted to the Prince a brief memoir on the two main subjects of controversy, which is one of the ablest state papers relating to the subject. The preliminary treaty of peace between Spain and Great Britain at the close of the war, he said, had followed the preliminary treaty between the United States and the same power; the two dates were November 30, 1782, and January 20, 1783. Great Britain, humiliated as she had been in the war, could not be supposed to have ceded to Spain at the second of these dates what she had already ceded to the United States at the earlier one. Spain had known all about the proclamation line of 1763 for nine years; and if she was not satisfied with it she should have expressed her dissatisfaction in a manner to affect her treaty with Great Britain. Further, the treaty of November 30, 1782, had at once been communicated to France by the American commissioners, and no doubt to Spain by the French minister. Accordingly, on January 20, 1783, Spain must have known what had been done on November 30 of the previous year; and if dissatisfied therewith she should have directed negotiations to the boundary with a view of having it changed in the definitive treaty between United States and Great Britain. Still further, Spain did not conclude her definitive treaty with Great Britain until September 3, 1783, so that she had ample opportunity to seek a rectification of the boundary. Either Spain made no attempt to have the question reopened or was refused; accordingly she was estopped in either case. Taking up the argument based on conquest, Mr. Pinckney

observed that before the war the territory in dispute belonged either to the United States or to Great Britain; if to the United States, Spain could not make conquests there because she had not been at war with the United States; if to Great Britain, Spain had bound herself by the sixth article of her treaty with that power to surrender all territory that she had conquered not included in the cessions that were then made.

As to the use of the Mississippi, the minister passed by the argument based on natural rights with the remark that he regarded it perfectly conclusive. The right of the United States to navigation originated in contracts and stipulations entered into between France and England when Spain had no interest in the subject. Louisiana and the Floridas had been ceded to her subject to these contracts and stipulations, and she was bound by them. Those two powers, at a time when Spain owned no territory touching the Mississippi, had declared that all the subjects of the British Empire should have the right of navigating the river in its full extent from its source to the ocean. This stipulation had been made particularly in the interest of the United States, then a constituent part of the British Empire. Mr. Pinckney demanded which of those two contracting powers could now lawfully deprive us of that right. Not France, for she had ceded her power to England in 1763, and had afterwards, by the treaty of alliance in 1778, guaranteed the territory of the United States. Not Great Britain, for such a step would be in contravention of the treaty of 1782. Finally, the arguments based on Spain's knowledge of the facts in relation to the boundary applied with still greater force to her pretended right to the exclusive navigation of the river.*

Upon the two subjects the Spanish minister does not appear to have entered into any argument whatever. In his final letter to Philadelphia, written October 28, the American envoy said that the peace just concluded between Spain and France, the pacific disposition of Great Britain towards Spain, and the critical relations of Great Britain and the United States had tended to hinder the negotiation. He reported that he had been compelled to abandon his original idea of securing a close commercial connection with Spain, declaring his belief to be that Spain wished to reserve the commercial advantages that

* The documentary history of this negotiation is found in the American State Papers: Foreign Relations, Vol. I, pp. 533-549.

she could offer to the United States as the equivalent for a guaranty of her American possessions.

On October 27, 1795, Thomas Pinckney and the Prince of Peace, at San Lorenzo el Real, set their signatures to the first treaty between the two powers. This treaty contained the following among other stipulations:

1. That the line conceded to Great Britain in 1783 should be the boundary between the United States and East and West Florida from the Mississippi to the Atlantic.

2. That either party should withdraw any troops, garrisons, or settlements that it might have within the territory of the other as thus defined within six months after the ratification of the treaty, and sooner if possible.

3. That each of the contracting parties should appoint one commissioner and one surveyor to run and mark the boundary, and that they should meet for that purpose before the expiration of six months from the ratification of the treaty.

4. That the middle of the channel of the Mississippi should be the western boundary of the United States, from the sources of the river to the parallel of thirty-one degrees.

5. That the navigation of the Mississippi throughout its whole length should be free to the citizens of the United States.

6. That neither party should permit the Indians living within its territory to attack the other party or the Indians living within its boundaries.

7. That His Catholic Majesty would permit the citizens of the United States, for the space of three years from the ratification of the treaty, to deposit their merchandise and effects in the port of New Orleans, and to reship the same without paying other duties than a fair price for storage, and that on the expiration of this time His Majesty would either renew this permission or assign for the same purpose an equivalent establishment.

It was also agreed that if, for any reason, the surveying party needed the protection of troops, they should be furnished by the two nations in equal numbers.*

The ratifications of the treaty were exchanged April 25, 1796, and it was proclaimed August 2. As respects the Southwestern Question, it was a complete reversal of the policy which Spain had constantly pursued since 1779. It is not certain that she ever expected, even for a moment, to execute its provisions in good faith. Since 1793 she had parted company with England, and was now completely under the influence of the French Directory. Mr. Pinckney's opinion was that fear lest the United States and England should be drawn into an alliance inimical to France and Spain had much to do with effecting the change of policy, and subsequent events tended to support that

*Treaties and Conventions concluded between the United States of America and Other Powers since 1776, p. 1006.

opinion.* Such also was the view of Mr. Martin, the historian of Louisiana, who surveyed the field from the standpoint of New Orleans.† Certainly if His Majesty ever had any thought of carrying out the treaty in good faith, he soon dismissed it from his mind.

President Washington appointed Andrew Ellicott,‡ Surveyor-General, to run the line on the part of the United States. The commissioner left Philadelphia September 16, 1796, and reached Pittsburg twelve days later. Here there was delay, and it was not until the end of October that he, his assistants

* American State Papers: Foreign Relations, Vol. I, p. 535.

† "The King's officers in New Orleans appeared impressed with the idea that the late treaty between Spain and the United States would never be carried into effect. They thought that, at the time it was entered into, the affairs of Europe rendered the neutrality of the United States of great importance to Spain; and, according to them, the object of Great Britain in her late [Jay's] treaty with those States was to draw them over to her interests and render them in some measure dependent upon her. They believed that their sovereign had ratified the treaty for the purpose of counteracting the views of Great Britain, and concluded that, as that power had failed in her object, Spain on her part would be no longer interested in fulfilling the stipulations of the treaty."—History of Louisiana, p. 269.

‡ Ellicott was one of the foremost scientific men of his time in the country, the friend of Washington and Rittenhouse. He was connected with several important public surveys, and laid out the city of Washington. His official dispatches while engaged in the Southwest are found in the State papers: Foreign Relations, Vol. II. The dispatches of the military officers connected with the survey are in the same volume. The present account is drawn mainly from Ellicott's Journal, which, while without literary merit, is still a book of great interest. It bears the following title:

The journal of Andrew Ellicott, late commissioner on behalf of the United States during part of the year 1796, the years 1797, 1798, 1799, and part of the year 1800, for determining the boundary between the United States and the possessions of His Catholic Majesty in America, containing occasional remarks on the situation, soil, rivers, natural productions, and diseases of the different countries on the Ohio, Mississippi, and Gulf of Mexico, with six maps comprehending the Ohio, the Mississippi from the mouth of the Ohio to the Gulf of Mexico, the whole of West Florida, and part of East Florida. To which is added an appendix, containing all the astronomical observations made use of for determining the boundary, with many others, made in different parts of the country for settling the geographical positions of some important points, with maps of the boundary on a large scale; likewise a great number of thermometrical observations made at different times and places. Philadelphia: Printed by Budd & Bartram, for Thomas Dobson, at the Stone House, No. 41, South Second street. 1803.

and escort, with their wagons, stores, baggage, and instruments, embarked on such craft as then navigated the western waters, began the descent of the Ohio. Such were the difficulties of navigation, owing in great part to the low stage of water, that he did not reach the mouth of the river until December 18, where he was detained by ice until January 21. No sooner had he entered upon the descent of the Mississippi than he began to encounter obstacles, the full significance of which it took him some time to learn.

The second day after getting off for the Natchez, Ellicott fell in with a Spanish galley, the master of which treated him politely, but still detained him at his station until the next morning. The day following he was received by the commandant at New Madrid with a salvo of artillery, and was otherwise treated with respect and attention. The Spaniard, however, strove to prevent his going on his way. He first declared that he had a message to deliver, and requested Ellicott to remain two or three days with him; but on receiving a declination of the invitation he produced a letter from the Governor-General of New Orleans, Baron de Carondelet, which contained an order not to allow the Americans to proceed until the posts were evacuated, which could not be effected, he said, while the water should continue low. After much argument the officer agreed that the rising of the river had removed at least one-half of the objection, and said he would not interpose further impediments to the voyage. The American commissioner was much impressed by the frivolous reason for not immediately evacuating the posts that the governor-general had assigned, as the Mississippi below the Ohio was always deep enough for such a purpose; and he naturally fell to reflecting that serious consequences might arise if the other commandants farther down the river, who might be less friendly toward the United States, had received similar orders. At the Chickasaw Bluffs the commandant received Ellicott courteously, but appeared embarrassed and surprised at his arrival. Several circumstances conspired to strengthen suspicions that had already arisen in Ellicott's mind. The Spanish officers professed almost total ignorance of the treaty of San Lorenzo. No preparations were being made for vacating the post, while two armed galleys were brought into position between the American escort and the Spanish fort. Proceeding on his way once more, the commissioner was a few days later detained by an officer commanding two galleys.

As the Americans were pulling up to the shore at Walnut Hills, they were brought to by the discharge of a cannon across the bows of their boats. The officer in command treated Ellicott and his company with consideration, but affected not to be acquainted with the nature of his business, and refused to be satisfied until a certified Spanish copy of the treaty was put into his hands. The American commissioner observed that the Spaniards had constructed considerable works of defense. On the 22d of February Ellicott received a communication in writing from Manuel Gayoso de Laemos, Governor of Natchez, who expressed much pleasure at his arrival in those waters, and stated that he did not anticipate the least difficulty respecting the execution of that part of the treaty which related to the boundary line, but declared that the king's officers were not prepared immediately to evacuate the forts for want of vessels, which were soon expected to arrive. He stated that it would be indispensable for Ellicott to leave his escort at Bayou Pierre, in order that suitable provision could be made for it, and that misunderstandings and collisions of authority might be avoided. While the commissioner regarded the request an improper one, he nevertheless thought best to comply with it. On February 24 Ellicott reached Natchez and announced his arrival to Governor Gayoso, and received from him a formal reply. The governor sent a verbal message also complaining that due ceremony had not been observed by the Americans in approaching the town. On the 25th the two officers met, and on being pressed to name a day for the survey to begin the Spaniard finally fixed upon the 19th of March. Ellicott also duly announced his arrival and business to the governor-general of New Orleans.

The reception that Commissioner Ellicott received at the hands of the Spaniards as he passed down the river suggests a passing reflection. Although he bore a commission from the Government of the United States, was accompanied by an escort of American troops, and was charged with the performance of a duty created by a solemn international agreement, he was halted and questioned as though he were a suspect in a strange country. Moreover, the one bank of the river, throughout the whole distance, Spain had acknowledged to belong exclusively to the United States, to say nothing of her having guaranteed its navigation by American citizens from its source to the sea. We may therefore draw upon our imagination for

the treatment that the boatmen of the Ohio and the Cumberland who ventured upon the Mississippi had commonly received, unless they chanced to be in the employment of persons who were in collusion with the Spanish authorities, or chanced to make their trips in those occasional intervals when the port of New Orleans was practically open although legally closed. We can see also how impossible it was that the west bank of the river and the island and city of New Orleans should remain a permanent possession of Spain.

There was now repeated on the shore of the Mississippi, *in petto*, the whole story of Spanish intercourse with the United States from the day that Mr. Jay reached Madrid in 1779—its delays and subterfuges, its studied politeness and punctillio. We shall find it instructive to run over the principal phases of the controversy. The historical student not unfrequently finds it an advantage to imitate the naturalist who puts a minute section of a large organism on the slide of his microscope.

And first Ellicott was asked by Governor Gayoso to take down the American flag that he had raised over his camp. This request met with a flat refusal, and the flag wore out fluttering upon its staff. The commissioner soon learned from private sources that Carondelet had declared that the treaty of San Lorenzo was never intended to be carried into effect, that he, as principal commissioner under the Spanish crown, should evade or delay from one pretense or another the beginning of the survey, and that Louisiana either had been or would soon be ceded to France. Still the governor of Natchez did not hesitate to inform him that had he arrived sooner he would have found the governor-general ready to proceed, but that duties growing out of the war detained him at the capital of the province.

The Indians becoming troublesome, Ellicott deemed it best to send to Bayou Pierre for his escort. Gayoso explained the conduct of the Indians by saying that the flag had disturbed them, and declared that he would construe the descent of the troops as an insult to his royal master. Nevertheless, he finally consented that the escort might go into camp at Bacon's Landing, a few miles below the town. The governor also informed the commissioner that the business of the survey in the absence of the baron would devolve upon him. He gave notice that it would be impossible to proceed at the time previously named, but promised readiness at an early day.

About the time that the escort arrived from the north the artillery was conveyed from the fort to the landing, as if for shipment, but was soon carried back and remounted. This gave great alarm to the inhabitants of the district, says Elliott, who generally manifested a desire of being declared citizens of the United States, and at once to renounce the jurisdiction of Spain. As the inhabitants play an increasing part in the story from this on, it will be well to say a few words about them.

The circumstances attending the planting of the English settlements in West Florida have been narrated already. As we have seen, throughout the Revolution the people sympathized with the royal cause while maintaining a general neutrality. The war over, the lower Mississippi became a favorite resort for adventurers and refugees. The result was that the Natchez population was of a very miscellaneous character. Cultivation, wealth, and civil obedience were crowded by ignorance, poverty, and lawlessness. While a majority of the people were anxious to become citizens of the United States, there was still a Spanish party and a British party, as well as a class prepared to make the most out of disorder and confusion. The total population numbered about 4,000. To make matters worse, there were many controversies about land titles, and no little uneasiness lest slavery should be prohibited in the Southwest, as it already had been in the Northwest. For the time the Spanish authority was established. Plainly there were plenty of causes to engender excitement pending the settlement of the jurisdictional question.

About the time that the cannon were remounted in the fort at Natchez the works at Walnut Hills were strengthened and the garrison furnished with fresh ammunition. When the American commissioner asked for an explanation of these things, he received a profusion of explanations and denials. While protesting that nothing could prevent the religious fulfillment of the treaty, Gayoso complained of the conduct of some persons who affected an interest in the United States, and said the munitions of war were stored in the fort to prevent their falling into the hands of the Indians.

The governor now took a further step in the line of obstruction, undertaking to stop Lieut. Pope who, with a small body of troops, was descending the river to take possession of the forts on their evacuation. He declared that as soon as Col.

Guillemard, the surveyor in the Spanish interest, should arrive from New Orleans he would be ready to begin the survey; but that it would conduce to the harmony of the two nations for Pope to remain at a distance until the fort was evacuated, which, he said, would be completed in a few days. Instead of seconding Gayoso's efforts for harmony, Ellicott wrote to Pope that, in his opinion, the sooner he reached Natchez the better. It was now March 25.

On the 29th of the same month the governor issued a vaguely worded proclamation, ostensibly with the view of quieting the minds of the inhabitants. He promised protection to real property and indulgence to debtors so long as His Catholic Majesty's rule should continue. The rights of conscience would be respected, but only Catholic worship could be permitted in public, as was the law throughout the Spanish dominions. Ellicott saw that the proclamation was a covert attempt to attach to the Spanish authority two powerful classes, the holders of real estate and debtors. The proclamation tending still further to irritate the people rather than to conciliate them, the governor caused a report to be circulated that the district would soon be given up; while the commissioner thought the time a fitting one to tell his excellency that immediate compliance with the treaty would at once allay the existing excitement.

On March 31 Governor Gayoso informed Ellicott that Baron de Carondelet had found it necessary to consult the King on a question that had arisen. This was whether the posts should be delivered to the United States with the fortifications and buildings intact, as Gen. Wayne understood, or whether they should first be dismantled. He reported further that the baron had given positive orders to suspend the evacuation of the forts until this question was settled. Pending its settlement, Lieut. Pope and his command would be provided for at Walnut Hills. Thus, after a month or more of delays, the governor-general finally announced that, for the present, nothing would be done in respect either to the forts or the delimitation. Before this time, however, the American commissioner had refused the services of one hundred volunteers who asked permission to seize the fort at Natchez, and also declined a proposition to spirit the governor away into the Chickasaw Nation.

In consequence of the new turn of affairs, the officer com-

manding thought best to strengthen the escort by enlisting a number of recruits, taking pains to exclude Spanish subjects, which called forth a warm remonstrance from Gayoso. Ellicott sent word to Lieut. Pope that nine-tenths of the people were firmly attached to the American interest, but that until his arrival they had no rallying point in case of a rupture between the two powers, which he thought could not be distant. He therefore expressed the opinion that the lieutenant could be of more service to the United States at Natchez than at any other point on the river, and in consequence of this message Pope resumed his voyage, Gayoso consenting, and reached his destination April 24.*

On May 1 Governor Gayoso made known to Commissioner Ellicott a new reason for delay. His Catholic Majesty had been informed by his minister at Philadelphia that a British force from Canada was about to attack Upper Louisiana, as the Missouri region was called; that such an attack could be made only by violating the territory of the United States, which he did not doubt they would cause to be respected; and that the governor-general found it necessary to put in a state of defense several forts on the river, and particularly Walnut Hills, as a cover for Lower Louisiana, which, however, would inure to the benefit of the United States, since the forts would in the end fall to them.

Col. Guillemard arrived on May 2, and Ellicott was informed that the governor would be ready to begin the survey in a few days. Soon repairs upon the fort began and the garrison was strengthened. Guillemard went on to Walnut Hills, to which post troops from time to time ascended. Information was now received from the Chickasaw and Choctaw Nations that for eight months Spanish agents had been seeking to turn them

* "Lieut. Pope's descending the river was certainly a fortunate circumstance for the United States, though in doing it he did not strictly comply with his orders from Gen. Wayne, by whom he was instructed to remain at Fort Massac till he obtained some information respecting the evacuation of the posts. And if a judgment was to be formed from the provision made for the detachment, it could not be supposed that it was really intended to descend the river. It was in want of artillery, tents, money, medicines, and a physician. In consequence of this omission, or bad management, I had to furnish the men with such articles as they were in need of out of the stores appropriated for carrying the treaty into effect; and after all that I was able to do we had (to our great mortification) to borrow some tents from the governor."—Ellicott's Journal, p. 80.

against the United States, telling them that immediately on the completion of the survey they would be driven from their lands on the north side of the line. On May 11 Governor Gayoso informed the commissioner that for the present the business upon which he had come was at an end, and the commissioner retorted by summing up the history of his intercourse with the Spaniards to date.

Popular unrest continued all the time to increase, and Carondelet in private threatened to suppress it by giving the Americans lead and the inhabitants hemp. Plans for dispossessing the Spaniards were laid before Ellicott, but only to be rejected. On May 24 the governor-general issued a proclamation reciting that the suspension of the survey and the evacuation of the forts was occasioned by the imperious necessity of protecting Lower Louisiana against the British invasion from Canada, on account of which he had thought it proper to put the post at Walnut Hills in a respectable but provisional state of defense. Pending the delay, he hoped that the inhabitants of Natchez would conduct themselves with tranquility and show due affection to the Spanish Government. The effect produced was quite the opposite from what he had expected; the proclamation served to convince the inhabitants that His Catholic Majesty intended, if possible, to retain the country under one pretense or another till the treaty should become a dead letter. His references to England were peculiarly displeasing to those who still entertained an affection for that country. The state of opinion had now become very inflammable.

The commissioner had already entered into correspondence with the Indians, with a view to securing their neutrality in the case of a rupture. "The success of these negotiations was so complete," says he, "that in less than three months they were almost wholly detached from the Spanish interest, and although the United States had no treaty with the Choctaws, throughout a large extent of country we had to pass they gave us no molestation in the execution of our business." Finally the explosion that for some months had been slowly preparing came in a way strange enough. About the beginning of June an itinerant Baptist minister named Hanna, with the permission of the government, preached a sermon in Ellicott's camp to a large congregation called together by the novelty of the event. While the preacher abstained from imprudent remarks

in his sermon, he was much elated by the size of his audience, and soon after, while in liquor, became involved in a noisy controversy with some Irish Catholics. The governor promptly ordered him to be committed to prison and his feet to be put in the stocks, which greatly excited the people, who saw in it a disposition to attack the privileges of American citizens. An address issued by Carondelet appearing about the same time added fuel to the flames. The governor-general declared he had information that a detachment of the Army of the United States, cantoned on the Ohio, was on its way to Natchez by way of the Holston River, while the militia of Cumberland had been directed to hold themselves in readiness to march at the first notice. He said the anterior menaces of Ellicott and Pope at Natchez, and the pending rupture of the United States and France, the intimate ally of Spain, also made it necessary for the King's subjects on the Mississippi to be upon their guard. This remarkable paper concluded: "If the Congress of the United States have no hostile intentions against these provinces, they will either leave the post of Natchez or the Walnut Hills, the only bulwarks of Lower Louisiana, to stop the course of the British, or give us security against the article of the treaty with Great Britain which exposes Lower Louisiana to be pillaged and destroyed down to the capital; we will then deliver up the said posts and lay down our arms, which they have forced us to take up, by arming their militia in time of peace and sending a considerable body of troops by roundabout ways to surprise us." *

On June 10 Governor Gayoso wrote to Ellicott that the inhabitants of the district, subjects of His Majesty, were in a state of rebellion with the design of attacking the fort, and he denounced the efforts then in course of execution to revolutionize the government. On the same day Ellicott reviewed the situation, declaring that he was no party to any attempt upon the fort, and solemnly protesting in his official capacity against the Spanish officers landing any troops or repairing any fortifications in territory belonging to the United States.

Meanwhile the people were enrolling militia companies, and the governor was striving to his utmost to strengthen his position. For a number of weeks a Spanish cannon mounted on the parapet was trained upon Ellicott's tent. On June 22,

* Ellicott's Journal, p. 103.

at a public meeting held for the purpose, a committee of seven citizens was elected to direct affairs pending the adjustment of the jurisdictional question. Four articles, duly subscribed by the American and Spanish officers, were to guide in a general way the operations of this provisional government. These articles may be quoted in full:

First. The inhabitants of the district of Natchez, who under the belief and persuasion that they were citizens of the United States, agreeably to the late treaty, have assembled and embodied themselves, are not to be prosecuted or injured for their conduct on that account but to stand exonerated and acquitted.

Second. The inhabitants of the government aforesaid, above the thirty-first degree of north latitude, are not to be embodied as militia or called upon to aid in any military operation, except in case of an Indian invasion or for the suppression of riots during the present state of uncertainty, owing to the late treaty between His Catholic Majesty and the United States not being fully carried into effect.

Third. The laws of Spain in the above district shall be continued, and on all occasions be executed with mildness and moderation; nor shall any inhabitant be transported as a prisoner out of this Government on any pretext whatever, and notwithstanding the operation of the law aforesaid is hereby admitted, yet the inhabitants shall be considered to be in an actual state of neutrality during the continuance of their uncertainty, as mentioned in the second proposition.

Fourth. We, the committee aforesaid, do engage to recommend it to our constituents, and to the utmost of our power endeavor to preserve the peace and promote the due execution of justice.*

A few days later a second committee was elected in the room of the first one. "The election of this committee," says the commissioner, "as was really intended on my part, put the finishing stroke to the Spanish authority and jurisdiction in the district."

We must now shift our point of observation from Natchez to Philadelphia, where statesmen are dealing with the broader features of the Southwestern Question.

At the beginning of March, 1797, Carlos Martinez de Yrujo, Spanish minister, informed Secretary of State Pickering that he had become confirmed in an opinion expressed to him at an earlier date, that the English in Canada were preparing a *coup de main* against St. Louis and New Madrid, by the way of the northwestern lakes and rivers, and he demanded that immediate means should be taken to prevent the violation of American neutrality. A few weeks later he reiterated his

* Ellicott's Journal, pp. 115, 116.

apprehensions as to the Northwest, adding that he also had reason to know that an invasion of Florida was meditated in Georgia. The Secretary replied that the President had no information in his possession showing that such movements were intended, and promising that due diligence should be taken to guard against them. Mr. Liston, the British minister, when Pickering drew his attention to the subject, denied pointedly that an invasion from Canada was intended or had been intended. In a later communication, however, he admitted that a scheme for an attack upon the Spanish possessions adjacent to the United States had been laid before him by persons whom he declined to name, but said he had fully discountenanced the scheme both because it involved the violation of neutrality and because it was proposed to enlist the Indians in its execution. The general plan was an attack by a sea force, seconded by volunteers from the United States who would rally to the King's standard if it were raised on Spanish soil. He expressed a suspicion that the scheme was a mere ruse concerted by persons unfriendly to England.* These rumors related no doubt to the scheme with which the name of Senator Blount, of Tennessee, is connected, or at least a similar one. It may be added that exhaustive treatment of the present subject would require an examination of Blount's purposes, as well as of the Spanish intrigues in the West and Southwest, and of the plans and efforts of Citizen Genet.

On March 16 Mr. Pickering demanded of Don Yrujo when the Spanish troops would be withdrawn from the territory of the United States, and received from him the reply that he had no information on that subject. Nor did the minister return to it until he had first brought forward a closely related question.

On November 19, 1794, Mr. Jay had concluded with Lord Grenville the celebrated treaty known in our history by Jay's name. The ratifications were exchanged October 28, 1795, and the treaty was proclaimed February 29 of the following year. This treaty gave His Catholic Majesty deep offense, partly because he regretted that the two powers should be able to compose their differences, and partly because he deemed some features of the treaty prejudicial to his rights and to the inter-

*The State Papers: Foreign Relations, Vol. II, pp. 68, 69.

ests of his subjects. On the 6th of May the King's representatives at Philadelphia preferred the royal complaints in a letter to Mr. Pickering more vigorous than courteous. Passing by the other topics discussed, we may limit attention to the Mississippi navigation, first observing that not a word was said about the boundary or the forts. The third article of Jay's treaty declared that the Mississippi should be entirely open to both the United States and Great Britain, as stipulated in 1783; and an explanatory article subsequently negotiated declared that no stipulations in any treaty subsequently concluded by either of the contracting parties with any other state or nation should be understood to derogate in any way from the rights of free intercourse and commerce secured to such parties by the said third article.* The Spanish minister denied *in toto* the right of the United States to give any such guarantees to England or any other power. He argued that England received from France in 1763 her sole original right to navigate the lower parts of the river; that she ceded the Floridas to Spain in 1783 without making any reservation of this right in her own interest or in the interest of the United States; that the United States, having become an independent power, had forfeited any right that might have belonged to them in consequence of the French cession; that the cession of navigation made by England to the United States in 1783 was illegal and worthless; that the right which the United States now enjoyed was derived wholly and absolutely from Spain by the treaty of San Lorenzo, and consequently that the guarantee given by Jay's treaty was wholly without warrant, null, and void.† He said the fact that the United States had resorted to Spain for a special treaty conceding the navigation, and the tenor of the cession which limited such navigation exclusively to the subjects of Spain and the citizens of the United States, was a virtual annulment by the latter of the earlier English cession, even if that had any original force. "How can the United States, without the consent of Spain," he demanded, "cede to England the right of navigating the Mississippi, which is ceded only to themselves?"

* Treaties and Conventions, pp. 379, 395.

† It must be remembered that Spain had concluded a treaty of peace with France and had declared war against Great Britain. Martin says: "The Catholic King, in the declaration of war, mentions the late treaty between Great Britain and the United States as one of the motives that had influenced his conduct in this respect." History of Louisiana, p. 270.

In his reply the Secretary of State said the United States could give no such guarantee, provided the case were as the minister had stated it. But this he did not admit. England had received the right of navigation in 1763, and had never relinquished it; the people of the United States participated in that right as subjects of Great Britain; and on the acknowledgment of their independence that power had confirmed it to them by the provisional and definitive treaties. The cession of West Florida by England was of even date with the definitive treaty. It had been supposed that the upper Mississippi penetrated the territory of Great Britain, and no one could certainly say that this was not the case. Jay's treaty had merely confirmed the status that had existed since 1783; had that treaty been wholly silent upon the subject that status would have been in no way changed; but since the fourth article of the treaty of San Lorenzo, entered into subsequently, had excited some apprehensions in England the explanatory article had been added in order to quiet them. Mr. Pickering proceeded to show that the fourth article of the Spanish treaty was purposely so drawn as not to derogate from the prior obligations of the United States to Great Britain, with the full knowledge and approval of the Prince of Peace. The language is: "His Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other powers by special convention." This could in no way effect an engagement previously entered into between the United States and England. The United States were contending with Spain for free navigation of the Mississippi for themselves; and by this clause in the fourth article of the treaty their claim was admitted. Any declaration of His Catholic Majesty alone to exclude other nations was to them quite immaterial.*

Such are the main points in this spirited discussion. It was well understood to be inspired on the side of Spain by the French Directory. It is a good illustration of the makeshifts to which diplomacy has been sometimes compelled to resort.

On June 24 Don Yrujo took up the boundary and forts. He

* The two letters are found in the American State Papers: Foreign Relations, II, 14-17.

said the proper mode of procedure would have been, first to survey the line in order to determine what territory fell to Spain and what to the United States; but that Commissioner Ellicott, disregarding this obvious principle, had raised the American flag at Natchez, recruited the strength of his escort, and exercised an unlawful authority. Next the question whether the fortifications should be dismantled had arisen and had been referred to Madrid. Ellicott had gone on adding imprudence to imprudence, until the relations between him and Governor Gayoso were severely strained, on which account he asked that Ellicott might be confined to the scientific work of the survey and some one else sent to Natchez to act as the principal agent of the Government.

And so the controversy, which all the time tended to greater acrimony, dragged its slow length along. It is quite unnecessary for us to follow the correspondence which, in its later parts, presents few new points of interest. Assurances that the Spanish officers were at liberty to follow their own discretion in regard to dismantling the forts; that the legal landowners of the Natchez would not be molested; and that the neutrality of the national territory would be defended, were renewed. In the course of a long final report to the President, the Secretary of State summed up the various reasons that the Spanish officers had from time to time assigned for their delay in carrying out the treaty. In March they were not instructed in regard to the forts; neither could they withdraw from the district until real property was made secure and the temper of the Indians was ascertained to be pacific. On May 24 they were awaiting developments in relation to the threatened invasion from Canada. On May 31, along with other reasons, attention was drawn to the hostile intentions of the United States, as shown by the reports in relation to the Holston and the Cumberland. Mr. Pickering observed that the true reason was stated by Governor Carondelet in his proclamation of the last date, the expectation of an immediate rupture between France, the intimate ally of Spain, and the United States. And this opinion was no doubt correct.*

*The original documents from which the above account is drawn are found in the State Papers: Foreign Relations, Vol. II. The various phases of the controversy with Spain furnished rich material for party warfare. See MacMaster: History of the People of the United States, Vol. I, pp. 371-375; Vol. II, pp. 287, 350-352.

We must now return to the lower Mississippi. The permanent committee appointed in July conducted affairs with two ends in view, viz, to secure the jurisdiction of the United States and to preserve the peace and order of society. The committee was much disturbed by the intrigues of persons in the Spanish interest and in the British interest,* but succeeded in keeping the upper hand until a new order of things could be set up. The difficulties of the situation may be inferred in part from Ellicott's description of the population: "People of ambition and enterprise who have calculated upon the increase of fame and fortune, others who have fled from their creditors, and some (not a few) from justice, to which may with propriety be added those who fled from the United States during the Revolutionary War, for their monarchial principles or treasonable practices." In September the commissioner laid before the committee the information that he had received from Philadelphia concerning Blount's schemes, to arrest which the committee immediately bestirred itself.

In July Gayoso became governor-general in the room of Baron Carondelet, who was transferred to the Government of Quito. In October, Ellicott issued a public address denying that, as charged, he had in his communications to his Government recommended that the vacant lands in the district be sold in tracts 6 miles square; that he favored the prohibition of slavery, as in the Northwest; and that he was, or had been, engaged in large land speculations, such as buying up old British grants. In December a considerable detachment of United States troops under the command of Capt. Guyon arrived at Natchez.

On January 10, 1798, the governor-general announced to the commissioner that he had received final orders to evacuate Natchez and Walnut Hills, and that he should immediately carry the order into effect; he also informed him that he would soon be ready to make arrangements for running the boundary.

* It is not difficult to find a cause sufficient to account for the British interest. The old attachment to England had by no means died out, while such a scheme as Blount's seemed to promise a restoration of the British authority. One of the most active and influential men in the district was Col. Anthony Hutchins, an officer under British pay, who seems to have had secret information relative to Blount's plans. Hutchins, according to Ellicott, was as unscrupulous and dangerous as he was influential.

Again there was delay. Although the Spaniard kept the time of the coming evacuation as close a secret as possible, he did not elude Ellicott's vigilance. "On the 29th of March, late in the evening," he writes, "I was informed through a confidential channel, that the evacuation would take place next morning before day; in consequence of which, I rose the next morning at 4 o'clock and walked to the fort, and found the last party or rear guard just leaving it, and as the gate was left open I went in and enjoyed from the parapet the pleasant prospect of the galleys and boats leaving the shore and getting under way. They were out of sight of the town before daylight. The same day our troops took possession of the works.* Thus, when the time came, the Spanish officers thought the demolition of the fortifications of no consequence whatever.

It was now two and a half years since the seals were set to the treaty of San Lorenzo, and fifteen years since the independence of the United States had been definitively acknowledged. The old excuses had ceased to be plausible; the Government at Philadelphia was in no temper to brook further delay; while the people of Natchez, by renouncing the King of Spain's authority, had hastened the final issue.

Another train of circumstances had no doubt produced some effect. Georgia, resting upon her early charters and a compact with South Carolina entered into in 1787, claimed the country west of her to the Mississippi. In 1785 her legislature established the county of Bourbon, bounding it south by the thirty-first parallel and north by the Yazoo, west by the Mississippi, and east by the lands that the Indians had not yet relinquished. Steps were taken to organize a county government, despite the fact that the Spaniards were in full possession. In 1788 the State made a cession of the Yazoo district to the nation, but upon such conditions that Congress refused the offer. The exploitation of the lands led to the scandalous transactions known as the Yazoo Frauds.† Georgia sold the very ground under the Spanish garrisons, somewhat as Hannibal put up the city lots of Rome at auction. An accredited agent arrived at Natchez to assert the Georgia claim just before the conclusion of the treaty of San Lorenzo.

* Journal, p. 167.

† See C. H. Haskins: "The Yazoo Land Companies," Papers of the American Historical Association, Vol. v, p. 395.

The steady pressure of the Georgians westward had perhaps served to convince the Spaniards that they could not hold the ground.

Mr. Martin states still another series of facts that contributed to the grand result.* Baron Carondelet early determined to rest his final decision in regard to the delivery of the forts upon the success or failure of a further effort to detach the Western country from the Union. He sent an emissary, Thomas Powers, to Tennessee and Kentucky to confer with the former correspondents of the governors of Louisiana. After an eventful experience Powers returned to New Orleans in January, 1798, with a disheartening report; the day had passed when the Spanish coterie in the Ohio Valley cared longer to toy with the Spaniard, and Gayoso, to whom the report was made, dismissed the subject.

On April 9 Commissioner Ellicott left Natchez for the field of active operations, and we may date the beginning of the survey from that time. What with dense canebrakes to be cut through, swamps, bayous, and rivers to be crossed, wildernesses to be tracked, supplies to be brought from long distances, Indian hostilities caused by Spanish "crooked talks" to be overcome, instruments and baggage to be transported, and occasional lapses into Spanish procrastination, the survey proved very slow and laborious. Two full years were spent in establishing the line. On his return to Philadelphia Ellicott had been absent almost four years. His history of the survey has slight interest save for historical and scientific specialists. He tells us that in 1797-'98 a plan was formed "to add to the Union the two Floridas, with the island of New Orleans, provided the Spaniards either committed hostilities against the citizens of the United States at Natchez or joined France in a contest against us. From the secrecy, talents, and enterprise of those concerned, added to a temporary system of finance and a deposit of arms, there could not possibly be any doubt of the complete and almost instantaneous success of the plan had it been attempted." †

Reference has been made to the issue between Congress and Georgia over the Yazoo lands. Disregarding the State's protest, but at the same time creating a commission to adjust and

* History of Louisiana, pp. 271-273; 274, 275.

† Journal, p. 175.

settle pending questions, Congress passed an act in April, 1798, creating the Territory of Mississippi, which exactly coincided in extent with the territory over which the two powers had waged a long contest, and giving it a government like that of the Northwest Territory. Winthrop Sargent, who had been the Secretary of that Territory, was appointed governor, and he duly organized the government in September of that year. Ellicott testifies that, although the shadow of the Spanish jurisdiction that remained was finally withdrawn in January, 1798, and the inhabitants were left without law or government until September following, he never heard of a single outrage committed in the Territory, save by a small number of Spaniards.* It must be said to the commissioner's credit that, while he may sometimes have erred in discretion in discharging his delicate duties, he showed a courage, firmness, and devotion to his country that are worthy of all praise.†

*Journal, p. 167.

†The Mississippi historians treat Ellicott with much severity. It appears that he had been sent by the President in 1791 to run the line between the State of Georgia and the Creek Indians, but that the Creeks would not allow the line to be run. Claiborne writes the history of the survey with partisan animus. See "Mississippi as a Province, Territory, and State," Chaps. XIX, XX.

XXIV.—THE HISTORIC POLICY OF THE UNITED STATES AS TO
ANNEXATION.

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THE HISTORIC POLICY OF THE UNITED STATES AS TO ANNEXATION.

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The United States, according to President Lincoln, was "formed in fact by the Articles of Association in 1774." But the self-styled "Continental Congress," which framed those articles, represented and claimed to represent but a small portion of the American continent. The eleven colonies, whose delegates met at Carpenter's Hall, October 20, 1774, and those of the three counties of Delaware who sat with them on equal terms, though really a part of the proprietary government of Pennsylvania, were in actual possession of but a narrow strip of territory on the Atlantic seaboard, running back no farther than the line of the Alleghanies. To the southward lay Georgia, East Florida, West Florida, and Louisiana; to the northward Nova Scotia and Canada; and on their western frontiers Parliament had recently put the boundary of the new Province of Quebec.

It was the hope of Congress that their ranks might be swelled by the accession of all the British colonies or provinces on our continent. On October 26 a stirring appeal to unite in the Articles of Association, adopted two days before, was addressed to the inhabitants of Quebec. "We defy you," wrote Congress, "casting your view upon every side, to discover a single circumstance, promising from any quarter the faintest hope of liberty to you or your posterity, but from an entire adoption into the Union of these colonies." * * * What, it was urged, would your great countryman, Montesquieu, say to you were he living to-day? "Would not this be the purport of his address? Seize the opportunity presented to you by Providence itself. You have been conquered into liberty, if you act as you ought. This work is not of man. You are a small

people, compared to those who with open arms invite you into a fellowship. A moment's reflection should convince you which will be most for your interest and happiness, to have all the rest of North America your unalterable friends, or your inveterate enemies. The injuries of Boston have roused and associated every colony from Nova Scotia to Georgia. Your province is the only link wanting to complete the bright and strong chain of union. Nature has joined your country to theirs. Do you join your political interests." * * * "We are too well acquainted with the liberality of sentiment distinguishing your nation to imagine that difference of religion will prejudice you against a hearty amity with us. You know that the transcendent nature of freedom elevates those who unite in her cause above all such low-minded infirmities."*

The address concluded with the recommendation that they should choose a Provincial Congress, which might send delegates to the next Continental Congress to be held at Philadelphia in May, 1775, and formerly accede to the existing confederation, so that, in resisting future aggressions, they might rely no longer on the small influence of a single province, "but on the consolidated powers of North America."

The Annual Register for 1775, truly says that "of all the papers published by the American Congress their address to the French inhabitants of Canada discovered the most dextrous management and the most able method of application to the temper and passions of the parties whom they endeavored to gain."†

A correspondence with Canadian patriots was also begun by the Massachusetts committee of safety, and Samuel Adams was particularly earnest in his efforts to gain their support.

In May, 1775, another address to the inhabitants of Canada was adopted by Congress, from the pen of Jay. It declared that "the fate of the Protestant and Catholic colonies was strongly linked together," and that Congress yet entertained hopes of a union with them in the defense of their common liberty.‡

During the session of this Congress an address from the inhabitants of several parishes in Bermuda was received, and

* 1, Journals of Congress, 64.

‡ 1, Journals of Congress, 109.

† History of Europe, 32.

a Canadian once appeared upon the floor. In November the inhabitants of a district in Nova Scotia, which had elected a committee of safety, applied for admission into "the Association of the United Colonies."*

The proceedings of this Congress have come down to us in a very unsatisfactory state, owing to the fact that it was not deemed safe to print in the official journals all that was done. After forty years a large part of what was originally suppressed was published by the Government under the style of the Secret Journals of Congress, but no attempt was made to combine the two records or to supply an index to the whole.

In July, 1775, Dr. Franklin brought forward a plan which had apparently been drawn up for submission in May, for "Articles of confederation and perpetual union" between "the United Colonies of North America." They provided for the accession of all the other British colonies on the continent; that is, Quebec, St. John's, Nova Scotia, East and West Florida, and the Bermuda Islands. † Notwithstanding the care taken to suppress this proceeding, a copy of the paper got across the ocean and was printed in full in the Annual Register for 1775.‡

In the latter part of this year Congress dispatched agents to Canada and others to Nova Scotia to inquire particularly into the disposition of their inhabitants respecting a union of interests with the more southern colonies. The assembly of Jamaica had sent in a memorial to the King in council which, while disclaiming any thought of forcible resistance, set up the claims of their inhabitants to self-government in language nearly as strong as that used by the Continental Congress.§ The latter body responded in an address to the assembly of Jamaica thanking them for their sympathy, and saying that while "the peculiar situation of your island forbids your assistance," they were glad, at least, to have their good wishes.

Soon afterward three commissioners were appointed to repair to the northern frontier and endeavor "to induce the Canadians to accede to a union with these Colonies," and to send delegates to Congress.|| The commissioners were authorized

* 1, Journals of Congress, 230, 244.

† 1, Secret journals of Congress, 283.

‡ State papers, 252.

§ Annual Register for 1775; Hist. of Europe, 101.

|| Washington strongly urged this course in his letters from camp. Writings, Sparks' ed., III, 173.

to pledge them "the free enjoyment of their religion,"* and to raise, if possible, a Canadian regiment for the Continental Army.

A few men did enlist and such accessions were received from time to time that at last a Canadian regiment was organized and officered and a second one projected.†

Early in 1776 another set of commissioners, headed by Franklin, were dispatched directly to Canada on a similar errand, bearing addresses from Congress which were printed in French and English and circulated extensively among the people.‡ The instructions of the commissioners were to assure the Canadians that their interests and ours were inseparably united and to urge them to join us as a "sister colony."

No impression seemed to be made by the addresses, and it was soon discovered that quite an adequate reason existed in the fact that not one out of five hundred of the population could read. Dr. Franklin, on his return, said that if it were ever thought best to send another mission, it should be one composed of schoolmasters. With a few of the leaders there Franklin had better success, and during a fortnight something like a provisional government was set up under his auspices, which, however, melted into thin air on the approach of British troops.§

In June, 1776, Congress sent two ships to the Bermudas, with provisions to relieve the distress caused by our non-importation association, and with directions to inquire into the disposition of the inhabitants respecting a union of interests with ours.||

It is probable that the report was not encouraging, for when in July, 1776, Franklin's scheme for confederation was reported on by the committee which had had it under consideration for a year, the provision for bringing in the other English colonies was struck out, except so far as related to Canada. She was to have the right to admission on request, but no other colony was to be admitted without the consent of nine States.¶

* 1, Journals of Congress, 242.

† Writings of Washington, Sparks' ed., iv, 267.

‡ 1, Secret Journals of Congress, 42.

§ 1, Journals of Congress, 305.

|| 1, Secret Journals of Congress, 46.

¶ 1, Secret Journals of Congress, 290; Annual Register for 1776; State Papers, p. 269.

Provision was made by Congress as soon as these articles were agreed on and sent out to the States for ratification (November 29, 1777), for having them translated into French and circulated among the Canadians, with an invitation "to accede to the union of these States."*

Our invasions of their territory, however, and their ill success, had left little of the spirit of united resistance to British authority. Had the Declaration of Independence been made as early as the more fiery patriots would have had it, it is not impossible that Canada and Nova Scotia would have been swept into the current. Samuel Adams wrote in July, 1776, to a friend, that had it come in 1775, Canada, in his opinion, "would at this time have been one of the United Colonies."†

In the fall of 1776, Franklin, then about to sail on his European mission, submitted to the secret committee of Congress his scheme for proposals of peace. These were that Great Britain should acknowledge our independence and sell us Quebec, St. Johns, Nova Scotia, Bermuda, East and West Florida, and the Bahamas. In addition to payment of the purchase money, we were to grant free trade to all British subjects and guarantee to Great Britain her West India islands. In the paper explaining this scheme Franklin states that as to the colonies to be purchased "it is absolutely necessary for us to have them for our own security."‡

In letters to English friends while in France he expressed similar views, saying that discord would continually arise on the frontiers unless peace were cemented by the cession of Canada, Nova Scotia, and the Floridas.§

John Adams entertained opinions of the same kind. In April, 1782, while in Holland, he was advised by Henry Laurens, one of our foreign commissioners who had been captured by a British man-of-war and put in the Tower on a charge of treason, but was now at large on parole, that many of the opposition in England favored the surrender of Canada and Nova Scotia. Mr. Adams replied that he feared that we could never have a real peace with Canada or Nova Scotia in the hands of the English, and that at least we should stipulate, in

* 2, Secret Journals of Congress, 54.

† Life of Samuel Adams, II, 434.

‡ Franklin's Works, I, 143.

§ *Ibid.*, I, 311.

any treaty of peace, that they should keep no troops or fortified places on the frontiers of either.*

A few days later, Dr. Franklin submitted to Mr. Oswald, with whom, as the commissioner of Great Britain, the treaty of peace was afterward negotiated, a paper suggesting the dangers of maintaining a long frontier between countries, the roughest of whose people would always inhabit their borders and outposts, and that Great Britain might well cede Canada to us on condition of a perpetual guaranty of free trade with that province and a provision for indemnity for the losses both of Canadian loyalists and of Americans whose property had been burned in British invasions, out of the proceeds of sales of the public lands remaining ungranted.†

The influence of France was from the first thrown against the enlargement of the United States by the accession of any more of the British colonies. As most of these had once been hers, she doubtless hoped that they might some day become again part of their mother country. Our treaty with her, of 1778, stipulated that should she capture any of the British West India islands, it should be for her own benefit, while if we should occupy the northern colonies or the Bermudas, they should "be confederate with or dependent upon the said United States."

The adoption of the present Constitution of the United States, in abrogating by the voice of the majority the Articles of Confederation, was a revolutionary proceeding which threw two States out of the Union. North Carolina and Rhode Island, by refusing to ratify the work of the convention of 1787, put themselves for a time certainly very near the position of foreign States. This consequence of their action was strongly urged in the North Carolina convention. "In my opinion," said Governor Johnston, one of its members, "if we refuse to ratify the Constitution, we shall be entirely out of the Union, and can be considered only as a foreign power. It is true the United States may admit us hereafter, but they may admit us on terms unequal and disadvantageous to us." "It is objected," replied the next speaker, "we shall be out of the Union. So I wish to be. We are left at liberty to come in at any time."‡

* See Washington's letter to Landon Carter, of May 30, 1778, to the same effect. Writings, Sparks' ed., v, 389.

† Franklin's Works, I, 480.

‡ 4, Elliot's Debates, 223, 4.

"In my opinion," said James Iredell, afterwards a justice of the Supreme Court of the United States, "when any State has once rejected the Constitution it can not claim to come in afterwards as a matter of right. If it does not in plain terms reject, but refuses to accede for the present, I think the other States may regard this as an absolute rejection and refuse to admit us afterwards, but at their pleasure and on what terms they please."*

When, however, in 1789 and 1790, these States reluctantly sent in their ratifications, no question was made about receiving them on equal terms with those by which the new Government had been originally organized; and they came in on a footing of right.

The United States of 1789 were, in many respects, a political combination of foreign communities. The Atlantic was almost the sole means of communication between the Northern and Southern States. The Hudson helped to bind eastern New England to New York. The Ohio and the Mississippi might lead from one scattered settlement to another, but, of those who lived 20 miles from navigable water, it was only the favored or the adventurous few who had ever visited any State except their own.

To such a people there could be nothing startling in the acquisition of foreign territory. It could hardly be more foreign than much that was already within the Union. It could hardly be more distant, for a voyage from Philadelphia to London or Marseilles took less time and money and involved less risk and hardship than a trip to Cincinnati or Natchez.

Gouverneur Morris said at the time of the Louisiana purchase that he had known since the day when the Constitution was adopted that all North America must at length be annexed. †

At the close of the Revolutionary war both England and America regarded the long frontier on the north of the United States as not unlikely to be soon the scene of renewed hostilities. John Adams, in October, 1785, writes from abroad to the Secretary of State that some of the opposition in Great Britain were saying "that Canada and Nova Scotia must soon be ours; there must be a war for it; they know how it will end, but the sooner the better; this done, we shall be forever at peace; till then, never." ‡

* *Ibid.*, 231.

† Writings, III, 185.

‡ Works, VIII, 333.

But we had a boundary still more difficult to the southward. The end of the Seven Years' War in Europe had seen France cede to Spain New Orleans, with so much of her Louisiana territory as lay west of the Mississippi, and the rest to Great Britain. A cession from Spain of her claims on the Floridas had confirmed these as English possessions and made the Mississippi their western boundary; but during our Revolutionary war Spain had recaptured them and her title was confirmed by the peace of 1783.

In 1800 Spain ceded back her Louisiana territories to France, and the century opened with Spain bounding us below Georgia, and France hemming us in at the mouth of the Mississippi, and by an undefined, and perhaps indefinable, stretch of territory running from the gulf up toward the Canadian line.

The leaders of the Revolutionary period, who survived, were united in the belief that it was vital to our interests to acquire the French title. Hamilton,* John Adams,† and Gouverneur Morris‡ were of this mind, not less than Jefferson, Madison, and Livingston.

There was a serious question as to our right to make the purchase, and the administration represented the party which regarded the Government as one of delegated powers to be strictly construed. The great leader of the other school, Daniel Webster, declared, in 1837, during the heat of the controversy over the admission of Texas, that he did not believe the framers of the Constitution contemplated the annexation of foreign territory, and that, for his part, he believed it to be for the interest of the Union "to remain as it is, without diminution and without addition."§

We now have, however, more light as to the real intention of the founders, from the published letters of Gouverneur Morris, whose pen put the Constitution in form. No "*de crescendo imperio* was inserted in it," he wrote, at the time of the Louisiana purchase, because no boundaries could be wisely or safely assigned to our future expansion. "I knew as well then as I do now, that all North America must at length be annexed to us—happy, indeed, if the lust of possession stop there."||

If, on the other hand, it had been intended to keep the

* Works, III, 402.

† Writings, III, 185.

§ Works, I, 357.

‡ Life and Works, IX, 631. || Diary and Works, II, 442.

Union forever within the limits then existing, we may be sure that an express prohibition would have been inserted. This was Gallatin's view when Jefferson consulted his Cabinet as to the Louisiana negotiation. The adverse position, he wrote to the President, must be that "the United States are precluded from and renounce altogether the enlargement of territory—a provision sufficiently important and singular to have deserved to be expressly inserted." Jefferson's reply to this letter shows his own opinion more fully than it is elsewhere given in his correspondence. "There is," he wrote, "no constitutional difficulty as to the acquisition of territory, and whether, when acquired, it may be taken into the Union by the Constitution as it now stands will become a question of expediency."*

It was a time, moreover, for action rather than for deliberation.

Between a question of constitutional construction on the one hand, and on the other a possible French army under a Napoleon ascending the Mississippi to reconquer a New World, the administration was not disposed to hesitate as to the choice. Jefferson made the purchase, and the people approved the act. Never was fifteen millions of American money better spent.

The next opportunity to add to our possessions came in 1819, when we bought the Floridas of Spain, or at least a release of her title and pretensions to them; and the Supreme Court of the United States, being soon afterwards called upon to say what relation we bore to the new acquisition, held, to the surprise of some of the strict constructionists among our public men, that the right of the United States to wage war and to make treaties necessarily implied the right to acquire new territory, whether by conquest or purchase. This decision came from the lips of our greatest chief justice, John Marshall, and has been repeatedly reaffirmed by his successors on the bench.†

Neither the Louisiana nor the Florida purchase had presented the question of the absorption of a foreign sovereignty. North Carolina and Rhode Island had finally acceded to the Union, not in such a character, but as having been members with the other States of a perpetual confederation, for which there had been substituted a new form of government.

In 1836, however, came an application by the Republic of Texas for admission into the Union as a new and equal State.

* Gallatin's Writings, I, 114.

† *Mormon Church v. United States*, 136 U. S. Rep., 1, 42.

The dominant population there had always been composed of immigrants from the United States. John Quincy Adams, when President, had endeavored to buy it from Mexico,* and similar propositions from President Jackson had also been made without success.† In 1836 Texas claimed to have achieved her independence, and sent commissioners to Washington to negotiate a treaty of annexation. Mexico regarded her still as one of her provinces, and the United States delayed recognition of the new government until it should have proved its ability to defend its own existence. This was deemed sufficiently established after a year or two, and we, as well as the leading European powers, maintained diplomatic relations with Texas for several years while the question of annexation was pending.

The opposition to annexation was now led by John Quincy Adams, who introduced into the House of Representatives, in 1838, this resolution:

Resolved, That the power of annexing the people of any independent foreign State to this Union is a power not delegated by the Constitution of the United States to their Congress, or to any Department of their Government, but reserved by the people. That any attempt by act of Congress or by treaty would be a usurpation of power, unlawful, and void, and which it would be the right and the duty of the free people of the Union to resist and annul.

If, he said, Texas is annexed, it would be such a violation of our national compact as "not only inevitably to result in a dissolution of the Union, but fully to justify it; and we not only assert that the people of the free States ought not to submit to it, but we say with confidence that they would not submit to it."

On the other hand, many of the Southern leaders announced that if Texas were not annexed, and thus an opportunity offered for the extension of slavery, there would be a dissolution of the Union by the act of the South.

Early in 1844, a treaty of annexation was concluded, but the Senate rejected it by a vote of more than two to one. The admission of Texas was made the main issue in the Presidential election of the year. The Democratic party favored it in their platform, and won a decisive victory. President Tyler, thereupon, in his message to Congress at its December session,

* In 1827. Diary VII, 239. † Jackson offered \$5,000,000 for it in 1835.

recommended that the verdict of the people be ratified by an act of annexation, which should adopt and make into law the terms of agreement already agreed on by the two governments.

A compromise bill was passed by which the consent of Congress was given to the erection of Texas into a new State of the United States, but the President was authorized, should he deem it better to accomplish the same purpose by a treaty, to proceed in that manner. President Tyler promptly approved the act, and believing that any treaty he might negotiate would fail in the Senate, proceeded under the legislative clause, and on the last day of his term of office hurried off an envoy to Texas to obtain the consent of that Republic, which was soon given, and Texas, therefore, came into the Union in 1845, not by treaty, but by virtue of a statute of the United States supported by similar legislation of her own.

It is obvious that this mode of admitting a new State trenched directly on the importance of the States, in so far as they can be regarded as constituents of the Federal Government. Treaty-making was confided by the Constitution exclusively to the President and Senate, while the composition of the Senate was made such as not only to secure, upon every question of that nature, an equal voice to each State, but to guaranty a minority of the States against being overborne by anything less than two-thirds of all. The Texas precedent gave the popular branch equal powers as to the admission of a foreign State, and made the votes of a bare majority of the upper house sufficient.

From a very early period Cuba has been regarded by leading Southern statesmen as a desirable acquisition for us. In 1809, Jefferson wrote in regard to this to President Madison, that "it will be objected to our receiving Cuba that no limit can then be drawn to our future acquisitions. Cuba can be defended by us without a navy; and this develops the principle which ought to limit our views. Nothing should ever be accepted which would require a navy to defend it."*

A few years later, John Quincy Adams, as Secretary of State, in his instructions to our minister to Spain, wrote that Cuba and Porto Rico were natural appendages to our continent, and Cuba had become "an object of transcendent importance to the commercial and political interests of our Union. Its commanding position, with reference to the Gulf

* See also John Quincy Adams' Diary, v, 38.

of Mexico and the West India seas; the character of its population; its situation midway between our Southern coast and the island of San Domingo; its safe and capacious harbor of the Havana, fronting a long line of our shores destitute of the same advantage; the nature of its productions and of its wants, furnishing the supplies and needing the returns of a commerce immensely profitable and mutually beneficial, give it an importance in the sum of our national interests with which that of no other foreign territory can be compared, and little inferior to that which binds the different members of this Union together. Such, indeed, are, between the interests of that island and of this country, the geographical, commercial, moral, and political relations formed by nature, gathering in the process of time, and even now verging to maturity, that, in looking forward to the probable course of events for the short period of half a century, it is scarcely possible to resist the conviction that the annexation of Cuba to our Federal Republic will be indispensable to the continuance and integrity of the Union itself. It is obvious, however, that for this event we are not yet prepared. Numerous and formidable objections to the extension of our territorial dominions beyond sea present themselves to the first contemplation of the subject; obstacles to the system of policy by which alone that result can be compassed and maintained, are to be foreseen and surmounted, both at home and abroad; but there are laws of political as well as of physical gravitation; and if an apple, severed by the tempest from its native tree, can not choose but fall to the ground, Cuba, forcibly disjoined from its own unnatural connection with Spain, and incapable of self-support, can gravitate only towards the North American Union, which, by the same law of nature, can not cast her off from its bosom.”*

The immediate object in view was to prevent Great Britain from acquiring Cuba. Jefferson wrote to President Monroe, at about the same time (1823) that should Great Britain take it, he would not be for going to war for it, “because the first war on other accounts will give it to us, or the island will give itself to us, when able to do so.” “If we could get it peaceably,” he said, “it would fill up the measure of our well being.”

President Polk tried to buy it from Spain, and a hundred millions is said to have been the sum offered.

In 1852, Great Britain and France proposed to us the forma-

*1, Wharton's Dig. of Int. Law, 361.

tion of a tripartite agreement, by which each power disclaimed forever any intention to obtain possession of the island, and all undertook to discountenance any attempts to acquire it on the part of any other government. President Fillmore declined the overture, but in referring to it in his annual message, said that were Cuba "comparatively destitute of inhabitants or occupied by a kindred race, I should regard it, if voluntarily ceded by Spain, as a most desirable acquisition. But under existing circumstances, I should look upon its incorporation into our Union as a very hazardous measure. It would bring into the Confederacy a population of a different national stock, speaking a different language, and not likely to harmonize with the other members."

President Fillmore had, however, proposed and entered into a somewhat similar convention two years before with Great Britain, with reference to Central America.

By this it was covenanted that neither would ever occupy, colonize, or assume any dominion over any part of Central America. Mr. Buchanan, while our minister to England in 1854, in alluding to this Clayton-Bulwer convention of April 19, 1850, in a communication to the British foreign department, used this language:

Both parties adopted this self-denying ordinance for the purpose of terminating serious misunderstandings then existing between them, which might have endangered their friendly relations. Whether the United States acted wisely or not in relinquishing their right as an independent nation, to acquire territory in a region on their own continent, which may become necessary for the security of their communication with their important and valuable possessions on the Pacific, is another and a different question. But they have concluded the convention; their faith is pledged, and under such circumstances they never look behind the record.

The treaty of 1848, which closed the Mexican war, had given us on payment of \$15,000,000, New Mexico and California, and in 1853 another cession from Mexico—the "Gadsden purchase"—added southern Arizona at a cost of \$10,000,000 more. These new possessions turned public attention to the necessity of a canal across the Isthmus of Panama, and it was in the negotiations with reference to the status of such a canal that the covenant just mentioned in the Clayton-Bulwer convention was proposed by our Government and accepted by Great Britain. But the prospect of such a canal made the command of the entrance to the Gulf of Mexico doubly important to us, and gave a new color to our diplomacy regarding Cuba.

Edward Everett, in one of his communications to the British minister, when Secretary of State, in 1852, said that "territorially and commercially it would in our hands be an extremely valuable possession. Under certain contingencies it might be almost essential to our safety."

The Ostend manifesto of 1854 emphasized these considerations, and intimated quite strongly that if a peaceful cession could not be accomplished, a conquest might be dictated by the law of self-preservation.

President Buchanan devoted three pages of his second annual message, in 1858, to the Cuban question, referring to the fact that former administrations had repeatedly endeavored to purchase the island. The increasing trade of the Mississippi Valley, he said, and the position of Cuba as commanding the mouth of the river rendered its possession "of vast importance to the United States," and, trusting in the efficacy of ready money, he recommended an appropriation by Congress to enable him to make an advance to Spain, should he be able to negotiate a cession immediately on the signature of the treaty, and before its ratification by the Senate. A bill appropriating \$30,000,000 was thereupon introduced in the House and favorably reported, but no further progress was made. In his messages of 1859 and 1860, the President repeated his recommendations of a purchase, urging that it would secure the immediate abolition of the slave trade; but the forces that were working toward something greater, the abolition of slavery, were such as to render any serious consideration of the Cuban question now impossible.

An act passed under the Buchanan administration, which is still on the statute books, Revised Statutes, Title LXXII, explicitly affirms the power of the United States to acquire foreign territory by right of discovery, and is also of importance as one of the few laws by which large powers not belonging strictly to the executive function, have been placed by Congress in the hands of the President.

This statute provides that whenever any of our citizens discovers and takes possession of any guano deposits on any island, rock, or key, which does not belong to any other government, "such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States." All laws as to crimes and offences committed on the high seas are extended over such places. Trade in the guano

is to be regulated as is our ordinary coasting trade. The United States shall not be obliged to retain possession of such places after the guano has been removed. The island of Navassa, some 2 miles long, lying between San Domingo and Jamaica, discovered in 1857, is now a part of the United States under this act of 1856. Not long ago there were 150 persons living on it, all engaged in the removal of the guano. One of them killed another, and was promptly punished by the courts of the United States.*

Under President Lincoln's administration, the country had enough to think of in trying to preserve its territory, without endeavoring to enlarge it. He did, however, recommend to Congress in 1861, the consideration of a colonization scheme, by which the freedmen of the South, and such of our free colored population as should desire it, might be transported to some foreign land, where, in a climate congenial to them, they might build up a new community. To carry out this plan "may," he said, "involve the acquiring of territory and also the appropriation of money beyond that to be expended in the territorial acquisition. Having practiced the acquisition of territory for nearly sixty years, the question of constitutional power to do so is no longer an open one with us. * * * On this whole proposition, including the appropriation of money with the acquisition of territory, does not the expediency amount to absolute necessity—that without which the Government itself can not be perpetuated?"

When, a year later, slavery was abolished in the District of Columbia, \$500,000 was appropriated to aid in colonizing such of the freedmen as might wish to emigrate, in Hayti or Liberia. A few were aided to leave the country in this way, most of whom were taken by the Government to Ile à Vache, off the coast of New Granada, and the rest to Liberia.

Alaska was bought of Russia, by treaty, in 1867, for \$7,200,000. The House of Representatives insisted for a time on the necessity of an act of Congress to legalize the purchase, but the Senate refused to concur in this view, and the point was finally yielded. By this acquisition we came into possession not only of a part of the continent remote from our own, but of distant islands, some of them over 2,000 miles from the nearest point of seacoast previously within our jurisdic-

* Jones vs. United States, 137 U. S. Rep.

tion. The test of contiguity, as determining the right of annexation, was now, therefore, finally and deliberately abandoned. It was abandoned also with almost unanimous acquiescence, since there were but two votes in the Senate against the ratification of the treaty.

Had President Jackson had his way, a similar position would probably have been taken by our Government thirty years before, for, in 1835, he authorized our minister to Mexico to offer her half a million dollars for a cession of the bay of San Francisco and the adjacent shore.*

In the same year which witnessed the purchase of Alaska, Mr. Seward, as Secretary of State, also negotiated a treaty with Denmark for the cession of the West India Islands of St. Thomas and St. John, on our paying her \$7,500,000 for them. President Johnson, in his annual message for 1867, thus alludes to their proposed annexation:

In our Revolutionary war, ports and harbors in the West India islands were used by our enemy, to the great injury and embarrassment of the United States. We had the same experience in our second war with Great Britain. The same European policy for a long time excluded us even from trade with the West Indies, while we were at peace with all nations. In our recent civil war the rebels, and their piratical and blockade-breaking allies, found facilities in the same ports for the work, which they too successfully accomplished, of injuring and devastating the commerce which we are now engaged in rebuilding. We labored especially under this disadvantage that European steam vessels, employed by our enemies, found friendly shelter, protection, and supplies in West Indian ports, while our naval operations were necessarily carried on from our own distant shores. There was then a universal feeling of the want of an advanced naval outpost between the Atlantic coast and Europe. The duty of obtaining such an outpost peacefully and lawfully, while neither doing nor menacing injury to other States, earnestly engaged the attention of the Executive Department before the close of the war, and it has not been lost sight of since that time. A not entirely dissimilar naval want revealed itself during the same period on the Pacific coast. The required foothold there was fortunately secured by our late treaty with the Emperor of Russia, and it now seems imperative that the more obvious necessities of the Atlantic coast should not be less carefully provided for. A good and convenient port and harbor, capable of easy defence, will supply that want. With the possession of such a station by the United States, neither we nor any other American nation need longer apprehend injury or offense from any transatlantic enemy. I agree with our early statesmen that the West Indies naturally gravitate to, and may be expected ultimately to be absorbed by the Continental States, including our own. I agree with them also that it is wise to leave the question of such absorption to this process of natural political gravitation. The islands of St.

* 1, Wharton: International Law Digest, 557.

Thomas and St. Johns, which constitute a part of the group called the Virgin Islands, seemed to offer us advantages immediately desirable, while their acquisition could be secured in harmony with the principles to which I have alluded.

At this time the relations of President Johnson to the Senate were anything but harmonious, and mainly from this cause, I think, the treaty was rejected in 1868, although the inhabitants of both islands had already voted in favor of annexation.

Shortly after Gen. Grant's accession to the Presidency, he concluded the negotiation with the Dominican Republic, begun by Secretary Seward at the close of the preceding administration,* of a treaty of annexation of so much of the island of San Domingo as was not included within the limits of Hayti. As in the case of Texas, two independent sovereignties thus contracted for the absorption of one into the other, but unlike Texas, San Domingo was not to enter the Union as one of the States that compose it. The treaty was rejected by a tie vote in the Senate. In his next message to Congress, the President earnestly recommended legislative action in the same direction.

"The acquisition of San Domingo," he said, "is desirable because of its geographical position." * * * "At present our coast trade between the States bordering on the Atlantic and those bordering on the Gulf of Mexico is cut into by the Bahamas and the Antilles. Twice we must, as it were, pass through foreign countries to get by sea from Georgia to the west coast of Florida." * * * "The acquisition of San Domingo is an adherence to the 'Monroe doctrine;' it is a measure of natural protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from west to east by way of the Isthmus of Darien."

Congress responded to these appeals by sending an able commission, Senator Wade, President Andrew D. White, and Dr. Samuel G. Howe, of Boston, to visit San Domingo. They reported in favor of its annexation, but the project went no farther.

The opposition to Grant in this matter was started by Charles Sumner, then at the head of the Senate Committee on Foreign Relations, who seems to have been governed largely by his

* Seward's Works, v, 29.

interest in the colored race.* To them, he believed, belonged "the equatorial belt." They had established a republic in Hayti. If San Domingo were annexed to the United States Hayti must inevitably decline, and there would be a new argument for those who denied the capacity of the negro for self-government.

Down to the close of the reconstruction period, which followed the civil war, there was, indeed, no time after the Louisiana purchase when the question of the right and policy of annexation, with respect to any foreign territory, was not determined by every public man largely in accordance with his views of its bearing on the future of the southern blacks. Grant; himself, was looking to San Domingo as the site of future States of our Union, peopled and governed by colonies of our new class of freedmen.

The American people, in the words of Henry Adams, began the century with the "ambition to use the entire continent for their experiments." †

Jefferson was their leader, and of all American statesmen he best understood and represented the popular sentiment of his day. What Lincoln was to the North, Jefferson was to the country. But Jefferson had the larger, though less balanced mind. He was an idealist and an optimist. With equal rights and opportunities to every citizen, and to every State, he feared no extension of territory for a Union resting on community of interest and individual liberty. Jefferson never believed that the prosperity of the South was dependent on the institution of slavery, but, for half a century, among his successors in the conduct of the Government, were many who did. Our policy as to annexation, therefore, soon became a sectional question, and so continued until the Southern negro was given not only freedom but the right of suffrage.

President Grant's administration in 1872, by an agreement between one of our naval officers and the chief of Tatuila, one of the Samoan Islands, obtained the exclusive privilege of establishing a coaling station at the port of Pango Pango, and President Hayes took possession of the privilege ceded, in 1879.

* Memoir and Letters, iv, 448.

† History of the United States, II, 301.

The arts of civilization were introduced into the Sandwich Islands by American missionaries in the first quarter of this century, and their trade has always been largely with this country. They lie 300 miles nearer San Francisco than the outermost of the Aleutian Islands, which came to us as a part of the Alaska purchase. In 1843, an English officer, without authority, took possession of Hawaii, in behalf of the Queen, but this action was promptly disavowed by his Government. Our Secretary of State, Mr. Legaré, wrote, upon this event, to our minister to England, that these islands bore such peculiar relations to us that we might feel justified in interfering by force to prevent their conquest by any of the great powers of Europe.* Great Britain and France, however, allayed any ill feeling on the part of our Government by a convention made during this year, by which each covenanted never to take a cession of the islands or assume a protectorate over them.

In 1853, Mr. Marcy, as Secretary of State, in instructions to our minister to France, wrote of them thus: "It seems to be inevitable that they must come under the control of this Government." Two years later he informed our minister to Hawaii that we would receive the transfer of the territorial sovereignty of the islands. In 1868 the subject was again brought up, but Secretary Seward, fresh from his disappointments with reference to the Danish West Indies, wrote our minister that the time was unfavorable for the consideration of annexation propositions by the United States.

By the treaty of reciprocity, in 1875, the two countries were drawn closer together, and the commerce between them was soon doubled.

Early in the present year a treaty of annexation was laid before the Senate, but withdrawn on the accession of the new administration. In his message accompanying the treaty President Harrison said that the deposition of the Queen had left but two courses open to the United States, the assumption of a protectorate, or annexation.

The views of the present administration may be inferred from President Cleveland's first message, in 1884, in which he said, "I do not favor a policy of acquisition of new and distant territory, or the incorporation of remote interests with our own."

The annexation of Canada, so ardently desired by Franklin and all the statesmen of the Revolution, has never since that

* 1, Wharton: International Law Digest, 418.

period been made a subject of formal diplomatic discussion. Its growth in wealth and population and its federation into a great dominion of many provinces are evidently paving the way to independence. When that time comes, annexation will follow.

Her institutions are every year becoming better fitted to coalesce with ours, as her provinces, each with a life and history of its own, participate by their representatives in general legislation at a common capital under an executive who, during his term of office, is more secure in his position than the prime minister of Great Britain and little less subject to the pleasure of the sovereign.

The French Canadians are of a different race and tongue and religion from that of most of the Americans of the Revolutionary era. But if they were not afraid to admit them to citizenship of the United States in the eighteenth century, surely we need not be when the time comes, in the twentieth. The Americans of to-day are a composite race, and universal religious toleration has made us sensible that men's religious beliefs are dangerous to the community only when they are forced to conceal or suppress them. The Roman Church has frankly accepted the right of every people to such form of government as they may choose for themselves, and the million of Catholics in Canada would be no more, as such, a factor in American politics than the million of Catholics who are to-day inhabitants of New York, or the more than a million who are citizens of New England.

The different provinces of Canada are so situated with respect to each other and the natural boundaries of separation between most of them are such that their trade gravitates southward to the United States in seeking its center of distribution. What it has to sell, it can sell best to us. What it needs to buy it finds best here.

The immense area which the Dominion of Canada now includes, is beyond the powers of any mere colony or group of colonies to bring under the full influences of civilization. As fast as it approaches that end, so fast it also approaches the necessity of independence of Great Britain.

It is probable that Great Britain would make little objection to the severance from her possessions of so costly and unremunerative a dependence. Before the negotiation of the treaty of Washington our Secretary of State, Mr. Fish, in conversation with Sir Edward Thornton, the British minister, said

that our *Alabama* claims were too large to be settled in money and intimated that a cession of Canada might be accepted as a satisfactory adjustment. The reply was that England did not wish to keep Canada, but could not part with it without the consent of its population.*

The original area of the United States, before the Louisiana purchase, was, perhaps, a million of square miles.† That acquisition and the subsequent cession of the Floridas much more than doubled our territory. Texas then came to us with 300,000 square miles, and Mexico, in 1848 and 1853, ceded a somewhat greater number. In Alaska, we received, in 1867, an addition of over half a million, and thus our total area now is a little more than 3,500,000 square miles.

Canada and Newfoundland cover about the same extent of territory, or over 3,524,000 square miles, estimating for part of British Columbia not yet accurately surveyed.

At the time of the Revolution the latest authority on American geography was the *American Gazetteer*, published in London, in 1776. It gave the total area of the North American Continent, with a precision not aimed at by modern statisticians, at 3,699,087 square miles. The founders of the United States did not dream that the narrow line of States they had drawn together could in a century come to include a territory of 3,500,000 square miles, and still have beyond them another area of equal magnitude, and much of it of equal fertility and natural resources, into which to expand in the next century. But that expansion, I believe, it is our destiny to accomplish, and by no other means than those of peace and mutual good will. The good faith of the nation was pledged by the Clayton-Bulwer treaty against further extension to the southward, though it is doubtful whether this is still binding upon us;‡ but the North American Continent with every island on the east, and the Hawaiian group upon the west, all bound to it as satellites to their planet, will, if we continue in our historic policy as to annexation, eventually come under the flag of the United States.

It has been argued with great force by an eminent authority

* *Memoir and Letters of Charles Sumner*, IV, 409.

† This is the estimate given in Morse's *American Geography*, published in 1792.

‡ See Report of Senate Committee on Foreign Relations of December 22, 1892, on Senate bill No. 1218.

on American constitutional law,* that our plan of government makes no provision for a colonial system. But the relations of an extra-territorial possession to the United States can never be those of a colony to a European power. Such a colony has generally been treated as an appanage held for the benefit of the commercial interests of the mother country. Its trade, conducted by others and for others, has brought little benefit to its own inhabitants, to whom the navigation laws imposed upon them by a distant power have often seemed a kind of spoliation under the name of protection.

But any possessions, separated from the continent, which the United States may acquire, can rely on being governed under some system devised for the interest of all concerned, and administered by their own inhabitants, so far as they may show a capacity for self-government.

Nor yet need we fear that the United States would not, if the occasion demanded, rule with a strong hand, when we recall the almost despotic system of administration which, under the administration of Jefferson, was forced upon the unwilling inhabitants of the Louisiana and Orleans territories, and maintained until they had learned the real qualities and conditions of American citizenship.

Up to the present time the cost of such of our territory as has come to us by purchase has been, in all, as follows:

1803, Louisiana.....	\$15, 000, 000
1819, Florida	5, 000, 000
1848, California and New Mexico.....	15, 000, 000
1853, Arizona.....	10, 000, 000
1867, Alaska.....	7, 200, 000
Total	52, 200, 000

It has been cheaply bought, even if we add to these sums the expenditures in the Seminole war, which followed the Florida purchase, and of the Mexican war, which had so close a connection with those which came next.

The greatest lawsuit in the world is now on trial at Paris, brought to define our rights as owner of the remotest of these acquisitions, a little island in the Pacific, farther than is Hawaii from San Francisco. It is a pleasant sign of the times that this controversy arises mainly from a humane sentiment towards the brute creation, and is to be decided precisely as any question between good neighbors might be, by a friendly arbitrament.

* Judge Cooley in the Forum for June, 1893, Vol. xv, p. 393.

XXV.—THE ORIGIN OF THE STANDING COMMITTEE SYSTEM
IN AMERICAN LEGISLATIVE BODIES.

By PROFESSOR J. FRANKLIN JAMESON,
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THE ORIGIN OF THE STANDING COMMITTEE SYSTEM IN AMERICAN LEGISLATIVE BODIES.

BY J. FRANKLIN JAMESON.

Mr. Bryce and Mr. Woodrow Wilson have familiarized us all with the notion that the transaction of business through standing committees is one of the leading peculiarities of American legislative bodies, as compared with the English legislature, and indeed perhaps the most important of such peculiarities. Congressional government is mainly government by standing committees and their rôle in State legislatures is equally important. It is therefore somewhat remarkable that, so far as the writer knows, no thorough historical examination has ever been made into the origin of the system. This is, to be sure, of a piece with our usual neglect of the history of all portions of our constitution except such as have found place and mention in the document called the Constitution of the United States. Our system of standing committees is one of the most important elements in our form of government; yet we have been content to examine its development in the Federal Senate and House of Representatives alone, and to assume that its history begins with the year 1789, and with the United States. That the first Congresses had very few standing committees, and that the transaction of nearly all legislative business through them can hardly be said to have become the regular practice of the House until the time of Speaker Clay is familiar. It is the object of the present paper to show that the institution existed long before this, in England and the American colonies, and to trace its development from the sixteenth century to the time of the American Revolution. No doubt two reasons why this has not been done before are, first, that the system has no place in the procedure of the House of Commons, and has virtually had none for nearly two centuries; and second, that it is not found in the colonial legislatures of New England, the region in which historical writers upon the colonial period have been most numerous.

The standing-committee system, in its modern form, involves the following particulars: The institution by a legislative body, as a regular practice, of several committees, composed of its own members, and continuing in existence throughout the session, each of which has charge of a specific division of the business of the house in such manner that all matters falling within that division are regularly and usually referred to that committee for preparative consideration previously to their disposal by the house. Leaving out of account the ancient "triers of petitions," we may say that in the procedure of the English Parliament the germ of the system is the committee especially appointed to frame a particular statute from a petition or bill. Of such, an instance is found in the records of the House of Commons as far back as 1340. From the beginning of the printed journals of the House of Commons (1547), we find bills committed to one or two members, and other special committees. When Sir Thomas Smith, who died in 1577, wrote his famous treatise of the "Commonwealth of England," committees for framing laws were already an essential part of the procedure of Parliament. In describing its organization, he says:

The Committies are such as either the Lords in the higher House, or Burgesses in the Lower House, doe choose to frame the Lawes upon such Bills as are agreed upon, and afterward to bee ratified by the same Houses.

It marks a distinct forward step in the development of the institution when, at the beginning of Queen Elizabeth's third Parliament, on April 6, 1571, we find a group of election cases or a group of bills, all relating to the same general subject, referred to a single committee. In the committees of this session, thus charged with an entire division of the business of the House, we find the germs of three of the great committees of subsequent times, the committee of privileges and elections, the committee of religion, and the committee of grievances. But apparently they did not continue in the exercise of their functions throughout the session, nor do we find an equally developed arrangement in operation during the first two sessions of the Queen's fourth Parliament. In that of 1584-'85 and the next three the standing committee of privileges and elections was developed. It was natural that this should be the first of the standing committees to attain full development, partly because of the nature of its business, involving many questions too detailed and complicated for discussion in the whole house, partly because of the increas-

ing vigor with which the Commons were in this reign beginning to assert their privileges, among others that of determining all matters relating to their own elections. The Parliaments of 1584-'85 and 1586-'87 had committees of privileges but none of elections. That of 1589 had both. At the beginning of the Queen's eighth Parliament the final step is taken; these two functions are fused and confided to the charge of one and the same committee. February 26, 1592-'93, "Upon a Motion made by Sir George Moore touching some questions for the manner of Election of one Richard Hutton returned into this House one of the Burgesses of the Borough of Southwark in the County of Surry, * * * And upon another Motion thereupon also made by Mr. Wroth for a Committee for the Liberties and Priviledges of the Members of this House and their Servants, it is upon the question Ordered, that all the Members of this House being of her Majesties Privy-Council, Sir William Moore, Mr. Serjeant Yelverton, Mr. Robert Wroth, * * * Sir George Moore, Sir Walter Raleigh, Sir Francis Drake, Mr. Tanfield, Mr. Francis Bacon," and others "shall, during all this present Sessions of Parliament, examine and make report of all such Cases touching the Elections and Returns of any the Knights, Burgesses, and Barons of this House, and also all such Cases for priviledge as in any wise may fall out during all the same Sessions of Parliament." In this committee, with its roll of distinguished names, we have the first fully developed standing committee of the modern American type.

In the Parliament of 1598-'99 the practice begun in the last Parliament seems to have been regarded as a matter of course, and so also with those of 1601 and 1603-'4; in the latter case a comment in the Commons Journal declares that "this is a usual Motion in the Beginning of every Parliament." Of the procedure of these early committees there is not time to speak, further than to say that their members were appointed by the House, not by the Speaker. From the accession of the Stuarts to the outbreak of the Civil War, the standing committee of privileges and elections maintained its place. Matters of religion and grievances were confided, now to select committees, now to "grand committees," or, in modern parlance, committees of the whole. The Parliament of 1621 added two new committees of the whole, one for matters of trade, the other for courts of justice. With these additions the House of Commons completed its system,—a select committee of privileges and returns,

grand committees of religion, grievances, trade, and courts of justice. For a time there are some variations, but in the third Parliament of Charles I (1628), we find this system in full operation, and again in the Short Parliament and at the beginning of the Long Parliament. At the Restoration it was resumed, as we shall see, and continued for more than a century and a half to be the typical form of organization of a House of Commons. Of the five committees mentioned four were indeed committees of the whole. Yet the history of their development has formed a proper part of our investigation because, as will be seen later, all five were alike ancestors of the first standing committees in American legislative bodies.

With the opening of the Long Parliament the importance of the committees of the House of Commons, or of Lords and Commons jointly, increased greatly, especially from the time when the rupture with the King and the outbreak of civil war threw executive business of great importance upon the Houses. From this time on, and in the period of the Commonwealth, the government of England was government by committees. But the system was different from that hitherto existing. The most important committees of the years from 1642 to 1656 were the committee for the advance of money, the army committee, the committee for taking the accounts of the Kingdom, the sequestration committee, the committee of safety, the committee of both Kingdoms or committee of Derby House, and the committee for plundered ministers, for removing obstructions in the sale of delinquents' lands, for the relief of those who surrendered on articles of war, for compounding with delinquents, for indemnity, and for the sale of fee-farm rents or crown lands.

The Barebones Parliament of 1653, characteristically, chose not to revive the old scheme of committees, but made a systematic effort to arrange the business in classes and to confide each to a select body. The result was a system of select standing committees much resembling the modern American plan. But Cromwell's Parliament of 1654 was of a more conservative disposition, and partially reverted to the "ancient orders." With the second Parliament of the Protectorate (1656-'58) we find the House of Commons, in the same conservative spirit which inclined it to restore monarchical institutions, completely reviving the old system of committees. Though it retains standing committees for Ireland and for

Scotland, and for one or two financial matters, it institutes, as Parliaments had done before the Civil War, a select committee of privileges and returns, and grand committees of religion, grievances, trade, and courts of justice. The same course is pursued by Richard Cromwell's Parliament and, in part, by the Convention Parliament of Charles II. From the meeting of his second Parliament in 1661 down to the year 1832, with scarcely any exception, the House of Commons at the beginning of each session appointed a number, generally from one to three hundred, of its members to be a committee of privileges and returns, and appointed committees of the whole house for religion, grievances, trade, and courts of justice.

It was in the days of the later Stuarts that the parliamentary system of committees made its transit from England to the American shores. The subsequent history of the system followed in the House of Commons has no bearing on American institutions, and there is no time on the present occasion to relate it. Its story is a story of decline and neglect. If it seems remarkable that this should be so, in view of the obvious convenience of the standing committee as an instrument for the speedy transaction of legislative business, the explanation is not far to seek. England, during the century which followed the Restoration, was gradually developing her system of cabinet government. Now the English cabinet is essentially an executive committee of the legislature, so organized that, in each department of governmental activity, the work preparatory to legislation is performed by a particular member of this committee and his official subordinates. Such a system makes less necessary the maintenance of standing committees of the legislature, charged each with a particular branch of the public business. In the House of Commons they did not develop, after the reign of Charles II, beyond the stage which they had reached in that reign. In fact, they receded from that point. The ancient committee of privileges and elections continued to be appointed, and indeed is still appointed, at the beginning of each session; but it never meets. The four grand committees have been, even as a matter of form, discontinued since 1832.

It is time to turn to the history of the system in the American colonies. In New England, though committees were by no means unknown, we do not find the system existing at any time before the Revolution. The American system, borrowed

from England, was developed in the colonial assemblies of the middle and southern colonies, but earliest in Virginia and Maryland. That it was borrowed from England is proved by the fact that, in those colonies where it obtained its earliest and fullest development, the names and functions of the committees resemble closely those of the five English committees whose history we have been following. Particularly is this the case in the Virginia House of Burgesses. In 1663 we find existing there a committee of elections; in 1677 a committee of propositions and grievances, with a clerk having a salary of £50 sterling. In that same year, and again in 1679, 1691, and 1697, there is mention of a committee for public claims. The same committee appears, along with a committee of elections and privileges and one of propositions and grievances, in the single early manuscript journal which chance has preserved at Richmond, that of the session of 1693. All through the sixty years preceding the commencement of the printed journals of the Burgesses we catch glimpses which assure us of a well developed system of standing committees, plainly founded on the committee system of the House of Commons. When the printed journals begin, in 1732, we find already established a regular system of four standing committees, one for privileges and elections, one for propositions and grievances, one for courts of justice, and one for public claims. These continue to be found till the Revolution. In 1742 a committee for trade was added; in 1765 a committee for religion, completing the system upon strictly English lines.

The history of the institution in Maryland extends nearly as far back as in Virginia. In 1678 we find the assembly possessing a committee of privileges and elections and a committee of laws, in 1682 a committee of trade. In the autumn session of 1683 it is "Voted that a Committee of priviledges and Eleccōns be Appoynted to enquire of such matters as are usually enquired of by Committees of that kind," a form of phrase which supports the theory of conscious borrowing. These are from the early journals. Later the system came to consist, with some differences from that of Virginia, of a committee of elections and privileges, a committee of "aggrievances," and a committee of accounts, with others less constantly.

Penn's frame of government (1682) provided for a division of the council of Pennsylvania into four committees; but this seems not to have been carried out. The lower house also set out with an intention of transacting its business through stand-

ing committees, after the manner of the House of Commons. The first entry in its minutes is of the appointment of five members to be a committee of elections and privileges. Six others were named a committee for justice and grievances, and it is declared that the rules of the body shall be modeled after those of the House of Commons (December, 1682). At the beginning of the next assembly "the Speaker reads to the House the orderly Method of Parliaments, and the Demeanour of the Members thereof observed in England, which he recommended to them as civil and good; As also the Method observed by the English in Committees." But in fact no system of standing committees appears in Pennsylvania until considerably later (1722), after which we find in every session a committee of public accounts and a committee of grievances, and after 1774 a committee of correspondence.

In North Carolina the imperfection of early record makes positive statement difficult, but it appears that the legislature in the early days of the eighteenth century had committees of the whole upon elections, and upon propositions and grievances; that in 1733 it established select committees for the latter matter and for public claims; and that by the time of the Revolution its system included standing committees of privileges and elections, propositions and grievances, public accounts, and public claims. In the legislature of New York, always a small body, though the committee of elections and the (select) committee of grievances occur so early as 1699, one finds few committees and no extensive system until 1737, when there appears a system quite after the English model, with a select committee of privileges and elections, and grand committees for grievances, trade, and courts of justice. The assembly of New Jersey, a still smaller body, was virtually without standing committees till the Revolution. Respecting Delaware, South Carolina, and Georgia the writer can at present make no statements. But enough has been said to show that at the time of the Revolution, and many years before the first session of the First Congress, in 1789, the system of standing committees was the regular and established system for the transaction of legislative business in at least five, and those among the most important of the American legislatures. Of the rest, those which did not already have the system adopted it at a later time under the influence of the example of the Federal legislature until it became the universal plan of organization in American legislative bodies.



XXVI.—GENERAL JOSEPH MARTIN AND THE WAR OF THE
REVOLUTION IN THE WEST.

By PROF. STEPHEN B. WEEKS,
OF JOHNS HOPKINS UNIVERSITY.

S. Mis. 104—26

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PREFACE.

The following paper owes its existence, primarily, to the enthusiasm of the late Lyman C. Draper and to the courtesy of the officials of the Wisconsin State Historical Society. While collecting materials for his history of the border warfare and border heroes of the United States Dr. Draper made several visits to Col. William Martin, who was then still living in Smith County, Tenn. He made Col. Martin's house his home, and at his request Col. Martin began in 1842 an account of the career of his father, Gen. Joseph Martin, and of many of the events with which he was personally acquainted or knew at first hand. His accounts were submitted to Dr. Draper from time to time, who criticised them, pointed out what he thought were errors, and asked more questions. The original of Col. Martin's account has come to me from Mrs. Fanny M. Tate, of Montvale, Bedford County, Va. Its omissions have been filled in from the original letters of Martin, Sevier, Blount, Henry, Christian, Campbell, and others, and from the MS. narrative of Maj. John Redd, who served under Martin in Christian's campaign in 1776, which are now in possession of the Wisconsin State Historical Society.

Few of the charges to which "reminiscences" are so frequently liable can be brought against Col. Martin's narrative. It is remarkably accurate. I have frequently doubted some of his statements, but on tracing them back to an undoubted authority have found that he was correct.

Some letters of Gen. Martin and others relating to his career have been recently printed in the Calendar of Virginia State Papers, and in the Life, Correspondence, and Speeches of Patrick Henry. Others were printed in the American State Papers, Indian Affairs. Quotations have been made from the originals in all cases where they were accessible to me, but I have added references to the places where such may be found, if printed.

The local histories dealing with the subject have been used only so far as was necessary to supplement the MS. accounts, and their use has been indicated in the footnotes. When no

authority is given it will be understood that the statement is based on the MSS., and when accounts differing from the MSS. have been printed already I have followed the MSS. The map of the territorial limits of the Cherokees accompanying Mr. Charles C. Royce's history of the Cherokee Nation of Indians has been of much service in the work.

I beg to express my thanks to Mrs. Fanny M. Tate for the use of the MS.; to Messrs. R. G. Thwaites, secretary, and I. S. Bradley, librarian of the Wisconsin State Historical Society, for many courtesies shown me; to Mr. William Wirt Henry for original letters of Gen. Martin; to Mr. R. A. Brock, of Richmond, and the Hon. Walter Clark, editor of the Colonial and State Records of North Carolina, for information concerning his civil career.

GENERAL JOSEPH MARTIN AND THE WAR OF THE REVOLUTION IN THE WEST.

By STEPHEN B. WEEKS.

I.—INTRODUCTION.

In writing the history of the struggle for independence we are apt to keep our eyes to the foe on our Atlantic border and to disregard the savage in our rear. They were an enemy more dangerous to the development and growth of the American people than any other; one jealous of the encroachment of white men on their hunting grounds, easily inflamed by emissaries from the foe, first under the influence of the French and then under that of the English, and who at all times wanted little extra incentive to begin the work of death.

While one army was pressing to the front to meet the English another was needed on the frontiers to meet the savages. In the North and central West the struggle was against the Iroquois and the Algonquins. It was conducted by the nation and the success achieved was not individual but national. In the Southwest the struggle was principally against the Cherokees, kinsmen of the Iroquois. It was not national but individual. This tribe offered sterner resistance to the whites than any other. The war with them was longer and more destructive, and defeat in the critical period of 1780-81 would have been attended with the most lasting consequences. This territory was won by the Americans, as their Saxon ancestors had won the soil of England, by fighting inch by inch.

The men who served in this advance guard of civilization, fighters and pioneers, subduers of wild men and wild nature, "suffered more and were rewarded less, perhaps, than any others in any age or country." Their station was a peculiarly trying one. They were subject literally to a constant call; constant watchfulness is inexorably demanded against a savage foe.

Walter Bagehot, in discussing the formation of national character, shows how chance preponderance sometimes furnishes a model, and how invincible attraction has then drawn men to

this model.* We have an excellent illustration of this thesis in the career of Henry the Fowler and his companions, who, finding a Slavic or Wendic people inhabiting what is now Germany, maintained themselves against these heathen Wends in fortified burgs like Branibor (Brandenburg), and finally conquered what is now Germany for the Teutonic race. So, in the evolution and development of American character, the difficulties incident to colonial life, the struggle with the wilderness and with the savage, produced a type of men whose best examples are to be found in the Indian fighter and backwoodsman of the seventeenth and eighteenth centuries. He is no longer with us, for economic changes and industrial advance have given the pioneer of to-day many and vast advantages over his predecessor of the last century; but to him and to the difficulties which he mastered is due no small part of the pluck and energy of the American people.

The treatment which these pioneers have received at the hands of posterity has varied as much as their individual careers. One class, like Boone, Robertson, Sevier, have had their daring deeds told again and again to an admiring people. Another class, like Bledsoe, Campbell, Christian, Martin, have almost disappeared from view, although their work is hardly less heroic than that of their more fortunate fellows. The most obvious reason for this is that the materials for their personal history were less accessible and more fragmentary in character. Then, too, they occupied, if not less responsible, less exalted stations in life. They were foundation stones. On the work of these two classes the subsequent century of development has been based, and the former should not be unduly exalted at the expense of the latter.

Of this latter class of State builders no better type can be found than the Martin family of Albemarle and later of Henry County, Va. The men were tall and well proportioned, athletic and powerful, healthy and persevering, their powers unabated to old age; the women, not beautiful, but magnificently handsome; the men intelligent, roving in disposition, born fighters and utterly ignorant of fear. To Gen. Joseph Martin, their leader and representative, is due in no small measure the check given the Cherokees in the Revolution. It was largely his diplomatic work that kept them quiet during the British invasion of 1780-'81, in spite of the incitement of British agents

* Physics and Politics, I, Sec. iv, p. 56.

and the encroachment of whites; this enabled the men of the Watauga Settlement to strike a heavy blow for liberty at King's Mountain which proved to be the beginning of the end. General Martin and his sons were also useful in the further reduction of the Cherokees and in the final planting of Tennessee.

II.—FAMILY, BIRTH, EARLY YEARS.

The Martin family, so far as we know, was from the middle ranks of society, and of pure English ancestry.* The earliest representative of whom we have record was William Martin, a large merchant of Bristol, England. He was engaged in the American trade, was a man of large estate and had three children, George, Nancy, and Joseph Martin. Joseph was the youngest child. While still a young man, sometime during the first quarter of the eighteenth century, he was furnished by his father with a ship and cargo and sent by him as supercargo to Virginia in a vessel called the *Brice* to prevent him from contracting an unsatisfactory English marriage. Here young Martin met Susannah Childs, the daughter of a respectable and worthy planter, and descended from one of the oldest families in the province.† He married her. This outraged the father, who thought the son had married beneath himself, and the son was disinherited. Somewhere about 1762, when William Martin was dead and his grandchildren in America were coming to maturity, their uncle and aunt in England offered to divide the paternal estate with them. Joseph Martin, the son of Miss Childs, was selected to go to England to settle the business. He secured passage on a certain vessel but failed to arrive in time for sailing and was left behind. The vessel was lost at sea and no further effort was made to get the fortune.

Joseph Martin, the elder, did not return to England after his marriage, but settled in Albemarle County, Va. Joseph Martin the second, the third son, was born near Charlottesville, in this county, in 1740. He was one of a family of five sons

*There is a family tradition that the name was originally LaMartine and that the founder came over with the Conqueror. This legend is probably worthless. It is possible that they were Huguenots. Certain it is that the older members of the family called the name Mar-tine.

†She was one of a large family, mostly of girls. From them have descended a numerous offspring, including some of the Wallers, Caves, Lewises, Macks, Overtons, Minors, Terrys, Childs, etc.

and six daughters, and, with two of the daughters, was of superior mental ability. The elder Joseph married a second time, lived unhappily, took to drink and died in Albemarle County, Va., about 1760, leaving a good estate. His first wife is described as "a most amiable woman," while it is said that her husband was "a perfect Englishman, possessing all the arrogance and self-importance" characteristic of them as a race. He was bold, self-willed, supercilious, with the highest sense of honor.

When a boy Gen. Martin developed a character suggested by the frontier life he led. He was overgrown, rude and ungovernable. He ran away from school so much to spend his time with idle boys that his education was very defective. He was so reckless in disposition that his father, despairing of governing him, bound him out as an apprentice at the carpenter's trade; but this was too confining, so he ran away from his master and in company with Thomas Sumter, afterwards of South Carolina, joined the army at Fort Pitt. How long they remained here or what part they played we do not know. Sumter started home first and Martin on his return found his friend in jail at Staunton for debt. Martin obtained permission to lodge with him all night and in the morning left him his tomahawk and 10 guineas. With the aid of one or both of these Sumter escaped. They were afterwards separated for many years. They met when Martin was in the Virginia legislature and Sumter in the Congress of the United States. The latter handed the former 20 guineas in discharge of the debt incurred so many years before.

Martin's father died about 1760, and he was left master of himself with a small inheritance. In 1762 he married Sarah Lucas, a woman who was poor but of superior qualities, with remarkable administrative ability. He settled in Orange County, but marriage did not bring with it reformation. He continued his wild life. He was nominally engaged in farming but was too restless for the plough. Imbued as he was with the reckless spirit of the day, still, strange as it may seem, he never took more than a social glass, was never drunk in his life, and was not a profane man. But in the science of gambling he was a proficient. He wasted his patrimony and became involved in debt. But this career of debauchery was amended to a certain extent. At the close of the French war he engaged in trading for peltry. Six or eight months were spent among

the Indians at a distance of 100 miles or more from the frontier. They returned loaded with skins and furs, and their profits in the traffic were very large. Martin followed this for several years. These men were not traders only, but hunters as well, and were frequently known as long hunters. In 1761, 1762, and 1763, a party of hunters went out under one Wallen, who gave name to a ridge east of Powell's valley.* It is more than likely that Martin was in this company.

Martin's gambling seems to have become more profitable also, for he was a good deal of a bully, and made use of his physical power to terrify opponents, and always kept sober while feigning intoxication. With the profits from these sources he made money enough to redeem himself from the gambling debts that had been weighing him down.

Martin was not alone in this career of debauchery. He had two companions who were as bad as himself, and who were likewise destined to become men of mark in the Patriot army. One of these was Thomas Sumter, later of South Carolina; the other, Benjamin Cleaveland, one of the heroes of King's Mountain, was reared in the county of Orange. He was of the same temperament as Martin, the attraction between them was strong, and they became boon companions. He also was married, but they worked little, depending on hunting, gambling, and trading. Their wives, better than they, administered home affairs while they thus spent their time in riotous living. About 1767, Martin and Cleaveland put in a field of wheat on Pig River, in what is now Franklin County, Va., but they were too indolent to fence it; there was something of a crop, friends and neighbors were invited to the reaping, a fiddler and whisky were also provided, most of the reapers got drunk, and the crop was never harvested.†

But after a while these prodigals came to themselves; they saw it was necessary for them to separate if they desired reform. Sumter went to South Carolina, Cleaveland removed about 1769 to what is now Wilkes County, N. C.,‡ and Martin settled down to a life more honest and more picturesque. Martin and his companions were perhaps only a little more reckless than the better classes of colonial society. Gambling

* Roosevelt: *Winning of the West*, I, 136.

† Draper: *King's Mountain and its Heroes*, 428.

‡ *Ibid.*, 428.

was indulged in recklessly by most of the upper class, who usually added to it the horse race, the cock fight, and intoxication.

III.—THE FIRST SETTLEMENT OF POWELL'S VALLEY.

But the object of this paper is not to defend Martin or to make apologies for his character, but to tell what he contributed to the onward movement of English civilization. His contribution began with his attempts at the settlement of Powell's Valley.*

This valley consists of a long reach of unusually fertile land on the eastern side of the Cumberland Mountains and embraces Cumberland Gap. It lies mostly in what is now Lee County, Va., but extends down into Clairborne and Hancock counties, Tenn. The hunter and the trader have always preceded the settler, and Martin had become acquainted with the section during his expeditions among the Indians for peltry. It was then about 100 miles beyond civilization, but he saw with the unerring instinct of a backwoodsman that the time was not far distant when the onward moving wave of emigration would reach this region.

The first white man to visit this country seems to have been Dr. Thomas Walker (1715-1794), of Virginia. In the year 1748 he made a journey of exploration through the region and gave name to Cumberland Mountains and to Cumberland Gap in honor of the Duke of Cumberland.† He visited the region again in the spring of 1750 and has given us an interesting account in a journal recently printed. He visited the same section in 1768 and came into possession of a large tract of land and determined on settling it. He made propositions to the Kirtleys and to a party of which Martin was leader. The land was exceedingly fertile and was considered a prize.

Then began a rush for this Cherokee strip which in picturesque vividness and intensity of the efforts for success reminds us forcibly of the struggle of "sooners" and others for the Cherokee Strip that we have seen recently thrown open to civilization. Fortunately we can give an account of the rush in

*Draper, following Haywood, thinks the valley was named for Ambrose Powell, who was with Walker in 1750, possibly in 1748.

† Ramsey: Tennessee, 65.

Martin's own words. He writes to a friend in Virginia, May 9, 1769.*

Having a few leisure hours, I embrace the opportunity of writing to you. Perhaps it may not be disagreeable to you to hear of our former travels, as well as our present Station. The day I parted with you and my other friends, with sorrowful hearts, and weeping eyes, I set forward on my tedious journey. The weather proving tolerably good. I got to Stanton in four days—completed my business there—got to Capt. Englishes on New River, 14th of the month, being March, where I laid in a sufficient stock of provisions, for our journey. (viz:) seed corn and ammunition etc. I then sent the boys on under the care of my brother, and waited for Doct. Walker, and my companion Capt. Hood, who came up 16th at night. Next morning we started. Nothing material happened till we got to Holston River, where we were informed, the day we left New River the Kirtleys, with Capt. Rucker and Several others, came there and gave a man five pounds to pilot them a road — days journey nearer than the road we were then going, which confused us very much. For the case stood thus. If they got there first, they were all to have 1,000 acres of land each, where they thought proper to take it. If we got there first, we were to have 21,000 acres, where we chose, and they were not to interfere with us. We immediately hired a pilot—took two of our best horses, about one quart of flour, and pushed on as hard as interest and desire could lead us, leaving the boys, to follow after. The third day to our great mortification, we found we were lost—and after three days travel more, over mountains—creeks—laurel—canebrakes etc. our days being spent with hunger, gave out—ourselves and horses, very little better. We were under the disagreeable necessity of resting part of two days. The 2nd day I found the Hunters track about 5 miles from our camp. I hastened back as fast as possible to tell the welcome news, to my companions. The next day being the 24th, we set out, full of hopes once more. With much difficulty I prevented my companions from discharging our pilot with heavy blows. 26th, we got to our long desired place. April 1st the boys got to our camp, which was on Saturday. Monday being the 3d, we then began to work, and from then till now, there has been little else but eating & confusion. As to our health, I need not mention it, you may be assured of that yourself, after I tell you, we have eat and destroyed 23 deer—15 bears—2 buffaloes and a great number of turkeys. The 15th April the Kirtleys got to the Valley, very well pleased with the land, till we gave them a letter from Doct. Walker, that informed them if we got to the valley first, we were to have 21,000 acres of land, and they were not to interfere with us. They endeavored to prevail on us for a part of our land, which we would not consent to. They then pushed home without making any further search for land. The place we are now Settled on, is the waters of Beargrass, called by the Hunters Powels River, about a mile from the foot of a long ledge of mountain, called Cumberland, much resem-

*This letter, evidently the work of Martin, is unaddressed and was never sent. Col. Martin thinks it was intended for Capt. William Simms, of Albemarle County, Va.; that some unknown cause prevented it from being sent and that it was then preserved as a sort of diary.

bling our Blue Ridge, only considerably longer, and much steeper, running the same course, by the account, three hundred miles; and from Powels Mountain about 7 miles. Powels Mountain is near the course of the South-West mountain, running the same course. From where we crossed it, for nearly 6 miles is broken land. Then commences our rich Valley, which is in length (by the hunters account) equal to the Mountains above mentioned. We have marked off in length about 10 miles—in width, some places, a mile—some places more, some less, all very rich, and lies very well, with Vast quantities of black Walnut and wild cherries. Great signs of old Indian Lands. It lies out of all danger from water being near 5 miles from Powels River. Very good Springs—Bold creeks, big enough for Mills.—great quantities of corn, sufficient to support great stocks for many years. I think considerably warmer here than with you, (vast numbers of ticks and gnats). We had abundance of snow fell the 20th. of April, tho. very little lay. We had frost 4th. May, April 24th. came several gentlemen from Culpeper, with negroes to Settle. Likewise several gentlemen from Bedford, 3 gentlemen from Maryland, to get land to settle 100 families.

It was the purpose of Martin to make a permanent settlement here. But it does not appear that he had more than five or six adventurers* with him. The stand which they made has since been known as Martin's Station. It was on the Kentucky road and about 20 miles north of Cumberland Gap.† They put in corn and other field products, but in the latter part of the summer the Indians broke up the settlement; the post was abandoned and the party returned home.

There was little war between the whites and Cherokees from the conclusion of the French war to the Revolution. But white hunters were intruding on their grounds and when they complained to the Indian agent, he told them not to kill but to rob the settlers. The Powell's Valley settlement was one of the first to suffer. It happened that Martin and his party, after they had finished working their corn, set out to explore Kentucky, of which they had heard. The Indians fell in with them while they were on their way, made friendly overtures to them, got into their good graces, and at a premeditated signal seized most of their guns. The party thereupon returned from Kentucky, and when they got back to Powell's Valley found that their establishment there had been robbed also and broken up.

So far as we know Martin made no further attempts at settlement in connection with Dr. Walker, although the latter does

*This is Redd's statement which he derived from Martin. Col. Martin thinks there were twenty or thirty.

†This station is shown in old Tassel's map of his claims as presented to the commissioners at Hopewell in 1785.

not seem to have despaired of regaining control. He writes Martin in September, 1771, "I have hopes that from the honesty of the Cherokees your improvement will be taken within the line." Martin let his project of settlement lie dormant until the time of Henderson and company.

IV.—MARTIN A FARMER AND REMOVAL TO HENRY COUNTY, VA.

Martin now abandoned his western wanderings. He applied himself to the soil and engaged as overseer to one of his relatives by the name of Minor. Here he remained three years. They seem to have been years of active industry and so far improved his circumstances that he purchased a good tract of land in that part of Pittsylvania County, which became Henry in 1776. He removed to this in the fall of 1773. He established himself on Smith River in the northern part of the county. Toward the close of his career he sold all property here, removed to the southern part of the county, and built a large residence on Leatherwood Creek. He collected slaves around him and from these homes as centers the Martin family of the next generation went out.

V.—MARTIN AND THE SHAWNEE WAR OF 1774.

Up to this time we have seen Martin dealing with the Indians in the capacity of explorer, trader, and adventurer. In 1774 the Shawnee war broke out. August 25, 1774, Lord Dunmore commissioned Martin a captain of the Pittsylvania militia, but it would seem that he served not as a captain, but as a lieutenant under Abraham Penn. Penn's company was stationed in Culbertson's Bottom, on New River, one of the branches of Kenhawa. The scouts were put by Col. Preston under Penn's direction, but he does not seem to have been in the Bottom at all, and in his absence Martin commanded; as these, both officers and privates, were select men, the giving the command to Martin indicates the reputation he had already won as an Indian fighter. Col. Preston writes Martin on October 12, 1774: "I know you have made several long fatiguing scouts with your men, for which I am much obliged to you. The pass is important and I am fully satisfied you will do all you can to guard it." Martin being thus engaged in scouting was not in the great battle at Point Pleasant, at the mouth of the Great Kenhawa, 10th October, 1774.*

* Col. Martin gives an account of this battle as derived in conversation from Gen. Robertson, a participant. It differs in many respects from the printed account.

VI.—TRANSYLVANIA AND THE SECOND POWELL'S VALLEY SETTLEMENT.

After the battle of Point Pleasant and a further invasion of their country the Shawnees relinquished all claim to the lands south of the Ohio. The larger part of this territory had been held by the Cherokees since the beginning of the century. They were now anxious to sell. Daniel Boone had first set out to Kentucky about May 1, 1769, and had been defeated in Powell's Valley in 1773, but still held to his purpose of making a settlement on Kentucky River, and, being desirous of getting the consent of the Cherokees, induced Col. Richard Henderson and others of North Carolina to make a treaty and a purchase of the Cherokees to that effect. A company was organized for this purpose in 1774. It consisted of Richard Henderson and John Williams of Granville, William Johnston, James Hogg, Thomas Hart, John Luttrell, and Nathaniel Hart, of Orange, while Leonidas Henly Bullock, of Granville, and David Hart, of Orange, held half shares, making eight shares in all. The company signed a treaty with the Cherokees March 17, 1775, at Sycamore Shoals on Watauga River. By this treaty for the sum of £10,000, paid in merchandise as was alleged, the Indians gave up all the territory between the Kentucky and Cumberland rivers.* The company took possession April 20, 1775. The settlement was named Transylvania; surveyors and agents were appointed; the machinery of government was gotten into shape, and a delegate was sent to the Continental Congress. The authorities expressed their adherence to the American cause, and asked to be received on the same footing as the other American colonies.†

By this purchase the larger part of Kentucky passed into the hands of the company. In Tennessee they secured in the bend of the Cumberland River a section of territory some 90 miles long and 12 wide which fell within Earl Granville's domain.‡ Their line crossed again into Tennessee at Cumberland Gap and ran down to the Holston, thence 6 miles east of the Long Island of Holston, to the line established October 18, 1770, thence north. The purchase included the southwest of Virginia, and the whole of Powell's Valley.

* Ramsey: Tennessee, 116, 117.

† Colonial Records of North Carolina, x., 256, 273, 300, 323, 373, 382.

‡ *Ibid.*, x., 323.

Population had flowed slowly in this direction because of the hostility of the Indians. Fort Chiswell, in Wythe County, Va., one of a cordon of forts established by Washington, was the furthest south, was 30 miles west of the Blue Ridge, and at the southern extremity of the great valley lying between the ridge and the Alleghany Mountains. The interval between it and the ridge was poor, mountainous, and thinly inhabited. The country south of the garrison and west of the ridge is mountainous, and was then uninhabited. The poverty of the section is illustrated by the name "Flour Gap," given to the break in the ridge where the boundary between North Carolina and Virginia crosses it, and through which they packed flour on horses from the other side to Fort Chiswell.*

At the end of the French war the pent-up settlements began to expand. From Fort Chiswell toward the westward there was a pretty open country, bordered on the northeast and southwest by mountains some 50 to 80 miles in width, and comprised largely in the present counties of Wythe, Smyth, and Washington, Va., and in Sullivan, Carter and Washington, Tenn. By the Revolution population had reached the Long Island of Holston River†. It was already in the Watauga country, and was extending upon the tributaries of French Broad. These settlers had, in general terms, the Cherokees to the southward, the Shawnese to the northward.

It followed then that when Martin and a company of adventurers made a stand at Martin's Station, in 1775, they were still some 50 miles in advance of the most extreme frontier settlement on Clinch River, and lay on the road to Kentucky, 120 miles distant. From the account given of this enterprise by Maj. John Redd, who was one of the participants, I am

* Howe: Historical Collections of Virginia, 514.

†There had been no fort built here in 1758, as Haywood states (Ed. 1891, 41), and as Ramsey (53) and Royce (map) state after him. At that time Fort Chiswell was the extreme frontier. Col. William Martin spent the greater part of his life in this section; he was at the Long Island of Holston Fort for two or three years, and never heard of the older one. He warns Draper that Haywood must be used with care. On the first appearance of his book "it was read only to be laughed at." Martin was either directly or indirectly acquainted with a good many of the events that Haywood describes and knew all of the traditions at first hand. Haywood did not leave North Carolina for Tennessee until 1806, and published his books in 1823. We see then that the weight of testimony must be given to Martin.

inclined to think that it was first undertaken by Martin independently of Henderson and company, or, at any rate, in anticipation of them. Redd says the company was raised in Martin's neighborhood, in Henry County, Va., immediately after Martin's return from the Shawnee war; that they set out on Christmas day, 1774, and arrived in the valley early in January. They were sixteen or eighteen in number, and were provided with all necessary utensils for settling. They fixed on the spot he had occupied in 1769, built several strong cabins, and made them part of a stockaded fort. They fenced in with brush and rails a large part of an old field and made a crop of corn. In the fall William Priest, with eight or ten men, built a fort a few miles above Martin's, and William Mumps built one 20 miles off, where Lee Court House now is (1850), and prepared ground for cultivation.*

The Transylvania Company was anxious to secure Martin's services because of his knowledge of the country, and, as a special favor, granted him (January 20, 1775,) all the lands he had already marked off or should give a memorandum of on that day. The preference was to be given also to his party, and we may conclude that the two efforts were soon consolidated. The company made him its attorney for the transaction of its business and entry taker for the Powell's Valley division of the purchase.

His instructions in regard to the sale of lands were very exact: (1) Land was to be sold to such only as should make corn during the year 1775, and who seemed "industriously inclined to become an inhabitant and promote the felicity of the whole community." To such as made corn in 1775 they promised 500 acres each and 250 acres more for each tithable person they should bring with them. (2) Martin was to sell land to no one who came after the spring was over without further orders; (3) and he had power to determine and settle all matters of dispute respecting the lands.

Haywood (Ed. 1891, 515) notes that John Williams, another member of the Transylvania Company, gave Martin instructions in regard to the terms on which lands were to be sold up to June 1, 1776. We may assume that this also referred to the Powell's Valley division. Purchasers were allowed to take up 640 acres for themselves and 320 for every taxable member of their family. They were required to pay for entry and survey,

* Redd's narrative.

\$2; for surveying and a plat, \$4; for a deed with the plat annexed, \$2; and to the proprietors, when the title was completed, at £2 10s. per hundred acres, with annual quit rent of 2s. per hundred acres, commencing in 1780. Surveys were to be run to the cardinal points, unless rivers or mountains rendered it inconvenient, and on a navigable river were to be not more than one-third longer than wide; on such water courses they must extend 2 poles back for 1 in front, and surveys approaching within 80 poles of each other were to join.

Great efforts were made to prevent a conflict with the Indians, and it was the desire of the company that no settlements be made lower down than Cumberland Gap. Henderson writes Martin from Kentucky, July 20, 1775: "Am extremely sorry for the affair with the Indians on the 23rd of last month. I wish it may not have a bad effect, but will use my endeavors to find out who they were and have the matter settled. Your spirited conduct gives me great pleasure—Keep your men in heart if possible, now is our time, the Indians must not drive us—depend upon it that the Chief men and Warriors of the Cherokees will not countenance what their men attempted and will punish them—pray my Dear Sir dont let any person settle lower down the valey I am affraid they are now too low & must come away I did not want any person to settle yet below Cumberland Gap— * * *

The Valley settlement seems to have been treated with peculiar consideration. In the same letter Henderson says: "We did not forget you at the time of making laws, your part of the country is too remote from ours to attend our Convention you must have Laws made by an Assembly of your own, I have prepared a plan which I hope you'll approve but more of that when we meet which I hope will be soon;" but whether Martin succeeded in putting into operation the form of local government suggested by Henderson, we have, unfortunately, no information. The post was held with much difficulty. In the spring of 1776 the men were in need of provisions and became discouraged. The settlers at Priest's and Mumps' forts had already returned, and so had a part of their own men. Martin had returned to Virginia in May to get reinforcements. In June he sent them an express announcing the beginning of the Indian war and called them in. Thus ended the second attempt to settle Powells Valley. The third was made in 1783.

VII.—THE CHEROKEES AND THE REVOLUTION.

On the 9th of October, 1775, the Virginia Committee of Safety made Joseph Martin, gentleman, a captain of the Pittsylvania militia; with the outbreak of the Revolution and the increasingly threatening attitude assumed by the Cherokees, the real life work of Gen. Martin begins. Before this time we have seen him in the triple capacity of explorer, pioneer, and soldier; but his great work, his lasting, but hitherto unrecognized, service to American independence, was to be rendered as Indian agent among the Cherokees.

As we have already seen, the Cherokees were the most important of the Southern Indians. They belonged to what has been called the Appalachian family. The other members of this family were the Creeks, Choctaws, Chickasaws, and Seminoles, who were themselves an offshoot of the Creeks. During the Revolutionary period none of these savages came into such direct contact with the whites as did the Cherokees, and it is on the dealings with them that the fate of the Republic, in a large measure, depended. They were for that reason more important than the Iroquois. The latter served only as the allies of the British; when the British were conquered so were they; with the Cherokees it was the reverse, the British were allies, and not until the conquest of the Indians were the colonists safe.

The relations between the whites and Cherokees had been various. In 1721 Governor Nicholson, of South Carolina, made a treaty with them. In 1730 Sir Alexander Cummings was sent to treat with them, and seven of their headmen visited England. Adair* says that about 1735 they had 64 towns and 6,000 fighting men; but many of them were carried off in the next few years by smallpox. Their relations with the English were not always the same. They were constantly exposed to the emissaries of the French. The French Broad River recalls in its name the time when this territory was still in debate, but Governor Glen, of South Carolina, managed to keep them generally quiet. In 1753 he had a conference with them in Charleston. In 1756 Fort Loudon was built as a defence to both English and Indians against the French;†

*Adair: History North American Indians, 227.

†Fort Loudon was built in their country "in a town called Tellico, on the south bank of the main Tennessee River and 120 miles from the Seneca Garrison, the whole interval Indian settlements. This is the Fort

but in 1760-'61 these began a destructive war against the southern colonies; after their war with the English they were at war with the Creeks and Chickasaws and were defeated by both.

In the matter of language there were two divisions of the Cherokees, Otari and Erati; as Adair calls them (226), Otarre and Ayrate. But political divisions did not follow linguistic lines. There were three groups of Cherokee towns, upper, lower, and middle. The upper towns were on the branches of the "easternmost river of the great Mississippi," the Tennessee or Cherokee River, and its branches. These were the Overhill Cherokees and were chiefly Otaris. The lower towns were the least important; they were inhabited by Eratis and lay in the flat lands of upper South Carolina and Georgia, on the headwaters of the Savannah, Tugaloo, and Keowee. The middle towns, larger than either of the others, lay among the hills and waters and were shifting in boundaries.* The bonds between these divisions were loose, as they were between the towns; the nation could not stop a town from going to war, if it desired, nor could the town stop its young men from committing ravages. They had made some progress in civilization, lived by agriculture to a certain extent, and had stock.

It is a curious fact, which has often been commented on, that from the Blue Ridge westward to the Tennessee and Ohio, the country, although surrounded by powerful tribes, contained no extensive settlements. In Indian times the Cumberland was known as the Shawnee River and the Tennessee as the Cherokee River. The country between was occupied by none, because none could defend it. It was used as a hunting ground by white and red men alike. And in this no man's land was

Loudon spoken of by Haywood, but not on the north bank of Little Tennessee as he says [new edition, 44]. For Little Tennessee empties in a long way above. The remains of this Garrison I have seen more than fifty years ago. The walls were of brick, much fallen and mouldered, when I saw it. It was Garrisoned, with 200 men, commanded by Capt. Watts, the father of the notorious John Watts, who afterwards so distinguished himself in the frontier wars." When the fortunes of victory again turned in favor of the French, Fort Loudon was besieged and its garrison forced to surrender. They were allowed to return to Fort Senneca. They started and were massacred the same night (Martin MSS.), Phelan, p. 11, and other historians differ radically from this.

* See Adair: History North American Indians, 226; J. H. Logan: History Upper South Carolina, 206, and Roosevelt, Winning of the West, 1, 55.

the great struggle between English civilization and Indian savagery to be fought out.

In 1769 the expansion of Virginia had carried settlers to the Watauga; the battle of the Alamance sent others there from North Carolina two years later; in 1776 there were white settlers at the Long Island of Holston. The Revolution also sent into the wilderness many refugees who fled from the East to escape service in the American armies. Many were Tories, others thieves and murderers. Their presence, together with that of many settlers who had come from better motives, made the savages suspicious and jealous. They were incited to open hostility by the action of the British authorities.

At the beginning of the Revolution, John Stuart, the British superintendent for the Southern Indians, was instructed by the War Office to secure the alliance of the savages in the coming struggle. He sent his deputies, Alexander Cameron and Henry Stuart, to incite them. Naturally suspicious of the whites who were encroaching on their territory, little fuel was needed to light the torch of war. A talk with the Indians was intercepted which assured Cameron that they were ready to attend him and massacre all the back settlers of the Carolinas and Georgia, without distinction of age or sex.* The further programme of the English was to land an army in West Florida, march it through the Creeks to the Chickasaw Nation; five hundred warriors from each were to join them; they were to pass up and take North Carolina and Virginia in the rear; another army was to appear on the coast, and between these two mill-stones were the States to be crushed.†

Had it been possible to carry out this programme the South would have been conquered. The British succeeded in arousing the Cherokees. Early in 1776 they began a devastating war on the whole frontier. One party attacked and broke up the second Powell's Valley settlement in June, 1776, and another under the Little Carpenter‡ made an onslaught against South Carolina and the southern part of North Carolina.

Their projected attack on what is now northern Tennessee was revealed to the whites through Nancy Ward, who, on this occasion, nobly did more than the work of a Pocahon-

* Ramsey: Tennessee, 143; see also Roosevelt.

† Ramsey, 160-163, quoting Stedman's American War.

‡ Colonel Martin thinks the Little Carpenter was one of the chiefs who had accompanied Dr. Walker to England.

tas. There were living at this time among the Indians two white men, William Faulin (Ramsey calls him Fallin), a horse-thief who had fled to the Indians and had married a wife there, and Isaac Thomas, a trader. These men, inspired by Nancy Ward, stole away from the Indians, traveled 120 miles, and gave warning to the whites. Now why did Nancy Ward betray the plans of the Indians? She was a half-breed and being nearly allied to some of the chiefs, had in this way gotten their secrets. She was the mother of Betsy Ward, whom we find living with Gen. Martin the next year as his wife. We do not know when this relation began. It is very reasonable to suppose that she already knew Gen. Martin well as he had traveled much among the Indians and already felt great interest in him, if he was not yet connected with her family. I think we may safely conclude that the revelation was directly or indirectly due to his influence.

The Indians were under Dragon Canoe and had 700 (Martin MSS.) or 800 men (Shelby). Their plan was to divide, one party was to attack the Watauga settlement, the other the settlers in the fork of the Holston and thence proceed to Virginia.* But the message of Nancy Ward had done its work; five companies containing 176 men of North Carolina and Virginia troops, but mostly Virginians, rendezvoused at Eaton's Station, 6 miles north from the Long Island of Holston on the Fort Chiswell road. The Indians trusted to their superior numbers and came rushing on but were defeated. This was on July 20, 1776. The other division of Indians was repulsed by Robertson and Sevier and the first move in the British policy was checkmated.†

VIII.—CHRISTIAN'S CAMPAIGN AGAINST THE CHEROKEES IN 1776.

Martin was not present in the battle of the Long Island Flats of Holston. This occurred soon after the break up of the second Powell's Valley settlement and he had returned to his home

* Ramsey: Tennessee, 151 *et seq.*; Draper: King's Mountain, 420.

† See Ramsey's Tennessee, 151. Dragon Canoe was not killed as stated by Phelan, 43. Roosevelt says that the whites were superior in numbers on this occasion and animadverts severely on those historians who are consciously or unconsciously exaggerating the number of Indians. Royce, puts the battle on the south side of the river on his map.

in Virginia to raise volunteers for the Indian war. There was now to be a general movement against the savages by Virginia, North Carolina, South Carolina, and Georgia. Col. William Christian commanded the Virginia troops, Gen. Griffith Rutherford those of North Carolina, and led them against the Overhill Cherokees. Those of South Carolina were under Gen. Andrew Williamson and marched up into southwest North Carolina. Here they fell into an ambush below Franklin, lost a few men, but recovered and inflicted some chastisement on the Indians. There was not perfect coöperation between the commanders. Rutherford marched in July and coöperated with Williamson. The troops of Christian rendezvoused at the Long Island of Holston in August and were here joined by a company of some 50 men raised in Pittsylvania for six months by Martin, who had been chosen captain. They were stationed here some six weeks, and a part were engaged in erecting a fort. Others came in until they amounted to 1,800 or 2,000 in number. (Martin MSS.)

Col. Christian writes Governor Henry from Six-Mile Camp, 6 miles from Fort Patrick Henry, October 6, 1776: "I shall march in less than an hour, and take with me thirty days' flour and seventy days' beef; I hope to cross Broad River the 15th instant, where it is most likely I shall be attacked, or meet with proposals of peace. The men who have fled from the towns say that the Indians will surely fight desperately, which they promised Stuart, the King's superintendent to do; and Cameron, his deputy, who remains amongst them is daily encouraging them to defend their country against a parcel of rebels. * * *"

Col. Christian followed the great Indian war path, crossing the Holston, the French Broad and the Little Tennessee, to the Indian towns to the southwest. The Indians had 1,000 warriors, and it was thought resistance would be offered at the French Broad. Every precaution was had to prevent a surprise. A party was sent below to cross at another ford, and, on the next day, another division of 600, with Martin's company in front, crossed at the usual fording place where the attack was expected. On this occasion two of the men were sick, but insisted on going with their company. Martin stripped himself to his shirt, took one of the men on his back and forded the river to an island in the middle at the head of

the division. Then he went back for the other.* When the division got across the river it was found that the enemy had fled.

They remained several days at the towns and a considerable number of Indians came in to sue for peace. Those that surrendered were protected, but the towns of those who refused were destroyed, together with all their stock and other property. The troops then returned to the Long Island of Holston after making provision for a treaty at the island during the next summer.

IX.—THE TREATY OF THE LONG ISLAND OF HOLSTON AND MARTIN'S APPOINTMENT AS INDIAN AGENT.

On the return of the army it was disbanded, except a few companies stationed on the frontiers. Captain Martin commanded one of these, and we find him stationed during the winter and spring of 1777, under Major Bledsoe, at Rye Cove on Clinch, about 8 miles from the mouth of the north fork and 1 mile from the stream on the west side. A fort had been built here some time before by Isaac Crisman. While they were gone to the Indian wars, Crisman and two of his family were killed by the Indians. The presence of Martin tended to restore confidence in the settlers. In April, 1777, he was transferred to Fort Lee, situated just above the mouth of Big Limestone on the frontiers of Washington County, Tenn.,† and while here seems to have lost a part of his men.

The three campaigns against the savages in 1776 had succeeded, to a large extent, in breaking their power. They sued for peace. A separate treaty was held with them at DeWitt's Corner by the authorities of South Carolina and Georgia, and, on July 20, 1777, a similar treaty was held by the representatives of North Carolina and Virginia at the Long Island of Holston. As we have seen this was itself on the frontiers and 150 miles from the Indian settlements. It seems to have been the program of the whites to terrify the savages with a show of force. Redd, one of the participants, says there were about two thousand white people present, most of whom we may presume were soldiers. Captain Martin was there with his company. There were some four hundred savages. They relinquished their title to a considerable tract of territory, includ-

* Redd's Narrative.

Putnam, 51, says that Fort Lee was at Watauga.

ing the Long Island. This island was to remain a neutral ground, and no blood was under any circumstances to be shed here. They agreed to expel the British agent and to receive agents from the States instead.*

James Robertson was thereupon made agent for North Carolina. He resided at Chota and continued to serve in this capacity until his removal to Cumberland in 1779. The reputation which Captain Martin had made as an Indian fighter and his knowledge of Indian character now stood him in good stead, and on November 3, 1777, he was commissioned by Governor Henry agent and superintendent of Cherokee Indian affairs for the State of Virginia. He was to reside within the nation, attend to and direct the affairs of the State with the savages, endeavor to maintain peace, to counteract the wiles of the British, and make reports to the governor. Captain Martin took up his residence on the Long Island of Holston,† and built a stone house to receive the government supplies. He continued to occupy this difficult and dangerous post in various capacities until 1789. These twelve years were the most important in his career.‡

There seems to be little worthy of note in 1778. Martin was at his post and was discharging his regular duties; population was extending westwards and was nearing the present Knoxville, as we learn from land entries which were being made, at the rate of one hundred a month; the Indians were chaffing, from time to time killed a number of people, and in 1778 a committee of the North Carolina legislature thought it necessary to raise a body of four hundred militia to protect the western frontiers of that State.

February 17, 1779, Martin was appointed major of a battalion of volunteer militia about to be raised "with a design to attack that part of the Cherokee Indians' towns that is attached to the interest of Britain." Shelby made a campaign against

* The articles of the treaty and some account of it may be found in Haywood's Tennessee, new ed., 501-514.

† The fact that Martin, although agent for Virginia, took up his residence on the Long Island of Holston, which was within the bounds of North Carolina, may cause surprise. Governor Shelby, of Kentucky, is authority for the statement that by common consent the settlers north of Holston adhered to Virginia and were governed by its laws; those south of it to North Carolina, but were governed by laws of their own making.

‡ His pay was 20 shillings a day while among the Indians, and 10 shillings when at Williamsburg.

the Chickamaugas this year, and it is probable that Martin was with him, but we have no direct testimony to that effect.

X.—THE KING'S MOUNTAIN CAMPAIGN.

During a part of this period the figure of Major Martin rises into national importance and his work gives him an enduring place among the "heroes of '76." As Indian agent it was his duty to act as mediator between the whites and the Indians. He was to see that each kept the terms of the treaty of the Long Island of Holston. This was a delicate duty, for the onward moving wave of civilization cared to recognize the rights of the Indian only so long as it suited its purpose. He had also to counteract the influence of British agents, who still hung threateningly on the borders of the settlements. Expelled by the treaty, they took refuge with the southern division of Cherokees under Dragon Canoe, at Chickamauga.* From this point they continued to penetrate the northern division. Martin once met the British agent in the nation and succeeded in having him expelled from the country. We can not estimate the amount of terror and suffering which the agent, by his tact and energy, kept from the doors of the pioneers. It is hard to put a proper estimate on the services thus rendered the American cause in the darkest hours of the Revolution. But the British agent knew how to appreciate them. Once he heard that Martin was in the upper towns and sent a white fellow named Gray, with ninety Indians, to take him, dead or alive. One of the Indians was sent forward to shoot him, but Martin appeared heavily armed, and the terrified savage returned with the Marius-like reply, "If you want him killed you may do it yourself, for he looks dreadful."

Thus did Martin run a constant risk of assassination; but without this risk he would have failed in his mission. It was often necessary for him to go to the nation, and he took his life in his hand to do it. But his relations with the half-breed Betsy Ward induced the Indians to adopt him as a member of their tribe and won him friends there. Nancy Ward, her mother, was a woman of the highest rank, of marked ability and great influence. Her son and her brother were both distinguished warriors. When on his missions for the settlers or when trying to meet the machinations of the British, Mar-

* Ramsey: Tennessee, 183.

tin always felt safe if he could reach this family, for they were sure to protect him, and the service thus rendered alone offers itself in paliation of the obliquity of his conduct.*

Martin being thus engaged in diplomacy with the Cherokees was not present at the battle of King's Mountain. We have seen that it was a well-established part of the British policy to keep the Indians excited. It was also on this western country that Washington relied should matters come to the worst.† But it was difficult to draw troops from these quarters for the regular armies, for with their departure the frontiers were exposed to the savages. Col. Shelby had been unwilling to take the whole force of Sullivan and Washington counties across the mountains for the Indians were threatening an uprising,‡ and Col. Campbell writes Gates under date of September 3, 1780, that the Indians were harassing their frontiers and pleads this a reason for not joining him. The hopes of the patriots were already drooping from the defeat of Gates at Camden; Savannah and Charleston were in the hands of the British; Georgia and South Carolina were conquered; the enemy, with exultation in his heart, was moving northward to the conquest of North Carolina and Virginia. This was the critical moment of the Revolution. The fortunes of the young republic were in the balance; had Martin failed at this juncture to quiet the savages, a second and more terrible Indian war would have been the result; then the overmountain men who gathered their clans for a blow at the British and Tories at King's Mountain could not have led them there. They must needs have kept themselves at home to defend their own firesides. This might have made, and probably would have made, a change in the course of the war. When Ferguson fell and the Tories were routed at King's Mountain, and when Cornwallis was sent reeling back from Guilford Court-House to Wilmington, the South had already been won and Yorktown was simply a matter of time.

And the correctness of this claim is further shown by the fact, that when North Carolina, after rewarding Shelby and

* In a battle at Rye Cove, on Clinch River, between Christian's campaign of 1776 and the treaty of 1777, Martin's company had been attacked by Indians under this son, who was known as the Little Fellow, and these two men had by accident been brought into personal conflict. They had thus learned to respect each other.

† C. Campbell: *History of Virginia* (1860), 589.

‡ Ramsey: *Tennessee*, 227.

Sevier by presenting each a sword and a pair of pistols for their gallantry, called on them by name in February, 1781, to again take the overmountain men into the field for the support of the Union; they were no longer able to do so. They had an Indian war on their hands and could not leave their homes.*

XI.—CAMPBELL'S CAMPAIGN AGAINST THE CHEROKEES,
1780-'81.

King's Mountain was a double victory. It broke the power of the Tories and thus undermined the power of the savages. Martin succeeded in keeping the Cherokees quiet up to and through the King's Mountain campaign, but he could then restrain them no longer. All efforts were made to win their favor. A proposition was made for the chiefs to visit Congress, and Martin presented them medals from Congress, but these came too late. The savages had come to a treaty with the British;† they were to make war on all Carolina and Virginia; a part of the traders were to be murdered, the others made prisoners; the prisoners and stolen horses were to be carried to Georgia. They began annoying the whites by foraging parties that stole horses and did other damage; it was winter and the difficulties of the settlers were great, but the miseries of the Indian war of 1776 came back to them and urged them on. A campaign was organized and carried on from Washington County, Va. It was commanded by Col. Arthur Campbell and not by Maj. Martin, as Haywood states.‡ Martin joined the expedition with an independent command, from Sullivan County. This consisted of some 300 mounted men, the Watauga men under Sevier were about 300, and there were 100 from Washington County, Va. They set out about the middle of December and rendezvoused on the north side of the French Broad.

Sevier and the Watauga men went on before, crossed the French Broad, fell in with a party of Indians, killed a number and then retreated to an island in the river where they awaited the arrival of the main army. Campbell found them in want. Their precipitate action was condemned as it gave

* See Phelan's Tennessee, 62.

† Calendar of Virginia State Papers, I, 446.

‡ Phelan, Tennessee, 63, attributes this whole campaign to the leadership of Sevier, and Roosevelt gives much more to him than the official report will justify.

warning to the enemy before the army was in a position to act effectively.

After crossing the French Broad the army made a forced march toward the Tennessee as the success of the expedition seemed to depend on their reaching the opposite bank in safety. They had word that the Indians had obstructed the common fording place and would oppose their passage. The river was successfully passed at Timotlee. Martin came near being drowned in attempting to swim his horse over, and the Indians fled. They captured Chota and found a supply of provisions there. On Christmas day Maj. Martin went out with a detachment to find the route the enemy were following. He surprised a party of Indians, took 1 scalp, and 17 horses loaded with goods. Other parties were sent out in various directions to destroy the towns and provisions of the Indians or to scatter their war parties. On the 28th, Col. Campbell moved the whole force to Raiatee on Tellico River, and the next day set out for Hiawassee, 40 miles distant, having left a garrison at Raiatee under Maj. Gilbert Christian. Here they found that the Indians, with McDonald, the British agent, and some Tories, were awaiting them at Chistowee, 12 miles further on. The Watauga men refused to go further, but the others pushed on, and on reaching Chistowee found it deserted also. The Indians had left almost all their corn and other provisions, many of their agricultural implements, and all their heavy household furniture, with a part of their stock of cattle, horses, and hogs. It had been expected that they would have defended these towns obstinately, for the Chickamaugas had removed here in 1779, but such was not the case. The army then returned. They had killed 29 men and taken 17 prisoners, mostly women and children. They destroyed the towns of Chota, Seitogo, Tuskeego, Chillowee, Toque, Michiqua, Raiatee, Sattogo, Tellico, Hiawassee, and Chistowee. These were all principal towns. They destroyed also some small towns and several scattering settlements which contained not less than 1,000 houses, 50,000 bushels of corn, and large quantities of other kinds of provisions. No place in the Overhill country remained unvisited except Telassee, a scattering settlement in the neighborhood of Chickamauga, and Calogee, on the sources of the Mobile. During the whole expedition but a single man lost his life. Two others were wounded.*

* Report.

The expedition was a valuable one. It took the whites into the center of the Indian country and showed them that their fancied security from the whites was false. The smoke of their burning towns was of much more value as an argument than conferences and threats.

During this expedition Maj. Martin rendered valuable service. His men were mounted, were acquainted with the country, and were employed on special expeditions in scouting and patrolling. We have seen that he held an independent command, although in theory under Col. Campbell. This was the more allowable because of the Indian tactics and the way of meeting these. In this warfare those officers were the best who fought the best. They were leaders rather than commanders; if they failed to lead they were cashiered, not by courtmartial, but by the public voice. A little incident will illustrate the results of this military etiquette. On one part of the trip the army was straightened for provisions. Nancy Ward agreed to furnish beef and had some cattle driven in. Col. Clark, of Sevier's party, came along met the escort with the cattle, pretended they had captured them and slaughtered them for their own use. When Martin heard of it he drew his sword, called to his men to follow, and took the whole of the beef. The matter ended with a personal fight between Martin and Clark.

Campbell recognized clearly the necessity of saving the territory just conquered to the whites by erecting a fort within it and putting a man of strength and character in charge. He writes to Col. George Muter from Washington County, Va., January 16, 1781:

* * * Having mentioned it to his Excellency, the Governor, as a necessary measure for to establish a post on the Tennessee in order to secure our late advantages in the Cherokee country, I beg leave to say something to you, Sir, further on that subject, as I am certain the advantage of the measure to America is such, that no time ought to be lost in having it accomplished.

The spot I would fix on is the point of the confluence of the Tennessee and Holstein. There a good stockade with some outworks can be conveniently built, and effectually supplied and supported from the country above on the Holstein. Part of the garrison ought to be regular souldiers, and the officer that commands the whole ought to be an active and intrepid man who would keep up an exact discipline.

My experience of Maj. Joseph Martin and his acquaintance in that country, makes him the most proper man I know of. The utility of the post would be such that it would be giving us certain possession of the

Cherokee country now conquered, or may [be] ceded to us; will keep that nation always at our mercy and prevent our enemies from sending emissaries among them; be a terror to the British * * * whilst in the Southern States; open a communication with the Chickasaws (a friendly disposed people), and our posts on the Mississippi; be a security to the SouthWestern frontier, and render the travelling to Kentucky safe; but above all, it would be saving to our present funds for carrying on the war in other parts. * * *

Maj. Martin whom I expect will be with the Executive shortly after you receive this, can explain every particular, and his good intentions for his country's interest with me is not doubted.*

We do not know what was the result of the proposition. In March, 1781, Martin was made a lieutenant-colonel of the Washington militia, and in April we find him returning with a company of 65 men from a tour on the Clinch. He found traces of Indians, had a skirmish with them, and pursued them towards Chickamauga until the men refused to go further. Martin was anxious to organize a company and pursue them to the end of their path.† (Haywood‡ says Martin led an expedition against the Indians in February, 1781. This is denied by Draper and Ramsey, and by Col. William Martin.)

Col. Sevier made an expedition against the middle towns in March. These several expeditions, particularly that of Campbell, had broken the Indians and roused them to a sense of their danger. Besides they had not all been united in the war on the whites, for Martin writes February 7, 1781, that the Hanging Maw had opposed it and had threatened to leave the Indians and take up his residence among the whites, and he still thought it possible to induce the Maw to come over with all his towns which consisted of about four hundred souls.

Campbell, Sevier, and Martin had warned them in January to repair to the Long Island if they wanted peace,§ and on February 26, 1781, Gen. Greene had appointed William Christian, William Preston, Arthur Campbell, and Joseph Martin, of Virginia, and Robert Sevier, Evan Shelby, Joseph Williams, and John Sevier, of North Carolina, commissioners to meet commissioners from the Cherokees to treat on the question of boundaries, to arrange for an exchange of prisoners and terms

* Calendar Virginia State Papers, I, 438, 569.

† Ramsey: Tennessee, 269; see his account in Cal. Va. State Papers, I, 613; II, 64, 72. Haywood, ed. 1891, 111.

‡ Ed. 1891, E. p. 111.

§ Ramsey: Tennessee, 267; Calendar Virginia State Papers, I, 414.

of peace, and to invite the Indians to appoint a commissioner to visit Congress.

The commissioners were also instructed to call on the military force of the frontier countries to prevent further encroachments on Indian lands. A treaty was appointed for July 20, 1781, on the Long Island.* We have no particular accounts of this treaty, but the British agents were always seeking to prevent peace. Martin writes Col. Arthur Campbell from the Long Island of Holston, September 20, 1781: "Scott, the present English agent, is very industrious in stirring up the Indians to war. Ochanastote insisted hard on my going to attack him; he promised all the assistance I would ask; he told me I could march on horseback from Chota to where he resides in two days without being discovered. Scott keeps a few armed white men around him and the Indians who live with him are chiefly employed in stealing horses on the frontier." Martin thinks he could capture Scott and his party with fifty men well equipped, "which would effectually put an end to the British interest in the nation, release the frontiers and the Kentucky path from the visitations of a troublesome banditti." Scott was a Tory who had fled to the Cherokees when the Southern States were conquered by the Americans. He had gained great ascendancy over the Indians by the supplies he controlled. Again Martin writes about him to Isaac Shelby on December 29, 1781:

* * * Could it be done with convenience, I think it would be well done for you to march immediately against Scott; I think one hundred men, well mounted, would do the business. I should think myself happy to be one of the number. * * *

But Col. Campbell thought Martin's plan was not feasible. There was a large element of uncertainty, the distance was great, Indian towns might prove hostile if they met with disaster, etc. He suggests a larger expedition jointly under North Carolina and Virginia, and in the meantime tries to escape from the evils of the Indian raids in another way, and writes Gen. Washington from Holstein River, October 26, 1781, that the treaty with the Indians "was but shortly over until the intrigues of the enemy by Tory emissaries created a defection," and by a late account Gen. Pickens was carrying on war against them in South Carolina. The greater part of the nation was

* Calendar Virginia State Papers, II, 199.

disposed toward peace, and to strengthen this feeling "I have taken the liberty, in conjunction with other gentlemen who are commissioners under Gen. Greene's appointment, to recommend it to Col. Martin, the Virginia agent for Indian affairs, to conduct two principal chiefs of the Cherokee Nation to your excellency's headquarters, that they might see with their own eyes the power of America and hear from your mouth the fate of their nation."

It seems that this programme was carried out in part, for we find Martin in Richmond in November with two chiefs; but Governor Nelson had resigned the government a few days before and the chiefs were not received, as they had expected, although they were promised by the executive some assistance in clothing, ammunition, etc. Martin urged that this be done, adding that some of the towns were friendly and would not draw off to the enemy if they could be supplied with necessaries.

Gen. Greene in the meantime had appointed agents for Indian affairs, and Governor Harrison instructed Martin, June 6, 1782, that he was to consult with them on important matters; but Martin was to advise him of any change in the temper of the Cherokees. "Much, therefore, must be left to your prudence and discretion, in both which I have confidence."

The relations of the States to the southward of Virginia with the Cherokees were equally unsatisfactory. Governor Harrison writes Martin in July, 1782, that the Indians were making continual inroads into South Carolina, and that Governor Mathews was making an expedition into their country; that Georgia was also at war with them, and forbids him to furnish them any necessities until further orders.

The State of North Carolina also took very decided steps in its dealings with the Cherokees. During the year 1782 Gen. McDowell, Col. Sevier, and Waightstill Avery were appointed commissioners to treat with the Cherokees and Chickamaugas. They were reinforced by an army, and their first duty was to destroy the hostile towns of the Indians. They were to be required to cede to North Carolina all the lands within the chartered bounds of North Carolina to the Ohio and the Mississippi; eastern and western boundary lines were to be established for the nation. French Broad and its tributaries were to be given up in satisfaction for injuries done by the inhabi-

taunts of the nearer towns, and the Chickamaugas were to return to the Cherokees.

The knowledge of these demands and that of the army which was backing them, together with the action of South Carolina and Georgia, had a wholesome influence on the savages. Col. Martin was among them in August, 1782, arranging the preliminaries of a treaty,* and writes Col. Campbell, September 18: "I believe that never were people more desirous of peace than the Cherokees."

Martin's next important public service was as one of the commissioners appointed on behalf of the State of Virginia to treat with the Cherokees, Creeks, and Chickasaws for peace. The appointment was made January 13, 1783. The other commissioners were John Donelson and Isaac Shelby. They were also to assist Gen. Clark in making a purchase of land from them, and "Your commission also extends to the Cherokees, with whom I desire a firm treaty may be concluded, particularly with the tribe called the Chickamaugas, as they are the most troublesome and the hardest to come at. * * *"

May 17, 1783, Martin was commissioned Indian agent of North Carolina among the Cherokees and Chickamaugas. He was to visit them once in six months in their own country, deliver them messages from the governor, and record their talks.†

Martin, representing North Carolina and Virginia, and Donelson, representing Virginia, held a treaty with the Chickamaugas at the Long Island of Holston July 9, 1783, under these instructions, and gave them presents of ruffled and plain shirts, of red and blue cloth for match coats, also powder and lead and "Dowlas," but Martin regrets that he had no authority to treat with them for the north side of Tennessee mouth.‡

It was the opinion of Martin that the Chickasaw treaty should also be held on the Holston, some 30 or 40 miles below the island, or on French Broad, "36 miles this side of Chote," because there would be much less expense connected with these. He was overruled in his opinions by Cols. Donelson and Shelby and Governor Harrison.§ Martin and Donelson were ready by the middle of May, but were delayed. They

* Calender Virginia State Papers, III, 272.

† Iredell's Revisal, 469.

‡ Calender Virginia State Papers, III, 511.

§ *Ibid.*, 469, 511.

met the Red King of the Chickasaws and his chief warriors at the French Lick, on Cumberland River, 4 miles northwest of Nashville, November 5 and 6, 1783. They found them well inclined to peace.* The Chickasaws confessed they had been instigated by the English. They were now ready to drive the Cherokees from their lands, and relinquished to the whites a section of country extending nearly 40 miles south of Cumberland River to the ridge dividing its tributaries from those of Duck and Elk Rivers. This was further ratified and confirmed by the treaty of Hopewell in 1785. From this time the Chickasaws were friendly to the whites.† This treaty caused an increased flow of population to Cumberland.

The Creeks did not send representatives to this treaty, and Martin writes that they "are continually committing hostilities on the frontiers of Kentucky and Cumberland. They have sent a few of their warriors to Augusta, Ga., with peace talks to amuse that State, while they bend all their forces against our frontiers." An effort was also made to gather representatives of the Shawnees at the Falls of the Ohio, but as their warriors were then making a treaty at Niagara this was found impossible.

XII.—THE THIRD POWELL'S VALLEY SETTLEMENT.

Martin had not more than gotten the negotiations with the Chickasaws under way before he made an adventure in another direction. This was nothing less than a third attempt at the settlement of Powell's Valley. The impelling motive this time seems to have been commercial and strategic as well as agricultural. The purpose can best be expressed in the words of Col. William Christian, than whom no braver pioneer graces the annals of our early history. The letter is also of value as giving us an opinion of the ability of Col. Martin. He writes Col. Sampson Mathews on December 30, 1782:

* * * After writing the letters by Col. Taylor, Col. Martin and myself had a good deal of conversation about his situation, where he is, as an agent for Virginia. As soon as we talked a little about it, I saw the impropriety of it, and we agreed that I should write to you upon the subject. * *

* Putnam, 196, is wrong in saying this was begun and concluded in the month of January, 1783.

† Ramsey: Tennessee, 459, 463; American State Papers, Indian Affairs, I, 432, 326; see report to Governor Harrison in Calendar, Virginia State Papers, III, 548, December 16, 1783.

The Island is in North Carolina about 10 miles; and in my opinion it is not very agreeable to the North Carolinians for us to have a trade and agency in their State. * * * The settlements down the river, extend about 30 miles, and to the southwest and the south much more. The only way the Indians can come to the Island in safety is up the river, and even on that route they have suffered. * * * These inconveniences oblige Col. Martin to go all the way to the Nation with the goods the Executive furnishes him with which adds considerable to the expenses attending the trade. And if business is to be done it is a great risk to bring them to the Island.

What I mean, then, to submit to your consideration is the removing of the store and agency to Cumberland Gap. The Gap lies directly betwixt the lines of Henderson and Walker; but a post might be fixed within both, to be certainly in Virginia as the lines are but $2\frac{1}{2}$ miles asunder. The Gap is near halfway betwixt our settlements on Holston and Kentucky, and a post there would be a resting place for our poor citizens going back and forward; and would be a great means of saving the lives of hundreds of them. For it very seldom happens that Indians will kill people near where they trade; and it is thereabouts the most of the mischief on the road has been done. The best hunting-grounds the Cherokees now have is down Tennessee and up Powell's Valley to Cumberland Gap; there being certain fixed bounds betwixt them and the Chickasaws and Creeks, over which neither must trespass. And at any rate, the Gap is nearer to the Towns than the Island; more convenient for their trade, and more safe on account of our own people. Besides wherever an agent is, Indians will be every now and then coming to him. In Powell's Valley they could for some time to come furnish themselves with provisions; at the Island they have no chance but to live upon Col. Martin—it has, however, been the case for a long time past, for I am convinced all the pay he gets from the State would not buy the provisions he has to give away to them. If our trade should be increased, I dare say Powell's River is navigable for canoes, and would answer that end as well as Holston.

Col. Martin could easily procure a number of families to join him and erect a Station next spring in Powell's Valley, and would willingly do it, if directed so to do by Government. Notwithstanding I think the pay of half a dozen, or a dozen men for a few months at the beginning would be well laid out. Indeed I always thought our State ought to have kept a post at the Gap. There is a noted place called Martin's 20 miles above the Gap, where there was a station some years ago, that might answer. But the Gap is much to be preferred to any other. Col. Martin is a field officer in our Washington, and I should suppose there need be no officer in pay at his Station, and no other expense attending the men, if any are ordered but their pay & provisions.

I view the change I propose as of great importance to the frontiers of Washington, to our people journeying to & from Kentucky; particularly the poor families moving out, to the Indian trade to the Indian agency in general. * * *

I know of no views but the public good that Martin or myself could have in this change. I have therefore, to stipulate with you, Sir, that if the proposition is disliked that the blame may fall on me alone.

I wish to mention to you that I have been well acquainted with Col. Martin's public transactions and management for more than six years past, and have always observed him to be a faithful, trusty servant to the public, acting at all times fairly and openly without respect to the censure or applause of the lawless or licentious. I have always found him a man of the greatest candor and integrity in all his dealings, public and private, and I verily believe the back country does not afford a man so fit in all respects, as he is for your Agent. I am sure he has been within an inch of losing his life in the service, when a man of less zeal for his country's welfare would have shuned the danger: In short, Sir, he is an undesigning, plain, honest, brave man, and understands the manners and dispositions of the Indians better than [any] body I know; besides, he is held in great esteem by all ranks of them. It is for fear Col. Martin has been, or may be traduced by men unacquainted with his merit, that I trouble you upon this head, and I am satisfied it will give you pleasure to know that those in trust under the direction of your Board are honest men.* * * *

The matter was presented to Governor Harrison at once. He recognized the importance and necessity of the movement and urged Martin to undertake it. This he agreed to do, and pushed his preparations vigorously. On April 14, 1783, he writes the governor: "I had nearly got ready to move to Powell's Valley when the Indians attacked the settlement on Clinch. This discouraged the men and families for the present, but I hope to be able to move them towards fall if the business of the treaty don't prevent it."† Governor Harrison writes him from the Council, May 20: "Your removal to Powell's Valley is so absolutely necessary that I desire no considerations may stop you from the execution of your orders as early in the fall as possible."

This put the matters into shape, and Martin writes the governor, August 30, that he had just sent off the people to Powell's Valley "to begin a station there,"‡ and in December it was settling fast. In May, 1784, there were about "100 souls," mostly women and children, and were in danger from the Indians.§ This fear was renewed from time to time. Martin writes to Governor Henry on June 25, 1786: "I am truly disturbed on account of the poor settlers in Powell's Valley. I had positive orders from Governor Harrison to

* Calendar Virginia State Papers, III, 406—408. As early as November, 11, 1779, Gov. Jefferson was thinking of fixing a post in Powell's Valley.

† *Ibid.*, 468.

‡ *Ibid.*, III, 527, 547. Martin's Old Station was 20 miles from Martin's New Station, and this was 2 miles from Cumberland Gap. *Ibid.*, v, 391.

§ *Ibid.*, III, 581.

settle that station, who promised them protection; and without immediate aid I fear they will all be cut off."

Powell's Valley, some 170 miles in length, because of the hostility of the Indians and the poverty of much of the land, had remained unsettled until this time. As Martin was Indian agent he did not go to the valley himself, but engaged men, employed an overseer to take charge of hands and stock, built a blacksmith shop and a mill, etc. This was the only station between Clinch and Kentucky, and was of great relief to travelers. Col. William Martin, his son, was a member of the settlement for two years from the spring of 1785 and shared all its privations and hardships. By degrees pioneers began to settle on the road between Clinch and Martin's Station in companies of two or three families for mutual protection, and devoted themselves to supplying the needs of travelers to Kentucky. It was the beginning of permanent settlements in this section of country.

In 1788 Gen. Martin sold his interest in the Powell's Valley settlement. Through his fostering care the little settlement had become permanent, and his address alone perhaps saved Clinch and Powell's Valley, "not a man, woman, or child being killed by the Cherokees within the Virginia line for several years past.*

XIII.—MARTIN AND THE EXPANSION OF GEORGIA.

The year 1783 seems to have been one of great activity for Martin. We have already seen him engaging himself as Indian agent for North Carolina, serving Virginia as commissioner to the Chickasaws, and undertaking a new Powell's Valley settlement. We find him also engaging in an extensive land speculation along with William Blount, John Sevier, Gen. Griffith Rutherford, John Donelson, Governor Caswell, and others. The company was organized in 1783, William Blount was the leading spirit and Martin made the purchase while on one of his visits to the nation. The purchase lay on the north side of the bend of Tennessee in what is now Alabama, then Georgia, and was also claimed by South Carolina.† The company got a charter from Georgia, but with difficulty, in February, 1784.

* Calendar Virginia State Papers, iv, 428.

†See Blount's letter, October 26, 1783. Putnam, 62, says Donelson was after the Bend as early as 1779.

Under this charter a new county was established including all that part of the present State of Alabama that lies north of Tennessee River and south of the Tennessee line. Seven commissioners were appointed. They were Lachlin McIntosh, jr., William Downs, Stephen Heard, John Morse, John Donelson, Joseph Martin, and John Sevier. They were also made justices of the peace and had power to nominate militia officers. They were vested with power to ascertain the quantity, quality, and circumstance of the land and report the same to the legislature. They also had power to grant warrants of survey. These, when executed, were to go "to the surveyor-general's office in order that the same may pass to a grant as the law directs." No person could hold more than 1,000 acres, and they were to pay for it at the rate of 12½ cents per acre. An office for the entry of these lands was to be opened at Houston in March, 1785. Commissioners were also appointed in regard to the matter by the State of North Carolina.

After much preparation, purchasing goods, etc., the commissioners set out to the section by water. They met for organization on July 30, 1784. The county was named Houston, and Col. Martin was made agent and superintendent of Indian affairs. But the settlement did not prosper. It was impossible to sustain themselves against the growing hostility of the Indians by whom they were surrounded. They therefore broke up and reported home.* A second attempt at settlement was under consideration in 1786, but was postponed.† But it seems not indefinitely, as Martin writes January 20, 1787, that the legislature of Georgia had confirmed their title to the bend of Tennessee and that James Glasgow, secretary of state for North Carolina, had gone to Georgia to have the conveyances made, and adds "if Georgia has Confirmed our Title to the Bend I shall proceed on another speculation in lands which I think will be the greatest that ever will be in america, on the waters of Tombigby & Mobeal. I shall endeavour to Locate the Lands from the spanish Line north." He then adds a glowing account of this new and fertile country.

Martin soon found charges brought against him for his participation in this affair. He writes that he has done this on his own responsibility and was willing to abide an investigation.

* MSS.; Ramsey: Tennessee, 377.

† *Ibid.*, 379-380.

* * * The country is filling up with Inhabitants around it so fast, that the Indians plainly perceived the Condition of the Ground we purchased would be of no Service to them. And it is 'a Fact also, that the number of People who have actually gone & declared a resolution to go, and settle this very Ground in Question, was very considerable: & this Settlement was to be made, without any Agreement with the Indians. What was then to have been Apprehended, I leave to y'r Excellency's Judgment: more particularly when the Character & Disposition of this Kind of our back Settlers, is considered: and that the minds of the Indians are much irritated by late repeated Encroachments. It has been no easy task to prevent them from speedy and signal vengeance for recent Injuries of this sort, nor to remove their apprehensions of more in Future. In this state of Facts, it is easy to guess what would have been the Issue of our Treaty with them, if at the Time, the Settlements near the Shoals or Bent was going on without their leave.

What then could be done, more likely to conciliate the returning Affections of the Indians (especially the Chickamoggas who are nearest the place) than agreeing to pay them a reasonable price for the Land, which tho' not absolutely necessary for their subsistence, was their property.

* * * It is not easy for those who are unacquainted with our Frontiers, to judge of the evils and calamities which threaten to arise from the licentious and ungovernable conduct of the People there. To reconcile this with the vindictive Spirit of the Indians is really difficult and often Times impossible—I Know of no way so proper to conciliate these people to our nation permanently, as to procure in the settlement about to be made, a number of respectable Gentlemen, who will serve as checks to the licentious and wicked—And I should not have made this Purchase, but with the concurrence and at the Request of a Number of the first Gentlemen in North Carolina, with whose sentiments I was made acquainted: and if final Success attend our Enterprize, I am certain that a settlement will be formed directly, as respectable for the character as a number of People: and while it helps to form a Barrier to the Eastern Inhabitants, seems to be most likely to discourage that anarchy, which is but too common, and to discover, if not prevent, certain Parties of the Spaniards, of which you will probably hear before long.

Martin then continues his defense by referring in a modest way to what he had himself done for the State and for the section:

I wish I could avoid speaking of my own particular advantages, and thereby avoid adding to your Excellency's trouble; but the severity of your Excellency's Reprehensions has made it necessary. No doubt I have many Enemys, who wish to supplant me, & to this End are never ceasing to propagate their Falsehoods. The particular Time, and distressing circumstances, in which I first undertook this Agency, I suppose are well Known—Some who now want it, rather wonder at the Folly of one who ventured among the Indians during the War, than desired to take this Place, But now, the Tone is altered and they are brave enough to face the Danger. I wish they were honest enough to tell the truth.

If I now seek my own advantage, it is consistent with the public Good—my Partners would disdain anything otherwise. I have never as yet

added to the Embarrassments of my Country by claiming Donations to myself & by engaging in this Purchase in a distant State, I must have promoted the public Good. *

XIV.—THE TREATY OF HOPEWELL.

In writing the history of the Indians two things are always present, the encroachment of white men on their lands, the reproaches, complaints, and revenge of the savages. The government of the whites has made faint efforts at preserving territory to them, but it is slipping away, Oklahoma is followed by the Cherokee Strip. The result was always the same. The savage yielded to the civilized man and he recognized the rights of the former only so long as it suited his purpose.

During the Revolution the Cherokees had the English to urge them on; after it was over the Spaniards took the place of the English. The settlers were already in their midst. He met him with all the weapons he had, theft and the tomahawk.

Governor Harrison gets to the heart of the continued depreciations of the Indians when he writes Governor Martin, of North Carolina, October 22, 1782: "I am apprehensive much of the ill temper of those poor wretches arises from the continual encroachments made by our people on their lands. Some bounds should certainly be fixed, beyond which they should not be allowed to go. Our honor and justice call loudly on us for such a regulation, and I hope you will use your endeavors to accomplish it in your State."

Many of these intruders on the Indian lands had come in as settlers in the rear of the over mountain men on their return from the campaign of 1780 in the Carolinas. The Indians sent in their complaints through Martin, their agent.

November 12, 1782, Governor Harrison writes Governor Martin that he had just received a communication from Col. Martin consisting of a talk from the Cherokees, in which they are in distress because they "are apprehensive that the people of your State mean to deprive them of their hunting grounds, which have been long since saved to them by solemn treaty." He thinks this encroachment was contrary to and without the sanction of North Carolina, urges the governor to force them to vacate, warns him of the revengeful disposition of the Indian and suggests that the matter might be settled once

* Calendar Virginia State Papers, III, 560. Similar charges were made against Donelson, *Ibid.*, 547.

for all by having commissioners from North Carolina, South Carolina, and Virginia meet others from the Indians and fix boundaries.

As early as the 3d of the previous May Col. Martin, while at Hillsboro, N. C., had pointed out the danger from the continual encroachments of the whites: "I am now attending the Assembly of North Carolina at this place, to remonstrate to that Legislature the impropriety of Extending their western settlements too near the Cherokee towns on Tennessee, as a petition from the back country is laid before them for that purpose, which will unavoidably bring on a war with that nation should the people proceed to form settlements adjoining their towns."*

In February, 1782, Governor Martin had directed Sevier to order the settlers off the Indian reservation. If they did not obey he was to pull down their cabins and drive them off,† and February 11, 1784, he writes Col. Martin from Danbury: "You will call upon Gen. McDowell and Col. Sevier, and the commanding officers of Sullivan County, to order and drive off those evil-minded persons who have intruded and still continue on the Indian lands beyond the French Broad River. I have repeated my orders to them. I wish the Indians to have no complaints from our people." And the same was renewed in 1787. Of course Sevier and the others did not drive the intruders off. It is doubtful if either Governor Martin or Col. Martin thought this could be done, for the settlers had might, and might meant right, as it has always done in our dealings with the Indian. Still, we can but admire the determination of the agent who insisted on having the rights of the red man respected although it brought down on his head the wrath of the men whose interests were thus thrown into jeopardy.

North Carolina reopened her land office, which had been closed since June, 1781, in May, 1783, to pay in lands the claims

* Calendar Virginia State Papers, III, 151.

† Ramsey's Tennessee, 270, 271. Governor Jefferson wrote to Governor Caswell, November 11, 1779, by the hand of Martin, who, he had reason to believe, was a "good kind of a man and worthy of credit," that the Indians were then complaining of the attempt to take their lands, particularly the great Island, and that the Virginia Assembly, then in session, was considering the advisability of authorizing the executive "to send patrols of the military through there from time to time to destroy the habitations which shall be erected in them by intruders." Writings, Ford's edition, II, 274-276.

of her soldiers and officers in the Revolution. By this law, without previous consultation with the Indians and against the advice of Martin, the boundary of the State was extended to the Mississippi on the line of 36° 30' and with a south line on 35°, certain lands within this territory being reserved for the Indians,* but the reservation did not extend to the French Broad tract. The Cherokees had held no treaty with North Carolina and had ceded no lands to her since the treaty of 1777. This was then an arbitrary and unwarranted aggression on the part of North Carolina and is responsible for most of the trouble that followed.†

The State of Franklin was another element that tended to complicate matters and irritate the Cherokees. Its leaders stood distinctly for the idea of encroachment. This brought them at once into conflict with the Indians and with their representative, the Indian agent, who, from his position, had, of necessity, to associate with them and to represent their views to the executives of Virginia and North Carolina and to express his own opinion thereon. Martin writes Gen. Russell from Chota, August 1, 1784:

I am also watching the motion of the Indians who are in great Confusion. The people from franklyn have actually Settled or at least built houses within Two miles of their Beloved Town of Chota one of their principal Towns, * * * Their greatest uneasiness proceeds from a Talk Held with Governor Savier in May last not one of their principal men attended tho the Governor Entered into treaty with those that attended on french broad he asked them for The lands on little river. They absalutely Refused by Saying all their head men was at home that they had no powers to grant land on any terms he then requested them to Suffer what familiees was actually Settled there to remain Till they had another talk which the Indians agreed too since, then there has a number of families moved there and Talk of Building forts and Say they will Hold it in defiance of Every power this information is fact and I hope will reach congress and the Executive of Virginia mostly thro you.

He writes to Governor Henry from Henry County, Va., March 26, 1785:

I returned last evening from the Indian Country after taking a tour through the Valley and Middle Settlements, also the different Cherokee towns bordering on South Carolina and Georgia. I found the Indians there very friendly, being well satisfied with the said States, as they have run a Line agreeable to treaty, and have effectually prevented the citizens from encroaching on their lands. * * *

The People over the mountains in North Carolina have declared them-

* Iredell's Revisal, 1791, 446.

† *Ibid.*, 469-471.

selves Independent of that State, have chosen a Governor and Council of their own, elected delegates, and are now sitting in General Assembly. They call their State Franklin. They intend to lay off a new county South of French Broad river, in lands reserved by the State of North Carolina for the Indians, which county so laid off will include some of the towns the Indians are now living in.* Capt. Cocke is chosen a member of Congress, who sets out about the tenth of April—which, if they proceed, undoubtedly involve the States in a war with the Indians. Hubbard, who murdered Butler, is one of their delegates; that has provoked the Indians much, as they now despair of his being brought to justice, & I suppose, have attempted to take satisfaction at the house of one Cox, near the end of Clinch Mountain, where an attack was made the 10th inst., the damage done there was one horse killed.† * * *

Martin writes Governor Henry from Smith's River, April 17, 1785:

* * * Governor Martin tells me he is well informed that the greatest part of the Cherokee and Creek Indians are for war, occasioned by the State of Franklin passing an act to extend their boundary within 20 miles of Chota, without holding any treaty with them. He also informs me, that he has declined holding any treaty with the Indians, as the people over the mountains have separated themselves from North Carolina.‡

These letters show that there was a necessity for a better understanding with the Indians, and with the treaty of Hopewell a new era in the relations with the Cherokee Nation began. Before this time the colonies had dealt with them separately, but the contentions between the border settlers of Virginia, North Carolina, South Carolina, and Georgia, as well as the authorities of these States, with the Cherokees and Creeks had now induced the Congress of the Confederation to take the matter into their own hands. Its object was to define the claims of the Indians and of the whites, respectively, and in this way to prevent the encroachment of the latter on the Indian reservation. Benjamin Hawkins and Lachlan McIntosh of Georgia, Andrew Pickens of South Carolina, and Joseph Martin were appointed commissioners.

Before meeting the Cherokees the commissioners made arrangements to meet the Creeks and proceeded to Galphintown, in Jefferson County, Ga. They arrived here on the 24th and 28th of October, 1785, having procured all things necessary for their purpose. But, owing to false reports which had been spread among the Indians, few of them attended, although

* This was open in 1787. Calendar Virginia State Papers, IV, 256.

† *Ibid.*, IV, 18.

‡ *Ibid.*, 25.

they were anxious to make peace with the States; the number in attendance was too small to justify the commissioners in making a treaty. They explained the object of their commission, gave them presents and left, but the agents of Georgia held a treaty with the few who were there. The Continental Commissioners then returned to South Carolina, and on November 18, 1785, met the Cherokees at Hopewell on Keowee, 15 miles above its juncture with the Tugaloo. Martin was thoroughly acquainted with the situation and the negotiations were left largely with him. The Cherokees were estimated at this time at 2,000 warriors,* of whom 918 attended the conference. William Blount was present as agent for North Carolina, John King and Thomas Glasscock for Georgia.

The commissioners announced the change in sovereignty due to the successful termination of the revolution; promised the Indians justice and a redress of grievances if they had any. The main question to be settled was the respective boundaries of the two. The Indians drafted a map† showing the territory claimed by them and including the greater part of Kentucky and Tennessee and parts of North Carolina, South Carolina, and Georgia. The treaty was signed November 28, 1785.

Prisoners were to be restored to liberty on both sides; negroes and other property to be given up; the Cherokees acknowledged themselves under the United States alone. Their boundaries were then defined: Beginning at the mouth of Duck River on the Tennessee, thence northeast to the ridge dividing the waters of the Cumberland from those of the Tennessee; thence eastwardly along the said ridge to a northeast line to be run, which shall strike the river Cumberland 40 miles above Nashville; thence along the said line to the river; thence up the said river to the ford where the Kentucky road crosses the river; thence to Campbell's line near Cumberland Gap; thence to the mouth of Cloud's Creek on Holston; thence to the Chimney Top Mountain; thence to Camp Creek, near the mouth of Big Limestone on Nolichucky; thence a southerly course 6 miles to a mountain; thence 5 to the North Carolina line; thence to the South Carolina Indian boundary, and along the same southwest over the top of the Oconee

* In 1787 Gen. Martin estimated them at 2,650.

† This map is reproduced in American State Papers, Indian Affairs, I, 40, and in Putman's Middle Tennessee.

Mountain till it struck Tugaloc River, thence a direct line to the top of Currahee Mountain; thence to the head of the south fork of Oconee River.

If any white person should settle on the Indian lands or any who were there did not remove in six months they were to be punished or not, as the Indians wished. But this did not extend to the people between French Broad and Holston, who were too numerous to be removed, and their particular case was to be referred to Congress.

The Indians were to give up all persons guilty of capital offences to be punished by the United States, just as its own citizens were. And article 7 provides:

“If any citizen of the United States, or person under their protection, shall commit a robbery or murder, or other capital crime, on any Indian, such offender or offenders shall be punished in the same manner as if the murder or robbery, or other capital crime, had been committed on a citizen of the United States; and the punishment shall be in presence of some of the Cherokees, if any shall attend at the time and place, and that they may have an opportunity so to do, due notice of the time of such intended punishment shall be sent to some one of the tribes.

The innocent were not to be punished for the guilty; if the treaty was violated, war was to be preceded by a declaration of hostilities. The United States alone was to regulate trade with the Indians, and until the pleasure of Congress was known all traders were at liberty to visit them. The Indians were to give notice of any “designs which they may know or suspect to be formed in any neighboring tribe or by any person whosoever against the power, trade, or interest of the United States of America.” This was designed against the Spaniards. They were given the right to send a deputy to Congress when they thought proper, and the hatchet was to be buried forever.

After signing the treaty Martin and McIntosh set out for their homes, leaving Hawkins and Pickins to settle affairs with the Indians. But Martin, learning that the Choctaws were coming to meet them to make a treaty, returned on December 27. The Choctaws had arrived on the 26th in a naked and destitute condition, after having traveled nearly 500 miles and suffering many hindrances from the Spaniards and Creeks. It was first found necessary to clothe them, and on the 3d of January, 1786, a treaty was signed.

January 10 they signed a treaty with the Chickasaws at the same place. The Chickasaws granted a circle 5 miles in diameter at the Muscle Shoals for a trading post; the Choctaws

gave 3 posts each 6 miles square. In all other respects, after defining the boundaries of the separate nations, the terms of these treaties are the same as that made with the Cherokees, except that the Chickasaws and Choctaws are asked to surrender no prisoners and were not invited to send a delegate to Congress.*

The relations with the Cherokees were at that time the most pressing. The Cherokee Hopewell treaty was a compromise. It is evident that the commissioners sought to conciliate both the Spaniards and the Cherokees. They sought to lessen the horrors of Indian warfare and this was reduced for the next year. They knew that the treaty would make them enemies among the whites. "Through the whole of our negotiations," they write, "we have paid particular attention to the rights and interest of the United States as far as our abilities comprehended them, regardless, of the adjoining States†. The Georgia commissioners protested that the treaty of Hopewell was "a manifest and direct attempt to violate the retained sovereignty and legislative right of this State," and that the commissioners "did attempt to exercise powers that are not delegated by the respective States to the United States." William Blount said that the boundary fixed by the treaty was different from that fixed by the assembly of North Carolina in 1783 and was therefore "a violation and infringement of her legislative rights," that some of the lands ceded to the Indians had been granted to Revolutionary soldiers and that others had been sold. On July 12, 1786, Governor Caswell writes John Sevier that the people of North Carolina are making "a very great clamor respecting the conduct of Col. Blount at the Indian treaty, though I am satisfied he did everything in his power to prevent the same taking place, so much to the disadvantage of this State if carried into effect." But he concludes that Congress will come to the opinion that this treaty is so repugnant to the rights of the States "that they will not consider us, by any means bound to abide by those treaties."

The Indians had in the beginning claimed most of Kentucky and Tennessee with a considerable part of Georgia, South Carolina, and North Carolina. They were induced to give up their claims to Transylvania and to consent to such a boundary as would, in the opinion of all, leave all the people

* Indian Treaties of the United States to 1837, pp. 8-17.

† American State Papers, Indian Affairs, I, 48-52.

in the Cumberland section outside of the Indian territory. The commissioners agreed to remove a few families who had gone within the Indian bounds but those who had settled between French Broad and Holston were too numerous for them to agree positively to their removal. This was a source of discontent to the Indians. They said there were 3,000 of these settlers and noted their disposition to encroach still further on their preserves. They maintained that they had never sold the land and that the settlers were there in defiance of their protest. On the other hand the whites were angry because any favors had been shown the Indians and because there were not further curtailment of their territory.*

But the boundaries thus fixed by the treaty of Hopewell "were the most favorable it was possible to obtain from the latter [Cherokees] without regard to previous purchases and pretended purchases made by private individuals and others. Although the Indians yielded an extensive territory to the United States, yet, on the other hand, the latter conceded to the Cherokees a considerable extent of territory that had already been purchased from them by private individuals or associations, though by methods of more than doubtful legality."†

Reference is had here to the treaties made by the State of

* Some of the writers whom I have consulted represent the views of the whites only, and we find the treaty denounced and misinterpreted. Putnam, Middle Tennessee, 239, warps the seventh article, which, as the context clearly shows, was intended to put the power of punishing offenders against the Indians into the hands of the States, when he says it clothed the savages "with judicial and executive powers of a startling character." Gilmore, either too indifferent or too careless of the truth to go to the original record, copies Putnam instead and even forgets to mention that clause of the treaty which refers the case of the settlers on the French Broad tract to Congress. John Sevier, 61-63; See American State papers, Indian Affairs, 1, 38-52; Indian Treaties of United States to 1837. The three treaties were ratified by Congress April 17, 1786. It may be of interest for these gentlemen to know also that in the treaty signed by William Blount with the Cherokees in 1791 and in the treaty signed by Knox in 1794 the article in regard to felonies was not altered and the one in regard to trespassing still reads: "If any citizen of the United States, or other person not being an Indian, shall settle on any of the Cherokee's lands, such person shall forfeit the protection of the United States, and the Cherokee's may punish him or not as they please."—American State Papers, Indian Affairs, 1, 124.

†Charles C. Royce: "The Cherokee Nation of Indians" in report of Bureau of Ethnology, 1883-'84, pp. 152, 153 *et seq.* See also Ramsey's Tenn., 463, 499.

Franklin in 1785 with a part of the young men of the Cherokees. The old Cherokees declined to come because they heard that the 13 States were to hold a treaty with them, the young men present admitted their inability to treat and declined to do so but agreed to refer the case of the intruders to their headmen (see p—). The intruders remained on the land and served as a basis for further aggressions. Many entries had been made of this land and settlement made on it. These parties even claimed that the State had actually purchased it of them. Gen. Martin writes Governor Henry that North Carolina had treated for no lands since 1777.*

There were many purchases by private parties, but neither North Carolina nor the Confederation recognized them as binding just as they had refused to recognize the treaties of the so-called Franklin State.

But trespasses continued and the Indians met the coming settlers by constant pilfering. In 1788 the trespassing had become so unbearable that on September 1 of that year Congress by proclamation forbade all such unwarrantable intrusions and warned those who had settled in the territory, except those between French Broad and Holston, to depart; at the same time the Secretary of War directed that a sufficient body of troops be in readiness to march from the Ohio for the protection of the Cherokees "whenever Congress shall direct the same." On the 7th of July, 1789, the Secretary remarked: "The disgraceful violation of the treaty of Hopewell, with the Cherokees, requires the serious consideration of Congress. If so direct and manifest contempt of the authority of the United States be suffered with impunity, it will be in vain to attempt to extend the arm of government to the frontiers. The Indian tribes can have no faith in such imbecile promises, and the lawless whites will ridicule a government which shall, on paper only, make Indian treaties and regulate Indian boundaries."†

Trouble was also caused by the anomalous position of North Carolina which was not then in the federal union. "The Commissioners for negotiating with the Southern Indians may be instructed to transmit a message to the Cherokees, stating to them, as far as may be proper, the difficulty arising from the local claims of North Carolina, and to assure them that the

*Life of Henry. There is certainly no evidence that North Carolina had purchased any land of the Cherokees.

†American State Papers, Indian Affairs, I., 53; Royce, 160-161.

United States are not unmindful of the treaty of Hopewell; and as soon as the difficulties which are at present opposed to the measure shall be removed the Government will do full justice to the Cherokees."* North Carolina adopted the Federal Constitution in 1789, and this trouble was relieved. In August, 1790, Washington is still speaking of carrying into effect the terms of the treaty of Hopewell.

But treaties, remarks, and proclamations were alike in vain. It was an effort, with justice on its side, to stem that flood of Englishry which has since come to dominate the New World. Justice they did not have; power and the capacity for improvement they did have. The white intruder is ordered off Indian lands with as little effect to-day, and the inferior man, be he Indian or negro, will eventually go down in this struggle. The fittest survive.

XV—THE STATE OF FRANKLIN.

In 1784 the division between North Carolina and that part of her territory west of the mountains became more and more marked. The East delayed to discharge debts incurred in carrying on Indian wars, was slow in providing for their defense, and the organization of the courts was not sufficient to meet the requirements of justice. The West complained of these inadequate provisions and the East retorted with the extravagance of the West. In April, 1784, this territory was ceded to the Confederation. The settlers, no longer under the government of the State and not yet under the Confederation, determined to set up for themselves. This they did, beginning with a convention in Jonesboro in August, 1784. They formally declared their independence of North Carolina, organized a government of their own, and called themselves Franklin. Martin was a member of the August convention. He was on the committee to take into consideration the state of public affairs, including the question of the cession by North Carolina. He opposed the scheme of a separate government from the first. He does not appear to have voted on the question of independence of North Carolina, nor was he a member of the second convention of the State of Franklin.†

* American State Papers, Indian Affairs, 1, 53; Royce, 55.

† See Ramsey's Tenn., 282-288, for the account of the organization, with names, etc.; also Haywood, Chap. vi.

When this secession became known to North Carolina her assembly repealed the act of cession, established a superior court for the four Tennessee counties,* appointed an assistant judge and an attorney-general, formed them into a military district, and made Sevier a brigadier-general.† This prompt redressing of wrongs satisfied many, including Sevier, who advised the people to proceed no further in their separation. But in spite of this the more radical held a convention, organized a government, and elected John Sevier governor. He accepted this office and became the only governor of the State of Franklin. ‡

The organization of the State of Franklin was not directed

* The Tennessee counties were erected as follows: Washington in 1777, Sullivan, 1779, Greene and Davidson, 1783.

† Ramsey: Tennessee, 220.

‡ *Ibid.*, 282, *et seq.*, Mr. James R. Gilmore, in his hero-worshipping book, "John Sevier as a Commonwealth Builder," does great injustice to Martin. He says (p. 56) that Martin "had been one of the earliest and most active promoters of the new State; but somehow, when it came to be organized, he had, much to his chagrin, found himself, like Tipton, without any official position whatever." This statement is entirely wrong. Ramsey says, 342, that Martin was an officer of the State of Franklin. He probably alludes to his membership in the convention of August, 1784. Col. Campbell says he was "at his own solicitation" chosen a member of the Privy Council (Cal. Va. State Papers, iv, 31). Martin says he was elected without his consent, and we know that he refused to serve. "Col. Campbell made use of many arguments to draw me over to that party, by saying he wondered I would not Join them, as it would be much to my Interest, as I had a body of Valuable Lands in powell's Valley; that as soon as the new State would take place I might have a county Laid off there and the court-house on my Land, and convenient to the Seat of Government. My reply to him was, that as long as I appeared in public character, I did not look altogether at private Interest" (*Ibid.*, iv, 54). He also writes to Governor Caswell under date of September 19, 1785: "I find myself under some concern, in reading that part wherein I am considered a member of the new State. I beg leave to assure your Excellency that I have no part with them, but consider myself under your immediate direction, as agent of the State of North Carolina until the Assembly shall direct otherwise." (Ramsey's Tenn., 318.) In Henry's Life of Patrick Henry we find a letter to Martin, written October 4, 1786, giving an extensive exposition of the reasons why Franklin should be abandoned. The two men were great friends, and this letter doubtless did much to strengthen his view, but Martin's mind was made up before this, as we have seen. In a letter to Governor Randolph in 1788 Gen. Martin announces the dissolution of the State and intimates that it had been done largely through his influence (Cal. Va. State Papers, iv, 452). Governor Henry was of the opinion that the State of Franklin was due to Spanish intrigues.

against North Carolina alone, but Virginia as well. Col. Arthur Campbell was anxious to secure the secession of Washington and Montgomery counties, Virginia, and their union with Franklin; but Sevier, the soul of the Franklin movement, was not so inclined. He writes to Henry, July 19, 1785: "Although we have been forced into measures for separating from Carolina, I think it necessary to inform you that we will on no account encourage any part of the people of your State to join us, nor will we receive any of them unless by consent of your State. We reverence the Virginians, and I am confident the legislature here will at all times do everything to merit their esteem."*

But, although the government of Franklin was established, there was not union among the people, nor did the State of North Carolina yield her claims of jurisdiction over the territory. There were rival courts and rival sets of officers, who browbeat each other and took possession of the public records by turns, while others, noting the steady intrusion of the whites, foreboded a new Indian war.†

Col. Martin writes from Chota, September 19, 1785, to Governor Henry; "The people in the new State are much divided: several of their members refused at their last assembly to take seats. They have attempted to get representatives from these towns [Cherokee], I suppose, to augment their numbers, as they might have a representative in Congress; but that attempt was baffled."‡

The influence of Martin is indicated by the position of Sullivan County in which he resided. Sullivan and Hawkins were for the old State, Washington for the new. The history of Franklin is the history of the Southern Confederacy in miniature—a house divided against itself can not stand. Finally, the conciliatory attitude of North Carolina and her promise to make a new State as soon as the people were ready for it gave the State of Franklin a fatal blow.§ In 1787 we find Col. Martin a representative from Sullivan County in the assembly of North Carolina.|| This assembly appointed him brigadier-general of the North Carolina militia in the western or Washington district. His commission dates from December 15, 1787. This put him at the head of the military in Tennessee. In this

* Calendar Virginia State Papers, IV, 43. § Ramsey: Tennessee, 369.

† Ramsey: Tennessee, 359.

|| *Ibid*, 389.

‡ Calendar Virginia State Papers, IV, 53.

capacity it was his duty to summon Sevier and his party in the name of the State of North Carolina to lay down their arms.

Here was a difficult and dangerous duty. Sevier and the Franklin men were in arms under color of an Indian campaign. There had already been an armed conflict between the two forces. It was the duty of Martin to prevent a further conflict, if possible, and at the same time to enforce the laws of North Carolina. To Governor Randolph he writes: "Am now doing everything in my power to prevent any further disputes between the old and new State, which I hope to effect, as little mischief is as yet done, only two men killed and six wounded."

And to Governor Martin from the Long Island, March 24, 1788:

SIR: The confusion of this country induces me to lay before your Excellency, by express, our present situation, which is truly alarming.

I sent, on Saturday last, to Sevier and his party, requiring them to lay down their arms, and submit to the laws of North Carolina, but can get no answer, only from Col. Joseph Hardin, which I forward; though I know that on Friday last they met in convention to concert some plan. The bearer of my express to them informs me, that he understood that Sevier had gone toward French Broad, since the 10th instant; that Col. Kennedy, with several others, had gone the same way, to carry on an expedition against the Cherokee Indians, which, I am well assured, wish to be at peace; except the Chickamauga party, which could be easily driven out of that country, if your excellency should recommend it. I am somewhat doubtful, that Sevier and his party are embodying, under the color of an Indian expedition, to amuse us, and that their real object is to make another attack on the citizens of this State; to prevent which, I have ordered the different colonels to have their men in good order, until I can hear from your Excellency; at which time I hope you will give me directions in what manner to proceed, in this uncommon and critical situation; for which I shall wait, till the return of the express, before I shall take any decisive steps.

Should the Franks still persist to oppose the laws of this State, would it not be well to order Gen. McDowell to give some assistance? as a few men from there will convince them that North Carolina is determined to protect her citizens.*

But that Martin was anxious to avoid the bloodshed that might ensue on a collision between the new State and the old State authorities is manifest from his letter to Col. Kennedy, one of Sevier's lieutenants, March 21:

I am greatly distressed and alarmed at the late proceedings of our countrymen and friends, and must beg your friendly interposition, in order to bring about a reconciliation, which, you well know, was my object in accepting the brigadier's commission. I am, perhaps, as little afraid of

* Ramsey: Tennessee, 417.

stepping forth in the field of action as any other man; but I would be sorry to imbrue my hands in the blood of my countrymen and friends, and will take every method in my power to prevent anything of that nature. In our present situation, nothing will do but a submission to the laws of North Carolina, which I most earnestly recommend to the people. You well know that this is the only way to bring about a separation, and also a reconciliation for our worthy friend [Sevier], whose situation at this time is very disagreeable. I most sensibly feel for him, and will go very great lengths to serve him. Pray see him often and give him all the comfort you can. * * * *

“There were few,” remarks Ramsey, “even of the adherents of the old State, whose feelings and wishes in reference to Sevier were not in exact consonance with those expressed by Gen. Martin in this letter. Its tone, its moderation, its wisdom, its sympathy for a soldier and a patriot constitute the highest eulogy upon his own good sense, his patriotism, and his good feelings” (416).† Several letters also passed between Martin and Sevier on the question. These seem to have had the desired effect, for Martin writes Governor Randolph in April, 1788, “I am happy to inform your excellency that the late unhappy dispute between the State of North Carolina and the pretended State of Franklin is subsided.”

Thus Martin, by a wise and conservative policy, ended tumult and violence and prevented what might have been under other circumstances a civil war. The State of Franklin had died a natural death.

It would have been well had the government of North Carolina been as wise as its agent and allowed the question to drop. But instead they determined to try Sevier for treason, and in July, 1788, Governor Johnston, of North Carolina, instructs Martin to order out a sufficient number of the militia of Washington district to assist the sheriff in arresting any

* Ramsey: Tennessee, 416.

† But Mr. Gilmore in his book on Sevier says that “a comparison of the two letters is enough to show his [Martin’s] deep duplicity, for in every particular one letter contradicts the other. As subsequent events show, Martin’s sole motive in inviting Kennedy was to detach him from Sevier; his aim in addressing the governor [Johnston, of North Carolina] was to prepare that official’s mind for proceedings against the Franklin leader on a charge of high treason; hence Martin’s insinuation that Sevier was levying troops to attack the citizens—a charge which he must have known to be outrageously false” (p. 169-171). These remarks furnish a good illustration of the way personal sympathies warp the interpretation of documents. For the value of Mr. Gilmore’s books historically the reader is referred to the criticisms in Roosevelt’s *Winning of the West*.

persons "guilty of treasonable practices against the State." This, of course, meant Sevier. A warrant was issued against him by Judge Spencer, of North Carolina, but at first no attempt was made to arrest him. He happened to be in Jonesboro during the presence of Gen. Martin. Col. Tipton heard of it, collected a small guard and arrested him near by at the house of a friend.* Gen. Martin's letter to Governor Johnston, on March 24, 1788, seems to have been partly responsible for this move, but this was before the settlement of their troubles. It does not appear that he had any hand in his actual arrest. Sevier was conveyed to Morganton, N. C.; was rescued while the court was in session by a band of overmountain men and returned home. He was prosecuted no further, and in 1789, by special enactment, was pardoned and restored to citizenship.

XVI.—MARTIN AS AGENT OF NORTH CAROLINA AND OF THE UNITED STATES.

During all this quarrel Martin was acting as Indian agent of North Carolina, with his headquarters on the Long Island of Holston. During the greater part of the time he was agent for Virginia also. These were trying days to the agent. The Indians had certain rights which it was his duty to enforce and this brought him into conflict with the whites. It is true that he was on the losing side of the struggle, as all men have been who have attempted to limit the English occupation of America, but it does not follow that he is to be condemned because of his position. Then, too, his relations with the State of Franklin were not such as to make him acceptable to a large part of the western folk. And to make the problem more complex, the machinations of the Spanish are to be added. They were constantly instigating the Cherokees, Creeks, and Chickasaws to hostilities. Various filibustering expeditions were fitted out to attack the Spanish forts.† These had to be looked after and suppressed. The Spanish and French from

* Phelan, 99. It is evident that Winn, the Superintendent of Indian Affairs, advised the arrest of Sevier. (See Am. Sta. Papers, Ind. Aff., I, 55.) If we are to take the account of Haywood (ed. 1891, 203, 204), it is equally clear that Martin had neither desire nor intention of arresting Sevier.

† See Martin's letters of April 14, July 20, August 10, 30, 1783, and Governor Harrison's instructions August 21.

New Orleans were undertaking to engross the Indian trade, the Spanish sought to get exclusive control of the Mississippi, and the governor of New Orleans sent orders to the Chickasaws to remove all traders from the country except such as should take the oath of allegiance to the Catholic King.* At the same time the Cherokees reported that the northern Indians had their emissaries among the southern Indians and were endeavoring to form an alliance against the United States. The British agents were in favor of this movement and so were the Spaniards.†

We see then the imperative necessity of keeping the Cherokees quiet. This could not be done if the whites were allowed to trespass at pleasure upon their lands. The work of the agent was frequently paralyzed by these intruders, and every Indian outbreak after 1776 can be traced to intrusion (MSS.). In 1787 he was further hampered by the Franklin authorities, who "opened the land office for that part of the land lying between French Broad and Tennessee which the legislature of North Carolina ceded to the Cherokee Indians. The people are settling as far as the banks of the Tennessee, and have improved on the south side of the river to the great disgust of the Indians; in short, they seem to take every step that appears most productive to a war with those people."‡

The efforts of Martin to protect the rights of the Indians brought down the wrath of the Sevier party upon him, and in this generation that of Sevier's worshippers. These men, shortsighted and incapable of seeing the question in its broader relations, said that Martin was a friend to the Indians and therefore no better than they. So a party of some fifty men gathered and traveled some 30 miles with the intention of killing him. When they reached the Holston they halted and sent eight or ten forward to reconnoiter. Col. Martin had in the meantime learned their purpose. He went out to meet them heavily armed, demanded their business, and said he would shoot down the first man who moved his gun. They protested that they had no hostile intentions. He finally invited them into the house; they went in and drank, sent for their comrades who had been left behind, and the whole affair, owing to his

* Ramsey: Tennessee, 336.

† *Ibid.*, 337. American State Papers, Indian Affairs, I, 39.

‡ Calendar Virginia State Papers, IV, 256.

courage and presence of mind, ended in a frolic instead of a tragedy.*

The years 1786 and 1787 were to the borderers full of wars and rumors of wars. Each side committed offenses against the other, and Martin, as agent, had to bear the burden of the quarrels, whichever side was in fault. He made long and frequent expeditions into the nation to see how they did and what their feeling was toward the whites. He used all his efforts to keep them at peace, and while thus nursing the Cherokees kept an eye on the Creeks and was from time to time in their country. The Creeks were then under the leadership of McGillivray, and in October and November, 1787, made an expedition against Cumberland. McGillivray's plan was to attack Kentucky and to extend the war to all the frontiers of Georgia, North Carolina, and Virginia. He was carrying on peace negotiations with Georgia to amuse them and intended making it so hot for the States that they would consent to receive the Creek Confederacy as a separate State. In October, 1787, it was reported that the Creeks were on their way against Holston.

On the 3d of October Martin writes Governor Henry from Chota that the governor of the Floridas was giving aid to the hostile Creeks; that an army of Georgia was in motion against them; that the Cherokees were much pleased at this and might be induced to give their assistance. He had been twice through the Nation and was on the point of starting again. "I shall spare no pains to keep them in good humor, though they are very uneasy about their lands; the people of North Carolina have settled within 5 miles of their town. They beg that you will write to Congress in their favor."

Dr. James White was appointed superintendent of Indian

* I have no idea that Sevier was in any way responsible for this attempt, but Martin's firmness in the matter of Franklin, plus the fact that they represented opposite sides on the question of Indian encroachments, widened the breach that had already begun between these two patriots and which seems to have continued through the remainder of their career. This hostility was not peculiar to Martin and Sevier by any means. All of these leaders, as Roosevelt points out, show more or less of the same spirit, and it was a natural one. There seems to have been no hard feeling on Martin's part. He writes Sevier in October, 1788, and says: "Our Interest are or ought to be so jointly Concerned that the strictest friendship Should Subsist, which is my Earnest Desire." But this was not the case and the charges of conspiracy which Sevier propagated kept them apart.

affairs for the Southern department November 29, 1786. It seems that Col. Martin had been a candidate for this position, and in April, 1785, Governor Martin, of North Carolina, had certified that as Indian agent for North Carolina he had discharged his duties to the satisfaction of the assembly and the executive, "and hath also conducted himself among those Indians in such a manner as to gain their general esteem and good will. He appears to be a gentleman well versed in Indian affairs and discovers great capacity in the management of them." Governor Henry recommended him also.* He was probably defeated through the influence of the frontier settlers. With this appointment Virginia ceased to employ an agent. Governor Randolph writes Martin January 31, 1787: "The executive, having approved your conduct in the Indian department, were desirous of still engaging your services. But after revising their powers since the appointment made by Congress of a superintendent, they are under the disagreeable necessity of informing you that they are disabled from longer continuing your office." Martin's connection with Virginia thus came to an end after nearly ten years of service. He continued to act as Indian agent for North Carolina, and as we have seen was appointed the same year brigadier-general of its militia.

The way his failure to receive the superintendency was received by some of the best men in the State is shown by the following letter from Hugh Williamson, the historian:

NEW YORK, *June 23, 1788.*

SIR: On the middle of May I arrived here. I had then been 3 years out of Congress and could not have taken my seat sooner. Doct White had been gone a fortnight before my arrival and an Agent had been appointed for the Southern Department. It is true that the appointment is said to be merely temporary, but nobody here has ever attempted to convince me that the appointment was prudently made. It is alleged that the Agent appointed, as in all appointments formerly made, is altogether unacquainted with the management of Indians. Having a full Persuasion that you have a considerable acquaintance with the Indians and interest among them, I wished to see you in that Department, but the door seemed to be shut; there was, however, one mode remaining by which our State at least might have the benefit of your Influence among the Indians; this was by giving you the separate Charge of the Cherokees, &c. Mr. Carrington of Virg, and Mr. Brown, a lawyer from the Western Part of the State, were both informed of your attention to Indian affairs and zealously promoted this measure, but my Colleague Mr. Swan who had been inoculated could not attend steadily in Congress till on the last

*Calendar Virginia State Papers, IV, 24-25.

week and on Friday last you was chosen. While the Agent formerly appointed for the Southern Department continues, you are to hold a subordinate Place, but to receive your Instructions from Congress with the allowance of 500 Dls. p ann: I think it probable on the next year the whole Duties of the Southern Department will be in your hands, for I am persuaded that on the Rem- of this year we shall have the satisfaction to find that the Indians under your Care conduct themselves without offence to the Citizens of the United States. I hope in particular that our Friend in Davidson County will experience the benefit of your attention to the safety of themselves, their Wives and children.

I beg you to observe that I have no sort of claim to thanks for any attention I have shown to this business, for in all votes that I give, as a Servant of the State, I am careful not to be influenced by private attachments; I constantly wish to promote such men to Office as I think will serve the public best. If you should be the means of saving the Lives of any of our fellow Citizens I shall have the Reward that I covet, the approbation of my own mind.

Wishing that your appointment may be productive of Benefit to the State and Honor & Profit to yourself, I am, Sir, Your most obedt. Servt.,
HU WILLIAMSON.

To Genl. MARTIN.

XVII.—MARTIN'S CHEROKEE CAMPAIGN OF 1788.

Early in 1788 the Cherokees again became restless. They made an attack on Col. Bledsoe's station on Cumberland, and it was threatening enough to induce him to send an express to Hillsboro, N. C., for aid.* They made attacks in Davidson and Sumner counties, killed people on the Kentucky road, and took prisoners in Hawkins. The day before Christmas they had made an attack on Gen. Martin's plantation on Tugaloo, killed two men, and took some of his horses. The French from Detroit were also taking possession of the bend of Tennessee, were building blockhouses, had Indians with them, and were giving alarm. And the Cherokees were doing mischief on Holston. "I have been much pressed to carry on an expedition against the Cherokees," writes Martin, "but am unwilling to do anything of that kind without authority, though I fear it will be out of my power to keep the people back much longer." †

Congress in the meantime had already appointed Richard Winn superintendent of Indian affairs for the Southern Department to fill out the time of Dr. White, but this does not seem to have helped the situation much, and on June 20, 1788, as a kind of last resort, they appointed Martin agent for

* Calendar Virginia State Papers, iv, 395.

† *Ibid.*, iv, 395, 428, 432.

the Cherokee Nation for six months. This was the first appointment he had received from Congress. He was to act in subordination to the superintendent and was to receive \$500 a year. He was to investigate the grievances of the Cherokees and report them to Congress. August 20, 1788, he was also made agent for the Chickasaws, with similar powers and limitations.

He responds to the letter of Secretary Knox announcing his appointment, from Henry County, Va., on the 10th of July:

SIR: Your letter of the 23d of last month came to my hand this day. I observe its contents with due attention, and do sincerely lament that Congress did not at any earlier period give me, or some other person, whose attention was to the interest of the United States, a power sooner, as Indian affairs now stand tho' the department in which I am acquainted, I fear it will be difficult to answer the expectations of Congress, which with ease I could have done some time past.

Gen. Martin then gives a detail from memory of the condition of Indian affairs:

At the last session of Assembly of North Carolina, I was appointed Brigadier-General of Washington District, which comprehends all that part of the territory illegally called Franklin, also Cumberland Settlements, the nearest to the Chickasaw tribe of Indians. In consequence of my appointment on the 20th of April last, I set out in order to take command of that trust reposed in me, also to put the constitutional laws in execution which had been dominant [dormant?] for some considerable time, much to the prejudice of that remote part. On the 24th I reached the lower settlements on Holston river, where I found a number of men in arms in order to attack the Cherokee towns, in consequence of a man & boy being killed at that place a few days before.

Martin was certain that this killing was not the work of the Cherokees, and persuaded the whites to investigate. They chose four men, and these with Martin went to the Indian towns and found that the killing was done by Creeks. The whites were satisfied and Martin prevailed on the Indians to remain in their towns and plant corn. But "about the 15th of May a family was killed within 9 miles of Chota, the chief town of the Cherokees, on the lands reserved by the Legislature of North Carolina for those Indians, on which limits they are placed by the commissioners by the direction of Congress." Two parties were then raised for the chastisement of the Cherokees. Martin met one of them and turned it back. The other attacked one of the friendly towns and the Indians hearing of it put Martin under guard to await further developments. Little harm was done and Martin was set at liberty.

The killing was found to be the work of the Creeks and of the Chickamaugas. He continues:

The Chickamauga and Creek Indians had, five days before this affair happened, taken a boat richly laden, going down the Tennessee river, and had put all on board to death except three. That those friendly Indians do not shew a desire to conceal the faults of their own people where they transgress. That as the Chickamauga Indians had actually joined their arms & force to co-operate with the Creek Indians, they tho' friendly Indians, gave up cheerfully all claim below Highwassee river to be punished as the white people thought proper. But all above wish to be at peace. Though those passages between the Indians and white people I used my endeavors to bring them to a reconciliation, from which acting both parties appeared to me to be reconciled.

On the 24th I left the towns, and coming to French Broad river, about thirty-five miles from Chota, I got intelligence of a certain Mr. Sevier, who acted as Governor in the Spurious State of Franklin, that was raising men to cut off the Cherokee Indians. Immediately finding this to be the case, I returned back to the Indian towns, and moved off my negroes, horses, &c., without taking my leave of the Indians. * * * As I came forward I met Mr. Sevier on his way. I endeavored to prevail on him to return back, but all to no purpose. I am well informed since he found no Indians in the town. * * *

The Convention of North Carolina sets on Monday next — I being one of that body shall attend: From thence set out for the Cherokee towns & exert every nerve to discharge the trust reposed in me. * * * I have had messages from the Chickasaw Indians to come down and see them, knowing that I was appointed Agent over them by the State of Georgia, also over the Cherokees at the same time. I fear that they are neglected, as the Cherokees have been, the Spaniards will draw them over to their interest. I beg leave to inform you that the French & Spanish traders at the Muscle Shoals are drawing off the Indian interest very fast. They are building strong houses, & will be very strong shortly. Several of those traders were in Chickamauga in May last.

Most of the offenses were thought to be the work of the Chickamaugas. These were the most warlike and intractable part of the Cherokees. They had their origin in a secession from the older towns. At the time of Christian's campaign against the Cherokees in 1776, one of their chiefs, called Dragon Canoe,* or Cheuconnasse, a man of large and powerful frame, coarse and irregular features, keen and smart, but of strong prejudices, vindictive, and cruel, and at that time about twenty-three years old, seceded from the national councils of the Cherokees because they were too much disposed toward

* The name is also written Dragging Canoe by Ramsey and others. But John Redd, a member of Martin's company in 1776, wrote L. C. Draper that the proper form was as given above.

peace, drew off a number of the Indians with him, particularly the younger and more warlike members, and established themselves on Chickamauga Creek, near the whirl in the Tennessee River, and about 100 miles below the mouth of the Holston.* In 1782 they abandoned Chickamauga Creek, thinking it infested with witches; a part returned to the old towns, others moved 40 miles down Tennessee and founded what were afterwards known as the lower towns on Tennessee.† They gave an asylum to the British and Tories, were trained by them, drew recruits from the more warlike young men of the neighboring tribes and from desperate whites. The whole became a band of fearless outlaws and were protected by almost inaccessible mountain fortresses.

But without orders from the Federal Government Martin hesitated to move, and the people were clamorous for a campaign. On May 9, 1788, the crew of a richly laden boat going down Tennessee to Cumberland was decoyed by the Chickamauga and Creek Indians and all were either killed or made prisoners.‡ A good many murders and robberies had been committed on the frontiers of Cumberland and Kentucky, and on the Kentucky road by the Chickamaugas and Creeks; persons had been killed at Clinch, Grassy Valley, and other places; 150 horses had been stolen; frontiersmen had been driven off their lands and had to seek the forts. There was no hope of reclaiming them so long as they remained detached from their nation, and, under the advice of the principal chiefs of the Cherokees, of the governor of North Carolina, and of his subordinates, Gen. Martin determined on a campaign. An army of some 800 men was called out, of which Sullivan was to furnish 100, Washington 200, Greene 400, and Hawkins 100.§ They pursued the Indians, devastated a good deal of their country, and suffered but little loss. The Indians thereupon, after their usual fashion, betook themselves to the mountains. The troops arrived at Lookout Mountain, not far from the present Chattanooga, too late to cross that night.

* Royce, 115.

† American State Papers, Indian Affairs, 1, 432.

‡ See his letter to Knox in *Ibid.*, 1, 46, 48.

§ This is the number and the proportion which the officers of Washington district advised should be called out. The Martin MSS. say the number was 1,000; Haywood and Ramsey, 517, say 450; Job, one of Martin's men, says 500.

The crossing was difficult, consisting of a narrow defile. A detachment was sent ahead to take possession of the pass until morning, but the Indians had already anticipated them, fired on the party, and drove them back. That night the Indians were reinforced. Early in the morning a large division was advanced to find their way. From the nature of the ground they had to march mostly in zigzag fashion and in single file, the officers leading. The Indians were posted to great advantage and poured down on them a sudden and disastrous fire; many were killed, including several officers. Great confusion ensued, and the place was such that it was impossible to rally the men until they got to the foot of the mountain. Some even ran off to the encampment. The balance of the troops refused to come up at the order of the commander and began to break up into independent squads. Gen. Martin was obliged to recall the advance and retreat. After a while they were again united and returned home together. It was impossible to pursue the savages, for they had suffered much for want of provision, and there was no great hopes of a supply, * and a part of the men plead against going beyond the pass, urging that it would be another Blue Lick affair.

This expedition was a failure from a combination of circumstances, but Gen. Martin was never blamed for a lack of courage or skill.† The assembly of 1789 passed an act providing for their payment and they were discharged from service.‡

Gen. Martin and the field officers of Washington district immediately met (October 9) and devised a plan for a new campaign. Fifteen hundred men were to be drafted out of the district, and each captain was to see that his men were well armed and had ten days' provision. But dispatches came while they were still in session from Secretary Knox requiring

* American Museum for October, 1788 (iv, 303, 391). This account is somewhat different from that given above, which follows the Martin MSS. It says the army was 450 in number.

† These troops, says Gilmore, were the followers of Sevier, the rival and enemy of Martin, therefore had no confidence in him and refused to follow him. But it is hard to think this the only explanation of their conduct. Men who had spent their lives in fighting the Indians would hardly run the risk of exposing themselves to the charge of cowardice and thus tarnishing a long career of bravery to gratify the spite of one commander against another.

‡ Iredell's Revision, 1791, 693.

them to cease from all campaigns against the savages. Martin then went into the Indian country and had several talks with their chiefs. But his work was made of no effect by the hostility of the Indians to the whites, who were still after their lands.* The action of Congress was so unsatisfactory to the western people that in January, 1789, they met in convention and drew up resolves to Congress, in which they proposed to raise men by subscription to defend themselves on the Indian land.†

The end of the dominion of North Carolina in the west was now drawing near. "We are rid of a people who were a pest and a burthen to us," writes Maclaine to Iredell.‡ The assembly of 1789 repealed the law establishing an Indian agency for North Carolina across the mountains, for it had just ceded the territory to the United States, and Gen. Martin went out of commission as the territory went out of the hands of North Carolina.§ His term of service as agent for the United States also expired this year, and he became a private citizen for the first time since 1774.

XVIII.—MARTIN AND THE SPANIARDS.

In 1789 Martin was in his forty-ninth year and was a private citizen. His first wife had died in 1782 and in 1784 he had married Susannah Graves, a young woman of about 22. But

* American State Papers, Indian Affairs, 1, 46-48.

† *Ibid.* Gilmore says they had always served in these campaigns at their own expense till now, and animadverted on Martin because they now asked pay from the State for their services. Had Gilmore thought on this point he would have seen that it reflected not on Martin, who no doubt asked pay for the soldiers because they demanded it, but on the followers of Sevier themselves, who, according to his theory, were not only willing to put their neighbors to the burden of a war tax, but even to risk their reputation for courage. Furthermore, the payment of men engaged in these Indian expeditions was a regular thing—in theory at least. Governor Blount writes Sevier from Philadelphia, August 28, 1793: "All the pay rolls of your brigade have been audited and reported on and the payment secured but no payments as things are arranged can be made here."—American State Papers, Indian Affairs, 1, 38. Haywood (p. 70) speaks of pay as early as 1778.

‡ McRee's Iredell, II, 275.

§ Martin was not removed from his office of brigadier general as Gilmore states (p. 217). See Iredell's Revision, 691. Nor did "the same legislature" proceed "at once to commission Sevier as brigadier general, and to place him in supreme military command beyond the mountains."

increasing years and increasing family did not crush his adventurous spirit. In 1787 he had visited Georgia with the intention of removing thither with his family.* In 1789 he returned to that State and had in the meantime received a letter from Alexander McGillivray, in which he says, "If I can serve you I will cheerfully do it."† He was now on his final mission for the United States. On the 2d of July, 1789, he writes from Tugaloo, in Georgia, to Patrick Henry: ‡

I attended the Intended Treaty with the Cherokees ye 25 last month at french broad river,§ wheare the Commissioners waited 12 Days over the time appointed for holding the Treaty without hearing a word from the Indians, they then Decampt I went on to meet the Creeks * * * I am told that Genl Mathews is making Interest for to get in a Relation of his to be superintendent & I suppose will say much about the letter I wrote to McGilvery.

McGillivray was a Creek chief and was thought to be in the service of the Spaniards. Of his letter to him, Gen. Martin writes to Patrick Henry under the date of January 18, 1790:

Respecting the letter that has made such a noise, if Ever I had the Interest of the states at hart, never more than at that Time, if you will be so Obliging as to Charge your memory, you will I Trust Remember that when you was Governor last, I informed you that I Recd letter from McGillavray advising me to Come there if he Could serve he Cheerfully would also a message from the Governor of pansaccla Desiring I would Come there without loss of time, I immediately sent to you for your advice in that matter which was not to Go myself but to send some person to Try to find out what his Business might be perhaps some scheme might be forming against the united states. * * * Your advice to me as Governor of Virginia was a principal reason why I kept up a Communication with McGillavray, by which I obtained many points of Information & had the spaniards made any attempt on the united states I am well assured I should have Got Information in time to give publick notice before any Blow Could be struck.

Martin had his rivals in the Western country, men who were anxious for his position. He had his enemies, too, men who were willing to make use of any means, however despicable, to supplant him. They thought they now had him and began an investigation of his conduct under the auspices of the North Carolina legislature.

* Calendar Virginia State Papers, IV, 268.

† *Ibid.*, IV, 454.

‡ For these letters of Martin's I am indebted to W. W. Henry, esq., of Richmond, Va. They will be found in the Life, Correspondence, and Speeches of Patrick Henry.

§ This proposed treaty was the work of Winn. See American State Papers, Indian Affairs, I, 48.

In reply to these charges Governor Henry writes a very strong letter to R. H. Lee on January 29, 1790, in behalf of Martin, in which he reviews his career and the charges against him, and urges his appointment as Indian agent.

* * * I beg leave again to trouble you on the subject of General Martin's application for the agency of Indian affairs to the south. This I do at his most earnest request. Indeed the allegations against him seem to call for some vindication of his conduct, which would be easily affected but for the great distance from the seat of government. You will see by the papers which I inclose that he has brought on an enquiry into his conduct, & how it has terminated, and that Govr. Martin has written to the President in his favor, and has sent to General Martin a copy of what he wrote. I shall here relate the substance of his communication to me when I was last in the Executive, and while he acted as superintendant for this state of Indian affairs. He [General Martin] informed me McGilvray had several times sent him word to make him a visit and carry on a correspondence, and at length wrote him a letter, which he put into my hands, the substance of which was as above. He desired my opinion on the matter. I encouraged him so far to cultivate McGilvray as, if possible, to fathom his views and keep the Indians from our people; at the same time by means of the Indians or others to discover the extent and nature of McGilvray's connections with the Spaniards. I am satisfy'd Mr. Martin proceeded on this idea: for he quickly satisfied me of the Spanish policy respecting the Indians, sending me a commission given to a Creek Indian by a Spanish governor constituting him an officer. How necessary it must be to discover these and similar practices with the Indian tribes, it is easy to see; & that the interest of the U. States and of this state required, that McGilvray's ill designs, if he had any, should be turned against him. General Martin's conduct so far as I could discern in that affair was really praise-worthy. He frequently gave me intelligence of Creek Indian affairs, and of the intercourse between other Indians and the Spaniards that was interesting. I am satisfy'd the correspondence as above took its origin as I have stated, and that General Martin in no respect turned it to the prejudice of any American state or citizen, on the contrary that he made it subservient to the purpose of gaining useful intelligence. How cruel then is it thus to blast the Reputation of a public servant, whose employment in a peculiar manner exposed him to the hatred and malevolence of the many intruders on Indian rights, and these indeed I believe he has constantly opposed, as they are constantly attacking him in one shape or other.

And on February 8, he incloses papers to Lee which were to be so used "as may seem to wipe away the aspersions thereon on the person intended to be ruined in the public opinion. You will find the same party also endeavored to ruin his son, Wm. Martin, by accusing him of joining the Indians in their murdering parties," (III, 416), and this letter, he said, was written "in justification of one to whom I do think great injustice has been done respecting this affair."

In the same way, William Blount, the newly appointed governor of the Southwest Territory, signed a report exonerating Martin from any wrong in writing the letter to McGillivray, and the result of the legislative investigation was a triumphant vindication of Martin. The governor of North Carolina also wrote a strong letter urging his appointment as Indian agent. The proceedings of the legislature were laid by Martin before the Secretary of War and by him before the President. Knox writes Martin under date of September 11, 1790:

The investigation and decision made by the legislature of North Carolina, on the complaints exhibited against you will be sufficient to place your conduct in writing to Mr. McGillivray, in a proper point of view.

This decision must be satisfactory to your friends, and will probably silence your enemies—as Governor Blount is invested with the office of superintendent of the Southern district, I flatter myself you will render him all the information and Services in your power.

But the vindication came too late. Martin's enemies had done their work. Martin writes Governor Henry under date of January 4, 1791: "The other deposition alluded to was exhibited by Mr. Sevier in order to answer his ends. These were the reasons, I have been told, that Congress did not continue my appointment, to the very great injury of the frontiers of this State." * * * In the same way these charges probably lost him the appointment as governor of the Southwest Territory.

As soon as the cession of Tennessee was formally ratified by Congress a temporary form of government similar to that of the Northwest Territory was established. The governor was made Indian agent and was authorized to transact all business with them in a more absolute manner than former agents had been authorized to do. This then was an office of much importance, and Martin was urged for it by Henry, who says to him in a similar connection: "It will be hard indeed if a Sevier should be preferred to you."* He was urged also by Lee, Grayson, Bland and others.†

Thus, while Martin was acting on the best advice with reference to the Spaniards and with the hope of doing service to the States, his purpose was misrepresented by his enemies. Governor Mathews, of Georgia, made charges of treasonable correspondence, and a certain Ballew, "a man of infamous character, who is set on by Mr. Savier," and who, having got-

* American State Papers, Indian Affairs, III, 409-412.

† See Lee's letter to Henry, June 10, 1790.

ten a few fugitive Cherokees together, was by means of forged papers trying to pass off as their business agent, repeated and reiterated the charges, while others said he had instigated the Indians to war.* So great was the hostility with which some of the parties regarded him, that he replies to an invitation from Governor Henry in 1790 to go to the Chickasaw country and attend to some purchases he had made there, "I Don't think it will answer any valuable purpose unless I had some appointment from Congress, in the Indian department, as Savier & Belew has their Eyes on that spot of Ground * * * should any be there on that Business without Some authority from Congress, their life might be in danger without answering any Desirable purpose."

That in all this struggle for lands Martin had been largely unmindful of self in his zeal for the public is shown in letters from Governor Henry, who writes him about a purchase which had been made by himself and others in the Bend of Tennessee, January 25, 1790, "knowing that you have spent the prime of your days in serving the public, & that after all the Hazards you have run, that you have not acquired so much property as many others would have done in your situation, I was desirous to throw something in your way by which some fine land would have been offered to you in our purchase." He writes again 10 March, 1790.

You have spent your prime of life & have done nothing capital for yourself—It is now time to look about you and avail yourself of your knowledge of the Indians & their Country & do something for your self * * * For I think you might do more as a private man than if you were in office. You have all along surpoted Government according to your Duty. And now you will find perhaps that some raw man who makes his Court in person, or who by some Northern Interest is become known, will probably step in—I would really go to New York & know at once what you have to depend on—or I would go & reside in Franklin & try to avail my self of the Chance that is now offering of securing Lands South westerly—This I think is a Duty you owe your self & Family, & it is your Right to have some of those Benefits you have so often hazarded your life to secure. * * *

XIX.—MARTIN A TRADER AMONG THE CHEROKEES.

But all these drawbacks and disappointments had little influence in taming the adventurous spirit of Martin. About 1789 he removed to the frontiers of Georgia, established a fort, took an active part in suppressing Indian hostilities, and was

* Life of Henry, III, 397.

elected to the legislature of Georgia. He also engaged in trade with the Cherokees. He seems to have continued this business through the year 1793, and it seems sustained some heavy losses, perhaps from Indian depredations. But the spirit of care which he had been accustomed to exercise did not forsake him. In November, 1790, he writes that the Chickamaugas were threatening Russell County, Va., and June 6, 1791, Blount writes him from the treaty ground near the mouth of the French Broad River: " * * * Reports have prevailed to your disadvantage that are happily contradicted in decided Terms by Mr. Ore and Mr. Hacket and Capt. Fauche witnesses your endeavors to put the Indians in the proper way of Thinking for which I return you Thanks, pray continue them. * * * "

XX.—MARTIN IN THE MILITARY SERVICE OF VIRGINIA.

On the 11th of December, 1793, Governor Henry Lee, of Virginia, commissioned Martin brigadier-general of the Twelfth Brigade of Virginia militia. Martin was elected to this position by the assembly over a Mr. Clay, a good speaker, an ex-member of Congress, and of considerable popularity.

The cause of this action was the whisky insurrection, and the occasion was said to be "pressing." In August, 1794, a detachment of 2,816 men was formed in the first division of Virginia militia, of which Gen. Jones's brigade district was to furnish 901 men with officers, Gen. Meade's 564, Gen. Carrington's 676, and Gen. Martin's 675. September 1, 1794, 833 additional were to be raised, of which Martin was to furnish 3 captains, 3 lieutenants, 3 ensigns, 12 sergeants, 6 drums and fifes, 180 rank and file. These troops were to be organized, armed, and equipped and to be held in the most perfect readiness to march at a moment's notice.

It seems that the purpose for which this expedition was organized was not liked by all sections of Virginia. They no doubt had a good deal of a fellow-feeling with the insurgents, for we find that on October 4, 1794, Martin was instructed to institute "legal proceedings against all delinquences under the requisitions of the United States, which have arisen within your brigade district," and Edward Carrington, the U. S. agent, says that mutinies happened in some of the counties that composed Martin's district. This so delayed matters that the troops did not reach Winchester until the 22d of October,

when they should have been there on the 1st. They were therefore of no service, were paid off, and discharged. Carrington recommended an investigation. This seems never to have been made, because, probably, the whisky insurrection had come to an end about this time and because the temper of the people would not allow it. There was no charge against Martin.

XXI.—MARTIN A BOUNDARY COMMISSIONER.

The boundary between Kentucky and Virginia had come up for settlement in 1795. The Kentucky commissioners were John Coburn, Robert Johnson, and B. Thurston. The Virginia commissioners were Judge Archibald Stuart, Chancellor Creed Taylor, and Gen. Joseph Martin.

The Kentucky commissioners claimed the northeast fork of Sandy as their boundary and a row began. The Kentucky legislature approved the claims of its representatives and directed them to proceed no further "unless the legislature of Virginia (by their acts) show a disposition to settle the business in an amicable way.* The matter seems to have been settled, for we find them agreeing to meet at the fork of the Big Sandy October 1, 1799, for further work.

The boundary between Tennessee and Virginia had never been fixed. Various efforts had been made to fix it while Tennessee was still a part of North Carolina. Fry and Jefferson had carried it as far west as what has been since known as the Laurel Fork of Holston, and in 1779 Thomas Walker and Daniel Smith for Virginia, with Richard Henderson and James Smith for North Carolina, met and agreed to resume Fry and Jefferson's line. But they soon fell into disagreement and after abusing each other in the orthodox manner characteristic of the boundary commissioners of these two States, Henderson ran another line 2 miles to the north of Walker's. These lines represented the respective claims of the States,† and the matter remained unsettled. In 1790 Martin was sent to North Carolina to get matters straight. He got the assembly to refer it to a committee: "I found it very Difficult to Collect the Committee Being obliged to do the duty of a door-keeper, by applying personally to every one, & soliciting

* Calendar Virginia State Papers, VIII, 330.

† *Ibid.*, IV, 365.

them to attend."* The Carolinans would do nothing. In 1802 commissioners were appointed to settle the line between Virginia and Tennessee, Joseph Martin, Creed Taylor, and Peter Johnston representing Virginia, while John Sevier, Moses Fiske, and George Routledge appeared for Tennessee. Brice Martin was one of the surveyors. The commissioners now effected a compromise under which they ran a third line, equidistant from the other two, from the summit of White Top Mountain westward to the top of Cumberland Mountain. This survey was ratified by the two States in 1803, and has since been their boundary.†

XXII.—ESTIMATE OF MARTIN.

The career of Gen. Martin was now drawing to a close. Despite his opposition to Sevier and his abortive State of Franklin, the regard in which the people of Sullivan County, among whom he had lived and worked for twelve years, held him is shown clearly by the fact that they sent him as their representative to the North Carolina assembly in 1784 and 1787. They chose him to serve them also in the Hillsboro convention in 1788. This convention discussed the adoption of the Federal Constitution and postponed action, neither ratifying nor rejecting, until certain amendments were passed. Martin was with the minority that favored immediate ratification. He was also a member of the Fayetteville convention in 1789, when the Constitution was adopted. A creek in Lee County, Va., near Martin's Station, was called for him, and that this confidence was general is shown equally as clearly by his Virginia neighbors when they called the county seat of Henry, in which he was then living, Martinsville, in his honor in 1791.

He was elected to the Virginia legislature from Henry

* Calendar Virginia State Papers, v, 242; vi, 106, 125.

† See sketch of this survey by John Allison in Knoxville Weekly Tribune, July 11, 1888. It is interesting to note in this connection that on February 24, 1886, the assembly of Virginia instructed her governor to bring suit, if necessary, against Tennessee to secure the removal of this line to the southward. The suit was brought in the Federal court in 1889. The attorney-general of Virginia claimed that a serious conflict of jurisdiction had arisen, especially over matters connected with Bristol, Tenn., and Goodson, Va.; he asked that the agreement of 1803 be declared null and void, and that Virginia be quieted in possession of the disputed territory. In an elaborate opinion delivered on the third of April, 1893, Justice Field declined to grant the prayer of Virginia.

County for nine successive years, 1791-1799, and possibly served several years after that—until he thought it best to retire on account of age. Here he took a high stand for integrity, foresight, and firmness of purpose. He was a strong supporter of Madison in the Virginia resolutions in 1798 and 1799. He was fond of office, but never aspired higher than his acknowledged merits gave him the right, and this is perhaps the cause of his popularity with his neighbors. He might have been a member of Congress, but thought this higher than he could fill with honor to himself and honor to the country—a model worthy of our imitation to-day.

After the Tennessee survey Gen. Martin seems not to have been again in public life. He removed from Smith River to Leatherwood Creek, in the same county, devoted himself to his domestic concerns, and had accumulated a considerable estate. This consisted largely of negroes and land lying in Virginia and Tennessee. During the summer of 1808 he made a long journey to the West on private business. He visited many of the scenes of his early years and also his former friends, the Cherokees. He returned in the fall much fatigued and debilitated, and died of paralysis in Henry County, Va., on the 18th of December, 1808, and was buried with masonic and military honors. His widow, by whom he had eleven children, lived at the family seat until its destruction by fire in 1836, and died there November 9, 1837, in the seventy-fourth year of her age.

Gen. Martin represented the physical characteristics of his family. He was 6 feet in height, weighed more than 200 pounds, was of prepossessing appearance, with bland and courteous manners. In disposition he was energetic, with a good deal of a roving element that drove him to the wild life of the forest and well fitted him for the theater that became his by choice. He became bald many years before his death, and for many years wore a heavy chin beard which he plaited and hid beneath his shirt. He was fond of fine clothes, but held tenaciously on to old styles, the small clothes, long stockings, short knee buckles, the wide back, straight breasted coat, skirted vest, and neck stock with the buckle.

He was easy and sociable with equals and inferiors, grave, dignified and commanding with superiors; temperate in habits, was never drunk, and never took more than a social glass; never sick, never lost blood from a lancet, and lost no teeth. In his domestic relations he was reserved, and seldom entered

into the lighter and gayer life of the family, and this reserve was maintained to a considerable extent with his oldest son after the latter had attained distinction. Gen. Martin's most conspicuous talent was in Indian diplomacy. His military career was within a limited sphere. Had he had a wider field the talent might have been more developed. In partisan warfare against the Indians ability to command was needed less than strategic ability and personal bravery. This quality he had to the fullest; he was recklessly brave; he knew no such word as fear. His daring is illustrated by an incident that happened near the Rye Cove fort on Clinch River in the spring of 1777. The settlement in Kentucky had been attacked, and had sent couriers to Virginia for aid. These fell into an ambuscade just beyond the Rye Cove, and one was slain, but not before he wounded his antagonist. The wounded Indian was traced by his blood to a cave; Gen. Martin entered and killed him, although the Indian was armed with a gun and had the advantage of darkness. This reveals far more bravery than the more famous story of Putnam and the wolf.

Martin was a man of strong feelings, with many personal likes and dislikes. He made mistakes and he made enemies, but no charge can be maintained against him that he at any time sought his interest more than the public good. Nor did he ever hesitate to sacrifice personal popularity for what he believed to be the right, a most notable instance of which we see in his course in connection with the State of Franklin. He was willing to suffer the abuse and misrepresentation which the Franklinites heaped upon him, and bided his time for the vindication of the right. He numbered among his friends many of the best men of the day. His military ability was clearly recognized by his fellow pioneers, Bledsoe, Campbell, Christian, Shelby, Donelson, Hawkins, Pickens, and others, while the letters from Governor Henry, Governor Harrison, Governor Randolph, and others from Virginia, from Governors Caswell and Martin, of North Carolina, and Blount, of Tennessee, indicate the highest esteem and respect. His correspondence was large and with the best men of the country.

XXIII.—THE MARTIN FAMILY.

Gen. Martin was the second generation in America and the third son in a family of 5 sons and 6 daughters. We know very little of his brothers and sisters. One of them, Brice,

named for the ship in which their father came to America and which has since been a family name, was with Gen. Martin on many of his Indian campaigns. He took up lands under Henderson & Co. in Powell's Valley, near Beaver Dam Creek, some 8 miles from Martin's Station. He was at the Long Island of Holston for a while with his brother, and in 1802, he, or his nephew of the same name, was one of the surveyors to the Tennessee and Virginia Boundary Commission. He did not marry until late in life and died in Tennessee in 1816. He had two sons.

Gen. Martin was twice married. He first married about 1762 Sarah Lucas and had seven children. She died in Henry County, Va., of small-pox, March 17, 1782. We do not know the exact order of these children. It was, perhaps, as follows:

Susannah, born 1763, married Jacob Burnes, who had been in the employ of Martin at the Long Island of Holston. He seems to have been a man of little character. He died in October, 1832. She died at Col. Martin's in Smith County, Tenn., June 16, 1844. Col. Martin describes her as a woman of great personal worth. They had one son, probably other children.

William was born in Orange County, Va., November 26, 1765, died of pleurisy in Smith County, Tenn., November 4, 1846. He was a farmer and had a family of eight sons and two daughters. He went on an expedition against the Indians with some of Col. Wm. Campbell's men in 1781; was in Powell's Valley in 1785 and remained on the frontier for two years. He shared the hardships of the settlers and protected them with the company of rangers under his command. He was sometimes stationed in a fort, was sometimes pursuing marauding parties of Indians, sometimes opening up channels of travel, by which emigrants could more easily reach the forming settlements.* He was sent to middle Tennessee, via Kentucky, about 1787 in charge of a company of men by the State of North Carolina and continued in command about two years. He then returned to Virginia, married at 25 and removed to Tugaloo, Pendleton District, South Carolina, in 1791. He was a member of the South Carolina legislature and lived there until 1798, when he migrated to the Cumberland, settled at Dixon's Springs, Smith County, and remained there the balance of his life. He was a member of the Georgia legislature in 1787. In 1800 he was engaged in surveying the Indian boundary, in

* Ramsey: Tennessee, 477.

1804 was a Jefferson elector, a Madison elector in 1808. He was in the Tennessee legislature in 1812-'13, and was vice-president of the Whig convention of 1844. In the war of 1812 he was elected lieutenant-colonel of the Second Regiment of Tennessee Volunteers. He served in the Natchez campaign and in that against the Creeks. At Talladega, after the wounding of Col. Pillow, Martin took command and was conspicuous for his good conduct. Owing to a conflict of opinion as to the date of expiration of their time of service some of the Tennessee regiments, including that of Col. Martin, undertook to return home after the 10th of December, 1813. This caused his character to be attacked by anonymous scribblers in the public press and caused him to publish "The Self-Vindication of Col. William Martin against certain charges and aspersions made against him by Gen. Andrew Jackson and others, in relation to sundry transactions in the campaign against the Creek Indians, in the year 1813." It appeared at Nashville in 1829, at the time when Jackson was at the height of his popularity. Many of the officers conversant with the affair were still living, but no one was found to dispute the accuracy of the statements. It was republished about 1850.*

Elizabeth married Carr Waller; died 1805; left four children.

Brice born 1770; died December 30, 1856; married Malinda Purkins, in Smith County, Tenn., 1811; was at New Orleans and was promoted major; was also in the Creek war; had five children.

Polly married Daniel Hammack. He died in 1829; she was still living about 1840.

Martha married William Cleveland, died about 1818; left two sons and other children.

Nancy married Archelus Hughes; died about 1835; left six or eight children.

Gen. Martin married in 1784 Susannah Graves. She died March 9, 1837, in her 74th year. They had eleven children, perhaps in the following order:

Joseph, born September 22, 1785; known as Col. Joseph; married Sally Hughes (born April 30, 1792) April 27, 1810; a member of the Virginia assembly in 1809 and of the constitutional convention of 1829-'30; a farmer by profession; died in Henry County, Va., November 3, 1859; he had eight daughters and four sons.

* Nashville, 8vo., pp. 48.

Jesse was in the war of 1812; a farmer in Henry County; married, first, Annie Armistead and had one son; second, Cecelia Reid, and had eight sons and a daughter; died about 1835. She died August 26, 1875, aged 83.

Thomas W. went to Tennessee; married Miss Carr, of North Carolina.

Louis went to Tennessee; saw military service; died in Lincoln County, Mo., about 1850; married Miss Rucker,

Alexander died in Lincoln County, Mo., about 1850; married Miss Carr, of North Carolina.

John Calvin was living near Woodberry, Tenn., March 20, 1842; saw military service; married Miss Rucker.

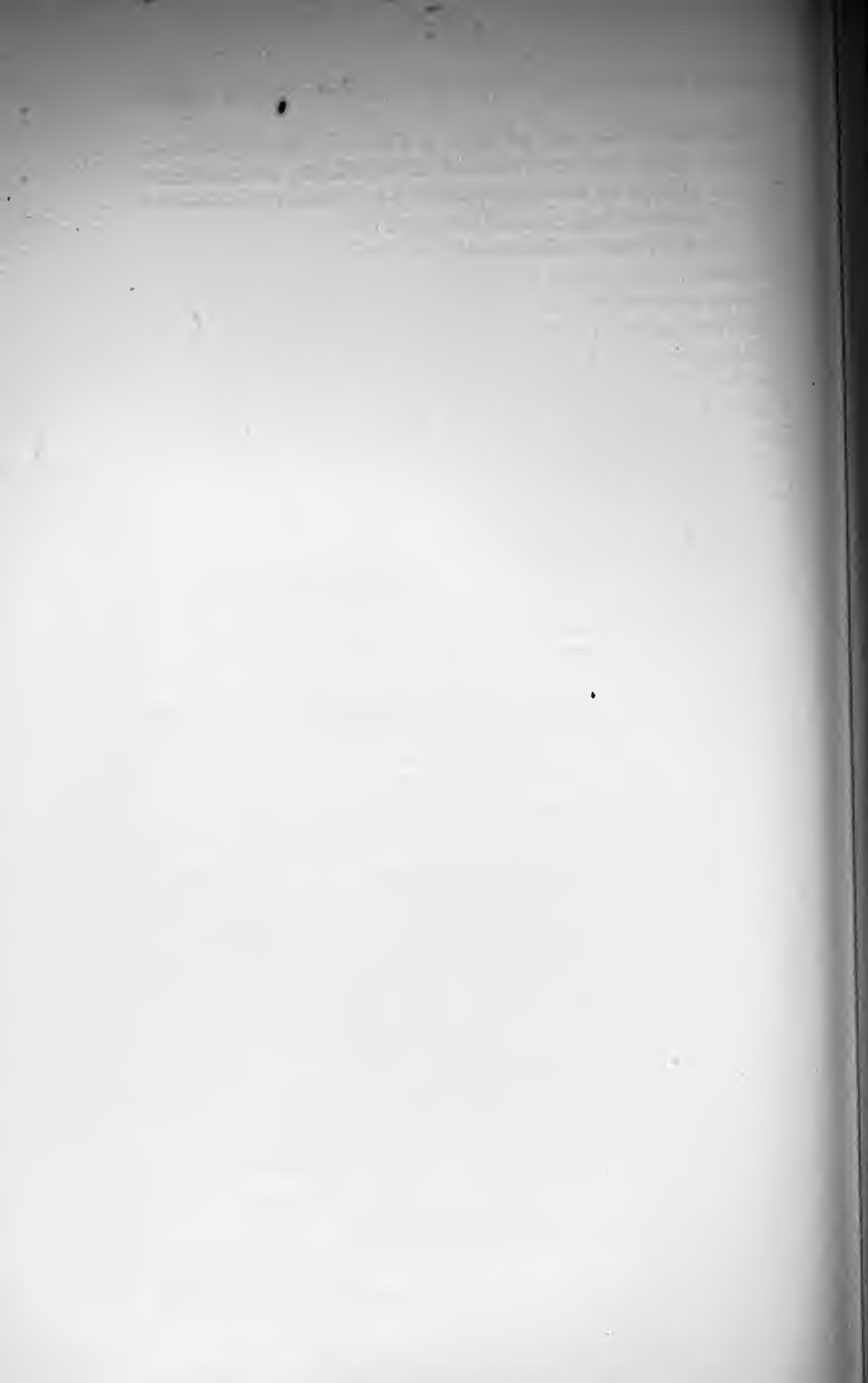
George married, first, Miss Starling; second, Miss Watkins; had several children; he served in the Virginia legislature; removed to North Carolina about 1840 and died about 1860.

Sally married Rev. Samuel Armistead February 7, 1807; died about 1813, leaving three sons.

Susannah (for Gen. Martin kept up the Puritan custom of giving the same name to more than one child) married George King; was a widow and living in Virginia about 1840.

Polly married Reuben Hughes; died 1839; left one son, perhaps other children.

Patrick Henry was taken to Tennessee by his half brother Brice and was educated by William and Brice; he studied law and went to the bar about the beginning of the war of 1812. But he left this to join Jackson's army; was with him nearly the whole time and died after his return from New Orleans.



XXVII.—THE ANNALS OF AN HISTORIC TOWN.

By PROF. F. W. BLACKMAR,
OF THE UNIVERSITY OF KANSAS.



THE ANNALS OF AN HISTORIC TOWN.

By F. W. BLACKMAR.

It sometimes happens in the making of a commonwealth that a certain small and obscure community bears such an important part in a great struggle as to justly earn for itself historic renown. It becomes the initial point of the contest, the key to the situation, or perhaps the point at which turns the tide of triumph. To such conditions may be referred the modest town of Lawrence, well-known in Kansas as the "Historic City." There was a time when the thoughts of the people of the Republic was centered on this town, then an insignificant appearing frontier hamlet. Its local interests became territorial interests, and its deeds of national significance. While one part of the people of the States were gloomy over defeat, another exultant over victory, and both conjecturing over the future, the thoughts and dreams of men were being verified on the prairies of Kansas. While they talked on certain propositions, the pioneers of Kansas struggled and fought over them. The national life had lapsed into distrust and inaction; the representatives of the people in Congress assembled had shunned a great moral question. They had staked out a territory in the wilderness of the West and said, this is a duelling ground; here the struggle shall be settled. "The field of battle was thus removed from the halls of Congress to the plains of Kansas.* National issues were referred to a local community to settle. But the nation did not escape so easily, for the attempt to shift this responsibility to the plains of Kansas caused an agitation that eventually precipitated the whole nation in a great struggle, and dearly it paid for the evasion of the question.

One scarcely realizes as he now looks upon this conservative rural town of 10,000 inhabitants, that it could have been

* Robinson: The Kansas Conflict, p. 6.

the scene of the confusion and strife which history records; that its local life could once have been of so much national importance; that this quiet scene could have been a national duelling ground. But looking from the front of the main building of the University of Kansas, situated on Mount Oread, rising 200 feet above the town, the eye beholds a land of marvelous beauty. Well improved farms of great fertility, fields of corn and wheat alternating with orchards laden with fruit, and the wooded copse, greet the eye in every direction. The valley of the Kaw and the rolling plains are covered with the homes of a happy and prosperous people. The town at the foot of the hill on the north and east is symbolical of quiet and peaceful home life. But in the memory of men who walk the streets of the town in the pursuits of the peaceful arts great changes have been wrought before their eyes. Indeed, they were the actors in the scenes which made these great changes. To them this peaceful scene is alive with historic interest; the past to them is a record of struggles, of strife, of war, of bloodshed, and of a final victory.

Close in on the brow of the hill, a short distance from where the university now stands, are the ruins of a fort, erected to withstand the invaders of Price. At the other end of the hill was located the fort to defend against the border ruffians. A few rods in front, on the eastern slope of the hill, once stood the house of Governor Robinson, burned in the sack of Lawrence. To the left of Blue Mound is the site of the town of Franklin, once famous as a rendezvous of the enemies of Lawrence. Near it flows the Wakarusa, on whose banks mustered the Kansas militia, formed largely of Missourians, in the famous Wakarusa war. In front and two miles toward the east is Oak Hill cemetery, where rest scores of fallen heroes, where sleep in a single grave seventy victims of the Quantrell raid. Prominent in the town are buildings where once were forts and fortifications. The Eldridge house rises on the ruins of the old Free State hotel. To complete the historic picture, it may be stated that the university at first bore the significant title of the Free State College.

Fifty years ago this lovely land was in the possession of the Shawnee Indians. It was then a landscape of wild beauty, alternating with prairie, and forest, and winding stream. Forty-three years ago the scene was vivified and the stillness broken by a continuous line of emigrants winding their way on

the old California road toward the el dorado of the Pacific slope.* Four years later the first company of Lawrence settlers pitched their tents on the north brow of Mount Oread. Thirty-eight years ago the Lawrence association and the Free State men were in arms, arrayed against the hordes of Missouri in the Wakarusa war. Soon after the town was sacked and burned by the border ruffians. Two years thereafter the regular Federal troops were called out by Governor Walker to put down the inhabitants of a "rebellious town." It was alleged that the town was in a state of revolution against Territorial authorities. Thirty years ago the town of Lawrence was sacked and burned by Quantrell and his ruffians, and the year following the town was fortified against the Confederate army under Price, which fortunately came no farther than Kansas City. Thus, in ten years of continuous strife and toil, the town was built. The events of Bennington, Saratoga, and Boston of old-time glory did not exceed in patriotism, courage, and suffering the sturdy and persistent settlers of this town and its environs. Nor, indeed, could any of these towns recount the atrocious deeds and the horrible scenes which characterized the early history of Lawrence. The people of Lawrence were to fight over again the war for political and religious liberty begun so long ago in New England. Their deeds were the prologue to the last drama of nation-building.

Owing to its peculiar position and relations the history of Lawrence is worthy of special treatment, and it will be the object of this paper to present some salient features of this early life, the events of which began in 1854. It was on August 1 of this year that the first party of emigrants, 29 in number, sent out by the Massachusetts Emigrant Aid Company arrived at the site of Lawrence and pitched their tent village on the northern point of Mount Oread. They came to St. Louis by rail and thence to Kansas City by boat, and then proceeded with ox teams to Lawrence. They were met at St. Louis by Dr. Charles Robinson, the agent of the company, who gave them substantial assistance, and then returned to the East to conduct the second party westward.† Dr. Robinson and

* One of these parties, in which was Dr. Charles Robinson, camped on the present site of the university. Dr. Robinson remembered the place and later directed the pioneers of the Emigrant Aid Association to this spot.

† Andreas: History of Kansas, p. 312.

Mr. Charles Branscombe, as agents of the company, had visited Kansas in July, 1854, for the purpose of selecting a country for settlement. They chose the Kaw valley, near the present site of Lawrence. The emigrants pitched their tents on the hill overlooking the valley, and on this spot partook of their first meal in Lawrence. Mr. Fuller, one of the emigrants, inscribed upon his tent the name of Mount Oread in honor of Mount Oread Seminary, of Worcester, Mass., which was founded by Eli Thayer, the founder and benefactor of the Emigrant Aid Company. The hill on which they camped retained this name ever afterwards. After the first meal, the emigrants, in true New England style, held a town meeting in which was discussed the feasibility of locating at this place. After due deliberation it was decided by a majority to build a town at this locality, on the supposition that the Massachusetts Emigrant Aid Company would make this the basis of their operations in the Territory.* Consequently the company proceeded to stake out claims in accordance with the methods in vogue.

In the meantime Dr. Robinson had returned to Massachusetts and started with the second party of emigrants, numbering 67, which was increased along the route, 21 joining the company at Worcester, 8 or 10 of this group being women and children.† The spirit with which these people left their native land to settle in a new country was characteristic of the Pilgrims and Puritans of New England. They were not forced to leave their homes on account of personal oppression, but they went to better their economic condition, and at the same time to build up civil and religious freedom in a new land. While in the station at Boston they sang Whittier's well-known hymn ‡ on the Kansas emigrants, of which two stanzas are given here:

We cross the prairies as of old
The pilgrims crossed the sea,
To make the West as they the East
The homestead of the free.

We go to plant the common schools
On distant prairie swells,
And give the Sabbaths of the wild
The music of her bells.

* Springfield Republican, August, 1854.

† Andreas, 311.

‡ Whittier's Poems, Vol. III, p. 177.

They also sang a hymn written for the occasion, the first lines of which are as follows: *

We'll seek the rolling prairies,
The regions yet unseen,
Nor stay our feet unwearied
By Kansas' flowing stream;

And then with hands unfettered
Our altars we will raise,
With voices high uplifted
We'll sing our Maker's praise.

At the station at Worcester the Hon. William C. Bloss presented the company with a handsomely bound Bible on which was inscribed: "To establish civil and religious liberty in Kansas." While these people were anxious to transplant and perpetuate New England institutions they were not wanting in that practical thrift which characterized the early New England settlers; they were interested in the fertile lands of Kansas. Truly they sought to establish civil and religious liberty in Kansas and at the same time to enter and possess the promised land. The process was to establish homes, to develop the resources of the country, that free institutions might flourish.

The Kansas and Nebraska bill, or the Douglas bill, had removed the seat of freedom's struggle to Kansas and these hardy pioneers were to occupy a new position in the strife. The Emigrant Aid Company were sending out *free* men who would make Kansas a *free* State, but they must become bona fide settlers, tilling the soil, building towns, and forming governments. But they sought the freedom of others. The orator of the quarter-centennial celebration of the settlement of Kansas well says:

The pioneers who became trusted leaders among the Free-State hosts were men who could not rest in their old comfortable homes when the demon of human slavery was clutching at freedom's rightful heritage. Many of them were the sons of the old anti-slavery agitators, and had learned from childhood to hate slavery and to love freedom and to claim it as the right of all men, races, and conditions.†

After the arrival of the second party the two were joined and speedily came to an agreement about claims. The first party were to receive compensation for the work already done,

* Andreas, 313.

† Col. S. N. Wood in quarter-centennial address at Topeka.

the second party joining them in the distribution of claims. Then followed the process of building a town from the foundation. A town site was selected and surveyed, being $2\frac{1}{2}$ miles along the river, and $1\frac{1}{2}$ miles from the river south. A sufficient number of farm lots were surveyed to give each settler a claim of 160 acres. Choice of claims were to be made in order of the highest bids made. This money paid was to go into a city fund. The highest bid made was \$327, and the total amount bid was \$5,040.*

One-half of the city lots were to be distributed among the settlers and one-fourth retained by the association and the remaining fourth kept for gratuitous distribution to those who would agree to build homes upon them and make other improvements, within a certain date.

On the 18th of September the town association was organized. As there was yet no Territorial government the settlers were practically without government and law save only as they were a law unto themselves. The town was named Lawrence in honor of Amos A. Lawrence, the patron and officer of the Massachusetts Emigrant Aid Company, and the Lawrence Association was formed of all the settlers. No charter could be obtained from a higher authority, so a simple democratic organization, with a constitution and officers, was formed. The ordinary simple forms of municipal government were adopted, and rules of registration of claims, conditions of membership, etc., were determined. The officers were president, vice-president, secretary, treasurer, register of deeds and claims, and clerk of court, surveyor, marshal, board of arbitrators, and councilmen.† This remarkable association continued in vogue for nearly three years as practically the only government the new town had. Under the circumstances it was sufficient, and when a better government was needed the citizens made a charter for themselves and reorganized the city government. For several months the association held a meeting once each week, and all the settlers who were members of the association attended these meetings. There was no representative government, as the officers worked on the committee plan. Finally the meetings occurred but once each month. Lands were

* Sufficient time was given for the payment of the money so as to afford the poor as well as the rich ample opportunity for land. Subsequently it was voted that this money should not be collected.

† Andreas, p. 313.

reserved for schools, a college, and for State buildings. As the municipal records of this early period are lost the rulings of the association can not be definitely determined. However, one ruling, characteristic of the people, is worthy of notice; that was, the adoption of the Maine liquor law in the town. This was the beginning of prohibition in the State of Kansas, a short time after the entrance of the first settlers. For a time it was enforced, but carelessness and violations prevailed, until finally the women of the town made a temperance crusade which was of great service in the enforcement of the law. In this law and in nearly all other laws we find the customs and laws of New England prevailing.

At first Lawrence was but a city of tents, with a single cabin on the site. A writer describes the city soon after its settlement:

A few tents were pitched on the high ground overlooking the Kansas and Wakarusa valleys, others were scattered over the level bottoms below, but not a dwelling was to be seen. It was a city of tents alone. * * * Two very intelligent ladies from Massachusetts had united their forces and interests and had taken boarders. In the open air on some logs of wood two rough boards were laid across for a table, and on washtubs, kegs, and blocks, they and their boarders were seated around it. This was the first boarding house in the city of Lawrence.

Soon tents were replaced by log cabins, and after the arrival of the sawmill, board houses were made (mansions of the luxurious plutocrats of the young city).* Religious services were held on October 1, and on this day a Bible class was organized, and on the 15th Plymouth Church was organized, with Rev. S. Y. Lum as pastor.

Considerable difficulty arose over the settlement of disputed claims. Soon after the passage of the Douglas bill, which provided for squatter sovereignty in Kansas, the citizens of Missouri who were determined to make Kansas a slave State rushed across the border and staked out claims on all of the desirable land, determined to hold it against all comers. Most of these returned to their homes, but registered their claims in an office in Missouri. Prior to the establishment of the town site in Lawrence, several of these claims had been taken on the ground later occupied by the town. But when the emigrants arrived and laid out the town only two of the squatter sover-

* The Emigrant Aid Company sent a sawmill to Lawrence, but it was a long time in coming. In the meantime another steam mill was purchased in Kansas City and moved, frame and all, to Lawrence.

eigns were on the ground. One claim was purchased and paid for; the other claimant, Mr. Baldwin, refused to sell. Subsequently the other sovereigns returned and a bitter strife, arising out of property rights, followed. Two tents, one occupied by John Baldwin, and the other by a citizen of Lawrence, were pitched upon the same lot, each of whom claimed to be the lawful owner. Mr. Baldwin gathered his Missouri friends in arms about him and threatened the sons of Massachusetts. Mr. Baldwin had interested some parties in his claim and he with others proceeded to lay out a rival city called Excelsior on the site of Lawrence. This led to open hostilities, a tent of one of the settlers was seized and packed into a wagon, the men standing guard with their rifles. The New Englanders recaptured the tent, and then Baldwin threatened to have 200 armed Missourians on the spot in a short time. That night the Lawrence settlers organized the "regulators," and the next day the Missourians assembled and at 4 o'clock sent the following note as the beginning of hostilities:

KANSAS TERRITORY, *October 6.*

Dr. ROBINSON:

Yourself and friends are hereby notified that you will have one-half hour to move the tent which you have on my undisputed claim. If the tent is not moved within one-half hour we shall take the trouble to move the same.

JOHN BALDWIN AND FRIENDS.

The following reply was immediately sent:

TO JOHN BALDWIN AND FRIENDS:

If you molest our property you do it at your peril.

C. ROBINSON AND FRIENDS.*

John Baldwin and friends thereupon concluded to retire from the scene of active hostilities. The real truth of the matter was that neither party had any legal right to the land at the time the contention arose, except the right of possession, as the lands were then in the legal possession of the Shawnee Indians, with whom a treaty had been made, but the Indian title to the land would not expire until October 9 of that year—some say September 28. The Proslavery men who had rushed in upon the territory of Kansas before the Indian

* The originals in this strife were all or nearly all Free-State men. Proslavery men interfered and tried to bring on a collision. It was merely a struggle over property rights between the Free-State men of Missouri and the New Englanders.

title had expired had no legal claim to the land; neither had the Lawrence association. The plan advocated by Dr. Robinson was to let each settler be protected until a legal decision could be had. But as the laws expressly stated that "sections and fractions of sections included within the limits of any incorporated town every portion of the public land which has been selected for a site for a city or town, and every parcel or lot of land actually settled and occupied for the purposes of trade and not agriculture" was not subject to preemption,* the Lawrence association expected the decision in their favor when it came to a legal test, although Baldwin had a prior claim. Doubtless this would have been the decision had not the question been settled otherwise.

Dr. Robinson went East in February to conduct the spring emigration to Lawrence. During his absence the contest was settled by compromise. The town site was limited to 640 acres and the land secured by locating an Indian float on the site.† The land was divided into 220 shares, 100 of which were given to the 4 or 5 men who disputed the title with the association, 110 were retained by the Lawrence settlers, and 10 set apart for school purposes.‡ There was really no need of this change, which necessitated the resurvey of the town upon a smaller and narrower basis.

On the 19th of October Governor Reeder arrived in Lawrence. He was appointed the first Territorial governor of Kansas, and had arrived at Leavenworth on October 7th. On his way to Fort Riley he visited Lawrence, where he was well received, it being a great day in the city of tents. The city of Lawrence numbered about 200 inhabitants and they all assembled to welcome the governor. Addresses, toasts, speeches, a dinner and general good cheer made this a day long to be remembered in the annals of the town.

The young city continued to grow and thrive. Emigrants poured in from New England and other Northern States, some to remain in the town or vicinity and others to press on further

* Preemption laws of 1841, sec. 10, Revised Statutes, 1873, p. 417.

† Three hundred and twenty acres was the limit of preemption for a town site, but the excess of land was preempted by individuals who would later turn it over to the town corporation. In the settlement of Indian claims certain Indians received certificates of land, which called for a section to be located within certain bounds. These were called Indian floats. They could be purchased and located.

‡ Robinson: Kansas Conflict, p. 88.

west. Six months after the arrival of the first emigrants Lawrence contained fifty dwellings, two boarding houses, a saw and planing mill, a butcher's shop, and two stores. What a strange sight it must have been—houses made of lumber, houses of shakes, sod houses, grass-covered houses, log houses, and houses of tarred canvas. But they sheltered a prosperous and hopeful community of 400 persons, a community of sterling character and worth. Four religious societies and one literary association with a library were already formed.* Two newspapers, Kansas Free-State papers, were established at this time, the *Kansas Pioneer*, edited by John and J. L. Speer, and the *Herald of Freedom*, edited by G. W. Brown. The first number of the former was printed in Medina, Ohio, and the first number of the latter at Conneautville, Pa. That the contest between Free State and Proslavery men was fully set, is illustrated by the attempts of John Speer to print his paper on Kansas soil. He took the copy of the first number of his paper to the office of the *Kansas City Enterprise* to have it printed, but when it was ascertained to be a State paper Judge Story, the publisher of the *Enterprise*, refused to print it. Mr. Speer met with the same experience at the office of the *Leavenworth Herald*. He was finally obliged to print his paper in his old home in Medina, Ohio, in the territory of the northwest, in the government of which the first ordinance against slavery was enacted. The office of the *Herald of Freedom* was prepared for work January 1, 1855.

With all this fair beginning in the foundation of a city, troubles began to deepen, clouds began to appear, and these hardy pioneers were to test their strength in the adherence to the purposes for which they came to Kansas. Their principles were not in sympathy with the Federal Government at this time, which was under the control of the slave power. The Territorial government was about to fall into the hands of the same power dominated by the inhabitants of Missouri, who were determined to make Kansas a slave State. The inhabitants of Lawrence were for peace, not war, but were always ready to act on the defensive when their principles and their homes were at stake. The town represented the largest Free State community in Kansas, and as such incurred the special hatred of the Proslavery element and particularly those of persons along the border counties of Missouri. The struggle

* Andreas, p. 316.

was yet to come and the people of Lawrence must defend themselves.

The attempt at Territorial organization defined the situation and precipitated the struggle. Governor Reeder made his first election proclamation November 10, 1854, which contained the list of election districts and polling places. The law setting forth the qualifications of voters was published with the proclamation. It provided that any free male person of 21 years of age and who was an actual settler was entitled to vote. On the day preceding the election the residents of Missouri passed over the line and became "actual residents" of Kansas for a day. After voting they returned to their homes in Missouri. By this means 1,724 fraudulent votes out of a total of 2,833 were cast and Mr. Whitfield, the Proslavery candidate for delegate to Congress, was elected.* Mr. Whitfield would doubtless have received a majority without the aid of the Missourians, for at this time the majority of the citizens of the Territory were Proslavery.

In the election of a Territorial legislature of March 30, 1855, the same fraudulent process was carried on and an entire Proslavery ticket elected. Armed bands from Missouri took charge of election precincts, overawed certain judges and appointed others. The returns were carefully canvassed by Governor Reeder and a new election declared in the districts having illegal procedure. In the Lawrence district 1,000 men came in wagons and on horseback on the evening preceding the election and on the following morning. They were well armed and under the command of Claiborne F. Jackson, of Missouri. They openly asserted that they had come to the Territory to elect a legislature to suit themselves, and afterward openly boasted that they had done so. At Lawrence they selected one judge to represent Missouri and then, refusing to take the oath, voted in squads. Lawrence district at this time possessed, by the census of 1855, 369 voters, but there were cast at this election 1,034 votes, 781 for the Proslavery candidates and 253 for the Free Soil candidates.†

A new election was ordered for May 25 for those districts in which there was evidence of fraud. In every district but one the decisions of the former elections were reversed. But when the legislature assembled at Pawnee on July 2, 1855,

* Report of the Congressional Committee, p. 39.

† Reports of the Special Committee on the Troubles in Kansas, p. 13.

they repudiated the second election and unseated the members elected at that time, although they had bona fide certificates from the Governor. This proslavery legislature proceeded to organize, then removed the place of meeting to Shawnee, near the Missouri border, against the appointment and veto of the governor, and then proceeded to enact laws unparalleled in the history of the United States for their injustice and barbarity. They were copies of the laws of Missouri, with such additions as would make them especially obnoxious to the free-soil people of Kansas. These laws of the so-called "bogus" legislature were ignored by the Free State men. They regarded the election fraudulent, the legislature illegal, and consequently the laws unconstitutional and unworthy of any consideration. The strife continued and open and secret violence was the order of the day. The papers of Missouri and the pro-slavery papers of Kansas exulted over the election.

The Leavenworth Herald of April 6, headed a column as follows:

"All Hail."

The Proslavery party victorious.

We have met the enemy and they are ours.

Veni, vidi, vici.

Free White State party used up.

The triumph of the proslavery party is complete and overwhelming.

Come on Southern men! Bring your slaves and fill up the Territory. Kansas is saved! Abolitionism is rebuked, her fortress stormed, her flag dragged in the dust, etc.

From this time on the only issue in Kansas was antislavery *v.* proslavery. The people of Lawrence desired to make a free State of Kansas by peaceful means. They were to live brave, moral, and patriotic lives, and build up a government by the legal votes of honest citizens. They had been outvoted by fraud, and while they would never come in contact with the Federal Government and its laws, they would be ready at any time to defend their rights against invasion. They were usually classed as abolitionists, but with two or three exceptions they were not. Mr. Stearns was an avowed abolitionist and disagreed with the position of the Free State men. The abolitionists of the East disagreed with them and condemned the action of the Massachusetts Emigrant Aid Company. Wendell Phillips said:

Why is Kansas a failure as a free State? I will tell you. You sent out there some thousand or two thousand men—for what? To make a living, to cultivate the 160 acres, to build houses; to send for their wives and

their children; to raise wheat; to make money; to build sawmills; to plant towns. You meant to take possession of the country, as the Yankee race always takes possession of a country—by industry, by civilization, by roads, by houses, by mills, by churches. But it will take a long time; it takes two centuries to do it.*

It took barely ten years to complete the work.

Long before this the New York Tribune had observed:

The great battle between freedom and slavery is gradually approaching. Yet the country is everywhere quiet, and public tranquility undisturbed. Not ever the distant rumble of the tempest is heard. The little cloud that denotes it hovers only over a handful of people in the far West. In Kansas alone exists the speck that foreshadows the coming storm.†

Whatever assistance the abolitionists may have rendered in precipitating a great national struggle, those in Kansas were of no great help to the cause of freedom in that State. They seemed to desire to bring about a collision between the settlers of Kansas and the Federal authority and thus convert a localized question into a national issue. The action of the Free State men of Lawrence was conservative; they did not wish local issues turned into national ones. They sought to make Kansas a free State and that was all for the time being.

Free State men were murdered in cold blood. Quarrels over claims led to atrocious deeds. Both the Free State and the Proslavery parties had their secret organizations. A collision was inevitable. One Coleman, a proslavery man, murdered Dow, a member of the Free State party. A border ruffian by the name of Jones, postmaster of Westport, Mo., and sheriff of Douglas County, came with an armed posse to arrest one Branson, whom it was alleged might avenge the death of Dow by making way with the accomplice of Coleman, Harrison Buckley by name. Branson was arrested, but soon after rescued by a party of Free State men. After their rescue they marched to Lawrence, and Lawrence received the credit of the rescue, although but one Lawrence man was in the party. The sheriff called upon Governor Shannon for the militia to support him. A great commotion was made about the resistance of the law by "sixty or seventy" armed men.‡ The Governor called out the militia, which was an excuse for the armed mobs of Missouri to join it. They passed over the line and a proslavery

* *Liberator*, August 10, 1855.

† *New York Tribune*, April 15, 1855.

‡ There were fifteen in the sheriff's party and just fifteen in the rescuing party.

army besieged the antislavery town of Lawrence. The town of Lawrence began to put on a war-like appearance. Five redoubts were soon built and everything prepared for defense. The border ruffians had long threatened the destruction of the town, and had waited for an opportunity. It came at last. One little circumstance seemed to be in their way. On May 23 the steamer *Emma Harmon* had, among other freight, five boxes labeled "books." On opening these boxes, which were billed to the Lawrence association, they were found to contain one hundred Sharpe's rifles capable of discharging 1,000 shots per minute.* These gave the citizens of Lawrence a means of defense. As soon as the town was besieged Free State men, well armed, came pouring in from every direction to help defend the town. All business was suspended and the little city became a military camp. It was soon reported to the sheriff and the governor that 1,000 men heavily armed were intrenched for the defence of Lawrence. The governor wrote to Leavenworth for United States troops, which did not reach the scene of war. It would have been a great disappointment to the border ruffians had they come, for they wished to destroy Lawrence. Finally the citizens of Lawrence sent the following dispatch to Governor Shannon:

To His Excellency WILSON SHANNON, *Governor of Kansas Territory.*

SIR: As citizens of Kansas Territory we desire to call your attention to the fact that a large force of armed men from a foreign State have assembled in the vicinity of Lawrence, are now committing depredations upon our citizens, stopping wagons, opening and appropriating their loading, arresting and detaining travelers upon the public road, and that they claim to do *this* by your authority. We desire to know if they *do* appear by your authority, and if you will secure the peace and quiet of the community by ordering their instant removal, or compel us to resort to some other means and to a higher authority.

Signed by Committee.

Messrs. Lowry and Babcock, who bore this message successfully through the hostile lines and presented it to the governor, had an opportunity to enlighten his excellency on the situation. The result was that he came to Lawrence to view the situation and saw at once that it would be impolitic and unjust to attack Lawrence. Accordingly, they at once set him to the task of getting rid of his mob militia. A treaty of peace was finally signed and the militia gradually dispersed, not without committing depredations, for this was their regular

* Robinson: The Kansas Conflict, 128.

habit. Governor Shannon was well received at Lawrence, and returned a friend to the citizens. Atchison, Stringfellow, and Jones and their ruffian band were greatly disappointed at not having a chance to destroy Lawrence. The Wakarusa war thus happily ended, the Lawrence people gave themselves up to rejoicing. Only one Free-State man, Thomas W. Barbour, lost his life in this war, and he was foully murdered in the open highway as he was on his way to his home. This deed created great excitement and very nearly precipitated a struggle for vengeance. But the war thus closed was but the beginning of a great struggle.

It was in the defense of Lawrence that John Brown first appeared with the Free-State men. He had been in the Territory for several weeks. On December 7, late in the afternoon, he and his four sons came to Lawrence in a wagon, all armed and equipped for the war. He was disappointed that the war was so easily settled without a bloody victory. The ruffians who desired the sack of Lawrence found an opportunity somewhat later to carry out their designs.

The winter of 1855-'56 was a very cold one, which caused much suffering and inconvenience, but with the opening of spring immigration set in vigorously and the town assumed its wonted life. There was a lull in the storm of strife, and the Free-State people hoped it might be permanent. The Free-State Hotel had been completed, and the Congressional committee was within its walls holding an investigation of the fraudulent elections. An unfortunate circumstance renewed the strife. Sheriff Jones was passing the night in Lawrence, during which he was shot and wounded. This led to an attack of the Pro-slavery forces under, nominally, the command of Donaldson. He, as United States marshal, was serving writs upon citizens of Lawrence. After he was through Sheriff Jones led his armed hosts upon the defenseless town, destroyed the offices of the Herald of Freedom, and the Free-State newspapers, also the Free-State Hotel. Private property was destroyed and the people pillaged. Lawrence made no resistance, because it was ostensibly under the command of the United States marshal, and possibly because the strong men were absent or were under arrest. Jones had his revenge, but the sack of Lawrence was the beginning of a long and cruel guerilla warfare. But it is not necessary to recount these bloody scenes.*

*The losses incurred in the sack of Lawrence amounted to \$200,000.

After the close of the Wakarusa war the Territory became a continual scene of carnage and strife. Marauding bands, bent on pillage and destruction of life and property, were organized by both the Free-State and Proslavery parties. The Free-State men had learned to take the aggressive, although they moved as independent bodies seeking revenge and not authorized by any constituted authority of the party. Atrocious deeds were committed by both parties in the name of cruel, relentless revenge. Lawrence, though seldom if ever guilty of encouraging overt acts, was nevertheless the center and support of the Free-State sentiment; consequently the city was credited with everything done against the Proslavery people. It was the desire of the Missourians to destroy the despised town. To "wipe out Lawrence" was their common expression. But in spite of their determination the city grew and flourished. Again, on September 14, 1856, Lawrence was confronted with the militia, largely composed of Missouri Rangers, who were about to march against the city and destroy it. They had at least 2,500 men and Lawrence was almost defenseless. But the little city mustered such fighting forces as were available, every man, woman, and child being determined to fight and not to surrender. Fortunately Governor Geary was in command and had issued a proclamation to disperse the volunteer army. The skirmish between the Missourians and the defenders of Lawrence began on the evening of September 12. In the morning the cannon of the United States troops frowned upon Mount Oread, and Governor Geary in person intercepted the moving hostile army and disbanded it. Although they had received the proclamation of the governor, they were determined to march on Lawrence and destroy the despised Abolitionists. Thus was war happily averted and the town grew and flourished.

The bogus legislature which met in 1855 passed an act incorporating the town of Lawrence and granting it the same chartered rights as were accredited to the town of Leavenworth.*

The people of Lawrence, ignoring the laws of the bogus legislature, never organized the town under this charter. In the second legislature, which was Proslavery and also deemed illegal, a second charter was granted the town.† The Free-State convention had been called and the Free-State constitution

* Territorial Laws of 1855, pp. 822, 837.

† Laws of Kansas Territory, 1857, p. 343.

adopted. The Free-State town of Lawrence again failed to organize under the charter granted by the Proslavery legislature. The citizens of Lawrence would obey the National laws, but they recognized no Territorial laws as binding when enacted by their enemies through fraud. As the town grew rapidly, they were in great need of a municipal organization; they therefore assembled and created a charter and city organization on July 13, 1857.* They first applied to the Topeka legislature for a charter, which was not granted. After taking this step the citizens gave the following address to the public:

To the people:

In presenting the accompanying charter, it may not be improper for your committee to state a few of the reasons which seem to render the organization of a city government not only proper but imperative. It will hardly be disputed that the people are the only true and legitimate fountain of all human government. Political and social rights are not dependent upon the gifts of organizations, but are inherent in the people.

As all governments, whether state or municipal, depend primarily upon the will of the people, and exist only for their protection and convenience, it follows that, in the absence of constituted authorities and organized governments, the people are left to act in their primary and independent capacity, and form a government for themselves.

Such is the condition of the people of Lawrence with reference to their political affairs. For more than two years we have lived without law. Owing to the orderly and peace-loving character of our citizens, we have happily been preserved so far from many of the evils which would usually be incident to such a situation. As our population, however, increases and the city fills up, the necessity for some municipal organization is every day becoming more and more apparent.

Police regulations are necessary for the preservation of order and peace; sanitary measures are essential to the preservation of health; we are unprotected against the ravages of fire; in short, all the varied necessities of a rapidly growing city demand a municipal government.

The only point of embarrassment in this movement arises from the unhappy condition of political affairs in our Territory. Under ordinary proceeding the more regular method would be to obtain a charter from the Territorial authorities. As the Territorial government, however, in no sense represents the people of Kansas, was not elected by them and can have no right to legislate for them, we can not accept of a charter from it. There is, therefore, left us only the alternative of a charter springing directly from the people, or continuance in our present unorganized condition. Under these circumstances you have seen fit to instruct us to present a charter, have discussed its provisions in a preliminary assemblage, and now prepare to submit it to full vote of the people for approval or rejection.

* See Private Laws of Kansas Territory, 1858, p. 187.

In the event of its adoption, it is believed that the beneficial effects of a city government will be so apparent to all that no good citizen will be inclined to dispute its authority or resist its claims. As its action will be purely local, and have reference merely to our own internal affairs, no collision is apprehended with any other organization claiming to exercise general jurisdiction in the Territory.

J. BLOOD.

Col. S. W. ELDRIDGE.

G. W. HUTCHINSON.

C. STEARNS.

GEORGE FORD.*

Here we have repeated the old struggle for self-government against usurpers and oppressors. It was this determination to have a government that was legitimate and just and supported by the people that led the Free State men to ignore the irregular and partial government of the pro-slavery party and led to the calling of the Free State convention, the formation of a Free State constitution, and the final triumph of the Free State party. The people of Lawrence were a conservative law-abiding people. They were ready to submit to Federal authority and did so peaceably, sometimes to their utmost detriment, but they ignored governments which seemed to them spurious. The careful obedience to the Federal authority, and the continued determination to ignore spurious local government, made Kansas a free State, and Lawrence was the center of this determined action.

It will be observed by reading the above document that the Lawrence association, as an organization, might have been an excellent temporary arrangement, but was not adequate to the needs of a growing city; also, if the citizens of Lawrence could attend to their local government, regardless of the assumed higher authority, they were mistaken. The association ignored two charters, one granted in 1855 and another in 1857, because they claimed that the law-making power was not legally constituted. If in the final settlement of affairs it should be determined that the Territorial laws were legitimate and authoritative, the citizens of Lawrence would have been found outside of the law; as it was, they were in a state of rebellion against the assumed authorities. Such is the close relation of successful revolution to treason, of anarchy to a free democracy.

Governor Walker issued a long proclamation in which the offense of this conservative community was greatly magnified.

* Quoted from Andreas, p. 326.

He defines the act, if carried out, as treasonable, and assures them that they stand "upon the brink of an awful precipice, and," says he, "it becomes my duty to warn you before you take the fatal leap into the gulf below." As the citizens of Lawrence had not heeded his admonitions and communications before this, he would call out the troops. Accordingly, Governor Walker appeared before Lawrence in command of 400 United States dragoons. He declared the town under military law, and prohibited communication with the adjacent country without escort. The United States army remained patiently at its post for several weeks. The citizens of Lawrence were careful not to interfere with it nor to show any sign of rebellion against United States authority. After a few weeks the troops were withdrawn by order of the President. Thus ended the filibustering attempt to coerce the people of Lawrence into the governor's way of thinking on municipal government. The citizens of Lawrence continued their municipal life under a charter of their own making.

February 11, 1858, the legislature repealed the act granting a charter to Lawrence, and passed an act legalizing the charter adopted by the citizens July 13, 1857.* The citizens' charter, together with eleven ordinances passed by the council, were approved. The government of the people had triumphed. Soon after an act amending the charter was passed † and again in 1860 the laws and ordinances were consolidated and amended. ‡

The subsequent progress of Lawrence, the establishment and development of schools and churches, the details of its municipal government, as well as its industrial progress, may not be recorded here. Nor is it possible at present to dwell upon the horrible details of the eventful day of the 21st of August, 1863, when Quantrell and his ruffian bands burned and pillaged the town and murdered a large number of the inhabitants. Lawrence to-day, after these years of carnage and strife, ranks as an educational center of the West, as a substantial town of homes, churches, and schools, of a peace-loving and law-abiding people, the even tenor of whose lives is that of a staid New England town. Such are the transformations within the lifetime of a single generation.

* Private Laws of Kansas Territory, 1858, p. 187.

† *Ibid.*, p. 207.

‡ *Ibid.*, 1860, p. 130.



XXVIII.—CONTRIBUTIONS TOWARD A BIBLIOGRAPHY OF AMERICAN HISTORY, 1888-1892, ADAPTED FROM REPORTS TO THE "JAHRESBERICHT DER GESCHICHTS-WISSENSCHAFT," OF BERLIN.

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PREFATORY NOTE.

The data used in this bibliography were originally collected for reports upon the literature of American History made to foreign periodicals, the *Revue Historique* of Paris, and the *Jahresbericht der Geschichtswissenschaft* of Berlin, for which purposes only the more important titles were required.

The accumulations of five years have here been arranged in one classified list, divided into the same broad subjects that were used in the annual reports, and combining books with periodical literature. The abbreviations used in references to magazine articles correspond to those adopted for the Annual Index of the American Library Association.



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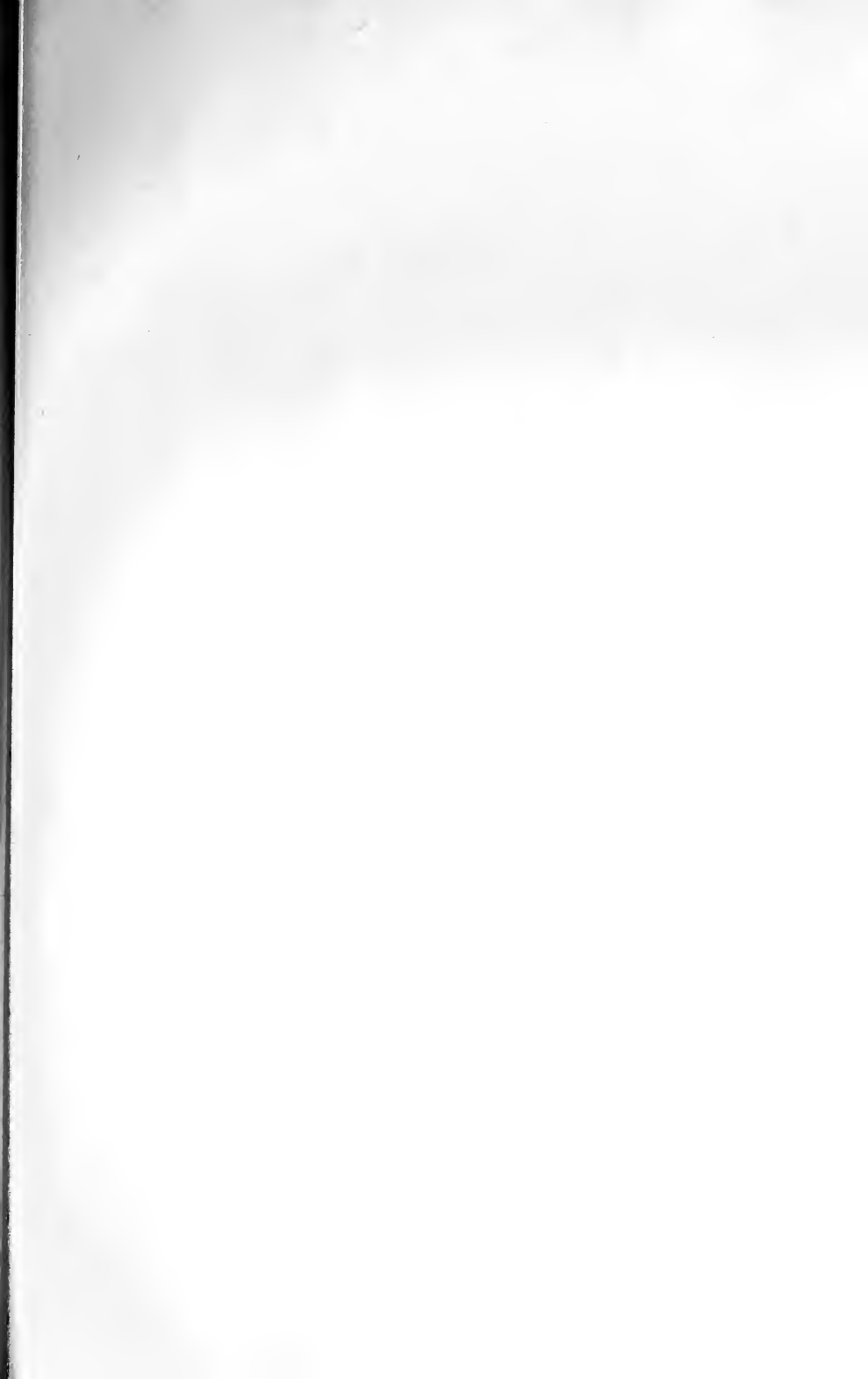
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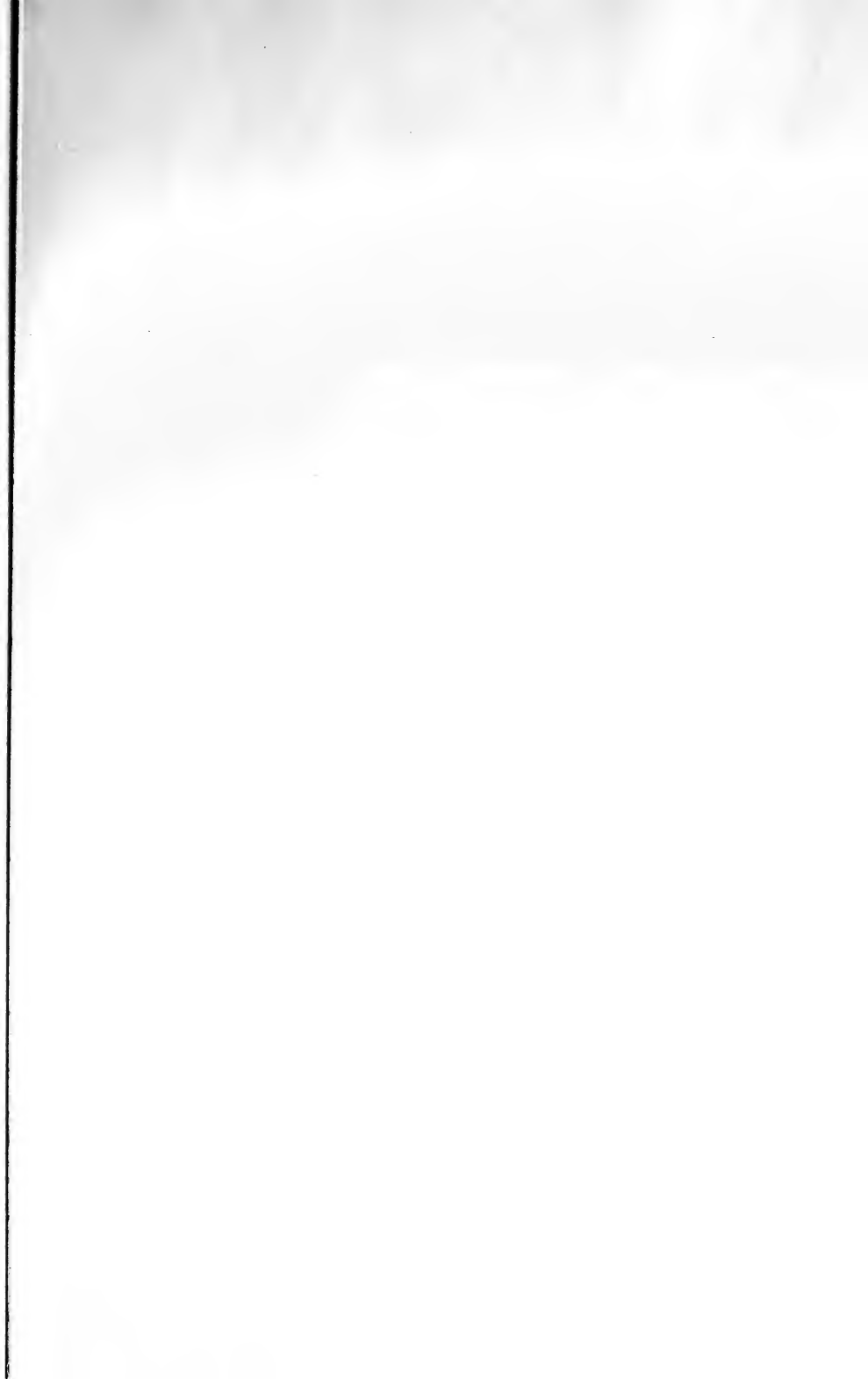
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