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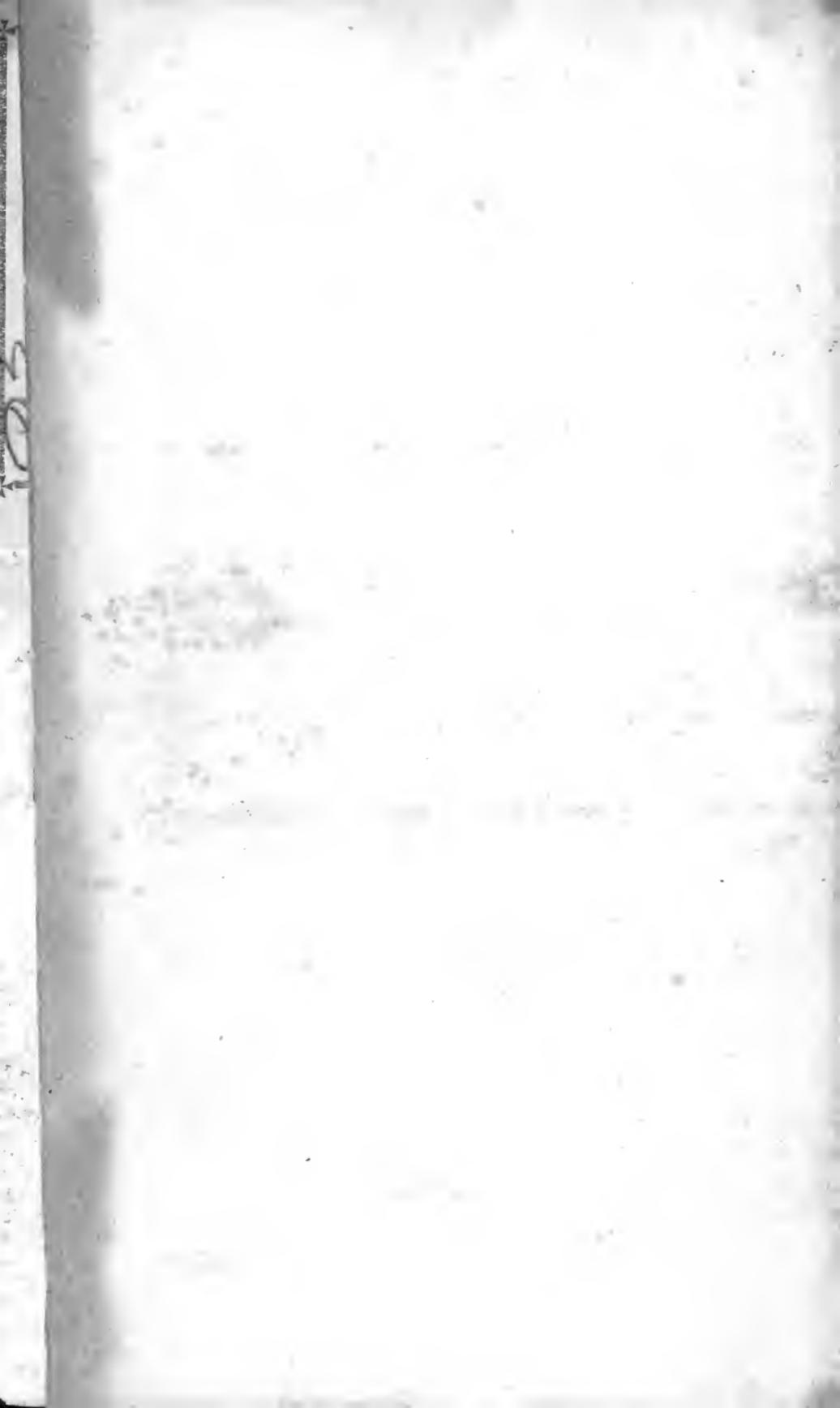
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AN  
ELEMENTARY TREATISE  
ON THE  
STRUCTURE AND OPERATIONS  
OF THE  
NATIONAL AND STATE GOVERNMENTS  
OF THE  
UNITED STATES.

DESIGNED FOR THE USE OF SCHOOLS AND ACADEMIES AND FOR  
GENERAL READERS.

BY  
CHARLES MASON, A. M.,  
COUNSELLOR AT LAW.

---

By Government [in framing our institutions.] we understood the concentra-  
tion of the power of the whole community to protect the rights of each and  
all its members. CHANNING.

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BOSTON:  
DAVID H. WILLIAMS.  
1842.

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## P R E F A C E .

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THE design of this work is, to exhibit a summary account of the forms, and modes of administration, of our National and State Governments. Avoiding all general disquisition, it aims to give a concise, yet clear and exact statement of the actual construction of our political and civil institutions, in all their various branches, and of the processes and means by which they are, in fact, conducted and sustained. Its essential object is, to furnish *information* upon matters relating to government and civil polity, with which *every person*, considered as a *citizen*, living under a free government, ought to have, at least, some general acquaintance. It is intended to present, within a reasonable compass, the means of acquiring a knowledge of these subjects, adequate for common purposes. Of this species of information, the community in general, it is supposed, are but imperfectly possessed;—and that because comparatively few have, at once, access to the sources from which it may be obtained, and leisure to search it out.

As a *school book*, the work is intended to be used as a text-book by students in academies, and by the highest classes in common schools. For this purpose it may be thought by some, that *Questions* should have been appended to the work. They have been omitted, however, from the belief that the use of them, at least by more advanced scholars, is productive of more harm than benefit. Their tendency is to lead the student to seek for the answers to particular questions, to the neglect, too often, of the general drift

and meaning of the author. The aim in studying a book should be, not to accumulate individual, disconnected facts, but to obtain an accurate understanding and knowledge of the subjects of which it treats. And, it is submitted, the only way in which this latter purpose can be effectually accomplished, is, by a *thorough and careful reading and study of the whole text, connectedly.*

As a book for general readers, it is hoped this work may be found instructive and interesting to those who have a desire to look into the structure and practical workings of our institutions. Some knowledge of this kind, more than is easily and generally accessible, is believed to be necessary to enable people to read, with satisfaction and advantage, the accounts furnished by the newspapers, relative to the proceedings of the government in its different departments, and to discuss understandingly the policy of its measures. It has been the design to render the work as full and complete as the limits would permit, for purposes of consultation and reference, upon the topics discussed.

The *Statistical Tables* embody, within a small compass, a large amount of matter, which, it is thought, may interest some; and they may frequently be convenient to refer to for facts and information. The *Index* is sufficiently copious to enable persons to find, easily and expeditiously, anything that may be desired, which is contained in the book.

C. M.

*November, 1842.*

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A TREATISE  
ON THE  
NATIONAL AND STATE  
GOVERNMENTS.

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CHAPTER I.

THE DIFFERENT KINDS OF GOVERNMENT.

1. MANKIND living together in families and communities, maintaining intercourse with each other, and recognizing certain reciprocal rights and obligations, constitute civil society. It is as a member of society that man is constantly the subject of our observation ; and for that station he was evidently designed. To preserve the peace and order of the social state, there has always been found necessary some superintending and controlling power ; which is known by the general name of *government*. This power exists under various modifications, the particular form and character of the government being determined, in each case, by the genius, habits, and pursuits of the people among whom it is established, the progress they have made in knowledge and refinement, and a diversity of other circumstances.

2. There are three which may be denominated the simple and elementary forms of government ; the *monarchical*, the *aristocratic*, and the *democratic*. It is not to be supposed, however, that either of these forms is commonly found existing by itself, entirely distinct from the others. Wherever one or another of the names is applied, it indicates the prevailing feature of the government, rather than describes accurately its whole constitution. Most governments are of a mixed nature, being a combination of certain powers and properties, of some two, or of all the three primary modes, and varying in their character according to the different proportions in which these elements enter into their composition.

3. *Monarchy* is that species of government which is lodged in the hands of a single individual. The office of the sovereign is usually *hereditary*, descending in the same family; rarely, it is *elective*, that is, the sovereign is chosen. When the monarch virtually wields the whole power of the state, subject to no established restrictions, but his sole and arbitrary will is law, which is upheld by fear, by force, and by habit, the government is an *absolute monarchy*, or *despotism*. When, as is commonly the case, the will of the sovereign is controlled, and his power restrained, by express provisions, or by customs to which length of time has given a sanction and binding force, the government is called a *limited monarchy*.

4. *Aristocracy*, which, though with us commonly used in an odious sense, denotes, properly, *the sway of the most distinguished*; or *oligarchy*, which is essentially the same thing, importing *the rule of the few*, is that form of government in which the sovereign power resides in a select council. This has made but little figure in the world, as the distinctive and predominant element in government. But, in a greater or less degree, it enters as a constituent into most governments, as is witnessed, for example, in the European monarchies, where an hereditary nobility exist as a privileged class, and exercise great authority in the administration of government.

5. *Democracy* is government conducted by the people themselves, in their collective capacity. In its pure and simple form, this has never prevailed, to any considerable extent, being adapted only to small communities; where the people can assemble in person, to discuss, settle, and execute measures of common concern. *Republicanism* is a modification of democracy, which is suited to communities however extensive. In this form, the government, instead of being exercised directly by the people, in their primary assemblies, is delegated by them, for a limited term, to particular individuals, of their own selection, who administer it as their accountable agents and representatives.

## CHAPTER II.

## THE NATURE OF POPULAR GOVERNMENTS.

1. In free countries, such as our own, government is said to be instituted by the people themselves, for their own convenience and protection. The notion, however, that in any large community, government is the creature of the whole people, or that it has, in any proper sense, received the assent of all, is entirely fanciful. The truth is, that even in the most favorable cases, but a comparatively small portion of the people have actually any share in directing the affairs of state; and of that portion, a bare majority may usually prescribe the form and policy of the government, under which all are to live, and to which all are held equally bound to render obedience.

2. Persons speak of *universal suffrage*, as if such a thing, with us, really existed. But the fact is far otherwise. More than three fourths of the entire population are excluded, by reason of their sex, age, or other declared disqualifications, from all participation in the right of voting. Most of the persons thus excluded may be incompetent to exercise the right in question; but it would be impossible to maintain that there are absolutely none among them, who are capable of a judicious use of that right. The exclusion is somewhat arbitrary; indeed, no more is pretended than that it proceeds upon a general presumption of unfitness, which is adopted for the sake of convenience.

3. And if, even where a community undertake, originally, to establish a system of government for themselves, but a small fraction of the people are either invited or permitted to take any share in the matter, the case is no better, certainly, in respect to succeeding generations. On their part, there is no assent to a government which they find already established other

than is to be implied from their consenting to live under it, and participate in its administration and its benefits. They are placed, without their own choice or instrumentality, in a position in which, unless they will rise in rebellion against the existing government, or flee from it, they have no alternative but to conform to its requisitions.

4. The *social compact* that is sometimes spoken of, as formed and subsisting between the whole community on the one side, and each individual member of it on the other, has no real existence, but is purely a fiction. It is not true, that each individual enters voluntarily into society, and freely contracts to observe all its rules. One finds himself already in society, and in such a situation that he can scarcely do otherwise than choose to comply with its terms. The actual state of the case is, that men perceive the advantage and necessity of maintaining a government, and by common consent and habit, they allow it to exercise the power it possesses, while they look to it for protection, in return. And this tacit, general understanding works well enough, for most practical purposes.

5. The power that is wielded by comparatively a few, in the establishment and administration of government, may doubtless be abused. But it is to be considered, that those who thus take it upon themselves to act for the whole, are not a detached portion of mankind, possessed of separate interests, and actuated by motives hostile to the rest of their race. They are bound to those others by the strongest ties of affection and interest, and have every inducement to consult for their welfare. And since it is not possible to contrive any method, whereby each individual may exercise, for himself, the precise amount of power and influence to which he is fairly entitled, but in some way, a part must be the active agents of the community, perhaps the system we have adopted is, in practice, as good as any that could be devised.

6. It is the design of a free government to protect the rights of the individuals who live under it. Its

object is essentially defensive. It seeks not, of set purpose, to abridge and restrain men's natural liberty; its aim is to secure to all, as completely as possible, the undisturbed enjoyment of that liberty. In general, it intermeddles not with those who are in the peaceable and harmless exercise of their own honest vocations; but when an individual undertakes to invade the rights of others, it interposes to prevent collision, or redress the wrong. There are, however, certain rights, belonging to a state of nature, which are incompatible with the existence of civil society, and the exercise of which is accordingly prohibited, or laid under the necessary restrictions.

7. Government, it has been said, is the agent by which the *inexpedient* portion of individual liberty is taken away. But the loss of this is more than compensated by the additional security, which, by the same limitation of the freedom of others, is afforded to the more valuable portion that remains. While government detracts, somewhat, from every man's *natural, personal* liberty, which consists in acting as one thinks fit, unrestricted except by the law of nature, it seeks to protect and maintain *civil* liberty, which has been defined to be that of a member of society, and no other than natural liberty, restrained by human laws, so far only as is necessary and expedient for the general advantage of the public.

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### CHAPTER III.

#### THE AMERICAN COLONIAL GOVERNMENTS.

1. THE thirteen states which originally constituted this Union, were, while colonies of Great Britain, governed in such manner as was prescribed for them, respectively, by the mother country. For the most part, the different colonies were, politically, distinct and

independent of each other. There was no permanent or authorized confederacy between them, though sometimes several of them associated themselves together for purposes of common defence. Neither had they any political connection with foreign nations. In their general features, the colonial governments were essentially alike; but there was some diversity in their structure. They were properly of three kinds; *provincial*, *proprietary*, and *charter* governments.

2. The *provincial* governments were under the immediate authority of the *crown*, or sovereign. Their organization depended on commissions issued by the crown, with accompanying instructions. The crown appointed a governor, who held the executive power, and a council of state, whose duty it was to assist the governor, and who also formed one branch of the legislature. There was usually a house of representatives, convened by the governor, under authority of his commission, or under special instructions from the crown, and chosen by the people of the respective colonies. The governor, council, and house of representatives constituted a general assembly, in which the legislative power was vested.

3. *Proprietary* governments were such as were granted by the crown to individual proprietors, or *proprietaries*, as they were called, who possessed both the rights of the soil, and the general powers of government. They exercised, within their respective limits, nearly the same authority as the crown did in the provincial governments; but were expressly restricted from doing any thing that might derogate from the sovereignty of the parent country. In these colonies, the executive power resided in the proprietary, or in a governor appointed by him, who acted as his deputy. He also, with the assent and approbation of the freemen, or their delegates, assembled for that purpose, was authorized to make laws for his province. To this end, there was a house of representatives chosen by the people, and a council elected in like manner, or designated by the proprietary.

4. *Charter* governments were established under royal grants or charters of incorporation. These had a governor and council, or body of assistants, appointed, regularly, by the crown, and a house of representatives, elected by the people; but in some of the colonies, by the provisions of their charters, the people were allowed to choose all their officers. Under these governments the people usually enjoyed more ample powers, and their liberties were better secured, than under either of the other forms. But in respect to these even, the king and parliament claimed the right of altering or revoking the charters, at pleasure, a right which the colonies denied; and this subject was a source of constant contention between the parent country and the charter colonies.

5. Several of the colonies, which were originally governed under charters granted to individual proprietaries, were subsequently changed into provincial governments, their charters having been either voluntarily surrendered, or taken away by the crown. And all the colonies, in the course of their political existence, according to the counsels that prevailed in the mother country, underwent various changes in respect to the administration of their government, and the authority under which it was exercised. At the time of the American Revolution, charter governments existed only in Massachusetts, Rhode Island, and Connecticut; Maryland, Pennsylvania, and Delaware, were under proprietary governments; and all the other colonies were subject to provincial governments under commissions from the crown.

6. The judicial power in the colonies was not, in general, very perfectly separated from the other departments of the government. It was exercised, sometimes, in part, by the governor and council, but chiefly by regularly organized courts; and the general assemblies were, to some extent, constituted courts of appeal. The judicial courts were variously established in the different colonies; in some by the crown, in others, by the governor and council, the proprietary, or the

general assembly of the colony. From the decisions of the courts of the last resort in the colonies, an appeal lay to the king in council; though that point was sometimes strenuously contested by the colonies.

7. In the enactment of laws, the representatives of the people constituted the lower house, and the council, or body of assistants, served as an upper house. The concurrence of the two houses was required for the adoption of measures, and the governor had a negative upon their acts and proceedings, as well as a right to prorogue or dissolve the assembly. The colonial legislatures were authorized to pass laws not contrary to the laws of England, but as near as conveniently might be, agreeable to them, and subject to the ratification or disapproval of the crown. And by a statute of the English parliament, all laws and usages in practice in any of the colonies, repugnant to the laws of that kingdom relative to such colonies, were declared to be void.

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## CHAPTER IV.

### THE CONTINENTAL CONGRESS, AND THE CONFEDERATION.

1. WHEN the prospect of a peaceable adjustment of the differences existing between Great Britain and the colonies had become doubtful, the latter set about forming a national organization for their better protection and more efficient action. A *Congress*, consisting of delegates, appointed in some of the colonies by the legislature, or the popular branch of it, in others by conventions of the people, assembled at Philadelphia, in September, 1774. This congress and those which succeeded it, performed the functions of a national government, and assumed and exercised powers sufficiently ample for that purpose. The congress consisted of but a single body; one of their number was chosen president;

and as they had not the means of ascertaining the relative importance of the several colonies, it was agreed that, in determining questions, each colony should have one vote.

2. On the 7th of June, 1776, a resolution was moved in congress, declaring that the United Colonies ought to be free and independent States. On the 28th of the same month, a committee, which was appointed for that purpose several days previous, reported a draft of a *Declaration of Independence*, drawn up by Thomas Jefferson. The resolution for independence, though opposed by some of the members as immature, finally received the assent of all the colonies. The declaration reported, after undergoing some amendments, was adopted by congress on the 4th of July, and was, either then or soon after, signed by all the members, being fifty-five in number, a few of whom, however, were not present, and indeed were not yet in office, when the declaration was adopted.

3. Soon after the declaration of independence, measures were taken for forming a permanent compact between the several states. After great delay, *Articles of Confederation* were adopted by congress, in November, 1777, and were proposed to the states. Accompanying them was a circular, recommending to the legislature of each state, to invest its delegates in congress with competent powers to subscribe the articles in the name and behalf of the state. This recommendation was complied with reluctantly, on the part of some of the states. The articles were ratified by eleven of the states in 1778, by Delaware in 1779, and, finally, by Maryland on the 1st of March, 1781, on which day the conclusive ratification took effect, and was publicly announced by congress.

4. These articles of confederation were, in fact, little more than a league of friendship between the states, embodying essentially the principles that had been practised upon by the continental congress. Each state retained its sovereignty and independence, and all powers not *expressly* delegated to the United

States. Provision was made for a congress, which was to consist of not less than two nor more than seven members from each state, to be appointed annually, in such manner as the legislature of the state should direct, and maintained by their respective states. No person could be a delegate more than three years in any term of six years; and each state had the power to recall its delegates, at pleasure, and send others in their stead. Congress was to meet once in every year; and in deciding questions in that body, each state had one vote.

5. Congress, under the confederation, was invested with certain specified powers, appropriate to a national government, but for the exercise of many of the most important of those powers, the concurrence of nine states was required. But the great defect in the scheme was, that congress lacked the coercive authority to carry into effect the measures it was competent to adopt. There was no central force to keep the machinery of government in motion. Congress could recommend, but it depended upon the good pleasure of thirteen independent states, whether or not, and when, they would conform to the recommendation, and furnish the means necessary for carrying on national measures. Another radical deficiency was the want of a national judiciary, coextensive with the other powers of government. In fact, the system soon showed itself utterly inefficient, and inadequate to the exigencies of the country and the times.

6. In the mean time, the United States had attained to an acknowledged place among nations. In February, 1778, a treaty was concluded with France, which was ratified by congress in May following, and was the first treaty made by the United States with any foreign power. On the 30th of November, 1782, preliminary articles of peace were entered into between Great Britain and the United States, at Paris; upon the basis of which articles, a definitive treaty was concluded and signed, at the same place, on the 3d of September, 1783. By this treaty, the independence of the

United States was acknowledged by Great Britain, peace was established, and various provisions made for securing a permanent good understanding and friendly relations between the two countries.

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## CHAPTER V.

### THE CONSTITUTION OF THE UNITED STATES.

1. IN February, 1787, in consequence of certain measures which had been first moved in the legislature of Virginia, a resolution was adopted by congress, recommending a convention of delegates from all the states, to be held at Philadelphia, on the second Monday of May ensuing, for the purpose of revising the articles of confederation, and reporting such alterations and provisions in respect to them, as should be thought necessary. At the time and place proposed, the convention assembled, all the states being represented except Rhode Island, which declined to send delegates. George Washington was chosen to preside in that body. The existing frame of government was, however, deemed so radically defective, that the convention, by a large majority, determined on forming a new one.

2. Great difficulty was experienced in reconciling the various conflicting interests of the different states. The whole subject matter underwent a most thorough and elaborate discussion. Certain resolutions which were proposed as the basis of a constitution, were first debated and amended in the convention, and then referred to a committee for the purpose of reducing them to the form of a constitution. That committee reported a draft accordingly, which, after having been sufficiently discussed and modified, was submitted to another committee, to revise the style and arrange the articles. At length, on the 17th of September, 1787, the *Consti-*

*tution of the United States* was adopted by the unanimous consent of the twelve states there represented. Of the fifty-five members who sat in the convention, thirty-nine, being the whole number then present, signed the constitution; and some of those who were absent were known to be in favor of it.

3. The constitution thus framed and adopted, it was remarked by the president of the convention in his letter to congress, was the result of a spirit of amity, and of that mutual deference and concession, which the peculiar political situation of the states rendered indispensable. A copy of the instrument was laid before congress, and received the approbation of that body. It was then, in conformity to the opinion of the convention expressed in accompanying resolutions, transmitted by congress to the several state legislatures, to be submitted, under their recommendation, to a convention of delegates in each state, who should be chosen by the people of the state, for their assent and ratification.

4. In the conventions held for that purpose, in Georgia, New Jersey, and Delaware, the constitution was adopted unanimously; and in those of Pennsylvania, Connecticut, Maryland, and South Carolina, by large majorities. In the conventions of Massachusetts, New Hampshire, Virginia, and New York, it met with serious opposition, and finally prevailed in them by very meagre majorities. The first convention of North Carolina refused to ratify the constitution, but it obtained the assent of a second convention, in that state, held in November, 1789; and in May, 1790, it received the ratification of Rhode Island, which, until that time, had declined to call a convention to consider it. The conventions of Massachusetts, South Carolina, New Hampshire, Virginia, New York, North Carolina, and Rhode Island, at the time of adopting the constitution, proposed and recommended a series of amendments to it.

5. The constitution, by the terms of it, was, when ratified by the conventions of nine states, to go into effect, as between those states. When the ratification

had been completed by eleven states, congress passed a resolution providing for the choice and assembling of electors of president of the United States; and senators and representatives having been chosen by those eleven states, the new congress met at New York, on Wednesday, the 4th of March, 1789, and commenced proceedings under the constitution. There was not a *quorum* of both houses, or the required number to do business, in attendance until the 6th of April following, when, on counting the electoral votes, it appeared that George Washington was unanimously chosen president. On the 30th of the same month, the president elect was sworn into office, and from that time the government went into full operation.

6. Provision was made in the constitution for its amendment. Congress is required, whenever two thirds of both houses shall deem it necessary, to propose amendments; or on the application of the legislatures of two thirds of the states, to call a convention for proposing amendments. The amendments, in either case, become valid as a part of the constitution, when ratified by the legislatures of three fourths of the states, or by conventions in three fourths of them, as congress shall direct. But no state can, without its consent, be deprived of its equal suffrage in the senate. Twelve articles of amendment were proposed by congress, at its first session, of which ten were duly ratified, forming, in effect, a bill of rights. Another article was added, not long afterwards; and in 1804, a twelfth amendment was adopted, changing the mode of voting for president and vice president. These amendments were all proposed by congress, and submitted for ratification, to the state legislatures.

7. The constitution is an instrument embodying the fundamental principles of the national government, declaring the manner in which its different branches shall be constituted, and defining the powers and duties of each. From the mode of its ratification, it may be regarded, so far as that is capable of being done, as expressing the deliberate will of the *people* of the United

States. The articles of confederation received the assent only of the state legislatures, which were chosen for other purposes. But the conventions which passed upon the constitution, in the several states, were composed of members selected by the people expressly for that single object. This constitution, and the laws of the United States passed in pursuance of it, and all treaties made under the authority of the United States, are declared to be the supreme law of the land.

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## CHAPTER VI.

### THE NATIONAL AND STATE GOVERNMENTS.

1. THE National Government is republican, existing, since 1789, under the provisions of the constitution of the United States. By the same instrument a republican form of government is guarantied to every state of the Union: and such a government in fact exists in each state, under its own constitution. On their secession from the mother country, the several colonies, by the recommendation of congress, formed governments for themselves. These were, at first, designed to be merely temporary, and some of them were expressly limited in their duration, to the continuance of the dispute between Great Britain and the colonies. Some of the states established permanent constitutions, about the time of the declaration of independence, while others continued to act under their charters or existing forms of government, long afterwards.

2. The several state constitutions were framed by conventions coming immediately from the body of the people, and acting in their behalf; and were, in general, at least, subsequently adopted and ratified by the people themselves, in their primary assemblies. Most of those of an earlier date have been revised and amended to suit the spirit of the times. These constitutions

are sovereign, each within its own limits, unless they conflict with the paramount authorities of the United States. Any law or enactment, contrary to the constitution of the state in which it is passed, is void; and so is any act of a state legislature or of congress, or any provision of a state constitution, which is repugnant to the constitution, the existing constitutional laws, or the treaties of the United States.

3. In relation to each other, the states are, for most purposes, independent governments. They are also independent of the national government, except in respect to those powers which were, either expressly or by fair implication, delegated to it by the constitution of the United States. Of these powers, some are, by their very nature, or are expressly declared to be, exclusive in the general government, while others may be exercised concurrently by the state governments. The several states are, for the most part, left to regulate their own internal affairs, while matters relating to the general welfare and safety are confided to the national government. The United States are bound to protect each of the states against invasion; and on application of the legislature, or of the executive, when the legislature cannot be convened, against domestic violence.

4. It is provided by the constitution, that citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states; and also, that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, is required to be delivered up for trial, on the requisition of the executive authority of the state from which he fled. It is likewise declared, that any person held to service in one state, under its laws, escaping into another state, shall be delivered up on claim of the party to whom the service is due.

5. Under our governments all power emanates from the people, but they exercise it by their agents and rep-

representatives, who are selected in such manner as the constitutions and laws of the several states prescribe. The greater part of these officers are chosen directly by that portion of the people, who are deemed qualified *electors*, or voters, in their respective states. The qualifications usually required for such electors are, that they be free, and in a majority of the states, white male citizens, of the age of twenty-one years, and have resided for some stated period, varying from three months to two years, in the place where they propose to vote. In some of the states, they must also have paid a state or county tax, and in three or four states a property qualification is requisite.

6. The various public functionaries, whether chosen by the people, or appointed by the executive or other authority, are properly the servants of the community, — not of individuals, but of the whole collectively; and they are amenable to the people for the diligent and faithful discharge of their several duties. The more important executive and judicial officers, especially, are usually subject to impeachment and removal from office for official misconduct. And nearly all public officers are appointed for such periods, and hold their places by such tenure, that before they can long have abused their trust, they are liable to be removed, or to be displaced by a new election.

7. There are other provisions intended further to secure the integrity and fidelity of persons in office. All members of congress and of the several state legislatures, all executive and judicial officers, both of the nation and of the states, and all officers appointed under the authority of the United States, are required to take an oath or affirmation to support the constitution of the United States. Most officers of the general government are also sworn to the faithful execution of the trust committed to them. And, usually, state officers are required to take an oath to support the constitution of the state, and an oath of office. Such public officers as are intrusted with the possession and management of money, or other valuable property, are com-

monly required also to give bonds for the faithful discharge of their official duties.

8. In the establishment of all our governments, it has been a favorite policy, to preserve distinct the three great departments, the legislative, executive, and judicial. And such a separation, not perfect indeed, but sufficient for all practical purposes, is accordingly found universally to exist. In all of them, these three powers are, for the most part, vested in different officers, who are chosen in different modes, and hold their offices by different tenures. The particular organization of each of these departments, and the distribution of the powers of government among them, are regulated, in the several states, by their respective constitutions and laws. The general duties appropriated to each department, are, however, essentially the same in all the states.

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## CHAPTER VII.

### THE LEGISLATIVE DEPARTMENT.

1. THE office of the legislative department is to pass laws. Under our systems of government, this power is vested in two independent branches, styled, usually, a *senate* and *house of representatives*, the concurrence of which is regularly required for the passage of laws, and for the performance of most legislative acts. The house of representatives is the more numerous branch, containing, on an average, in each of the states, somewhat more than one hundred members. In Massachusetts, which has the largest house, the number of representatives is about three hundred and fifty; in Delaware, which has the smallest, there are but twenty-one. The senates of the several states vary from ninety members or thereabouts, which is the number in Georgia, to nine, the number in Delaware; the average number being about thirty.

2. The house of representatives is peculiarly the popular branch of the legislature. It is composed of members chosen by the legally qualified electors of the people, voting, in the New England states, by towns, in the other states, mostly by counties. The senators are chosen by the same electors; but for this purpose, the states are commonly divided into districts, each consisting of several towns, or in those states in which the representatives are chosen by counties, of several counties, so that this branch is elected on a basis somewhat different from that of the other. The senators represent the people by larger masses than do the representatives.

3. In most of the states, the representatives hold their office only one year, but in several of the southern and western states, the term is two years, and in Rhode Island it is but six months. In the New England states, and two or three others, the senators are chosen for one year; in all the other states, for periods of two, three, four, and in Maryland, for six years. In those states in which the term is longer than one year, the senators are divided into two, three, or four classes, as the case may be, whose terms of office expire at different times, so that a portion of the senate is chosen every year, or at the furthest, once in two years.

4. The principal qualifications usually required for representatives and senators, are a certain age, residence for a given number of years within the state, and for a prescribed period previous, and at the time of their election, within the town, county, or district for which they are chosen; and sometimes citizenship of the United States is specified. In a few of the states a certain amount of property is required, which is larger for a senator than for a representative. The age requisite for a representative is fixed at twenty-one years, in about half the states, in some at twenty-five; that of senators at twenty-five for the lowest, and more commonly as high as thirty years. In several of the states there is no express provision as to age or citizenship. Senators and representatives are paid for their services a fixed sum, by the day.

5. The legislatures of all the states meet regularly once in a year, except in six states, in which they assemble but once in two years, and in Rhode Island, where there are two regular sessions, annually. Most of the state constitutions declare what portion of each house shall constitute a quorum to do business. Usually a majority is required for this purpose, sometimes two thirds of the whole number; though in either case, it is commonly provided, that a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members. In most of the state constitutions it is declared, that the doors of each house shall be kept open, except in cases requiring secrecy.

6. Each branch of the legislature is the judge of the elections and qualifications of its own members, and each chooses its own officers, except that in several of those states which have a lieutenant governor, that officer presides in the senate, by virtue of his office, but is not entitled to vote, unless in case of an equal division of the senators. The *speaker* is the presiding officer in the house of representatives. The house has a *clerk*, and the senate a *secretary* or clerk, who keep an accurate journal of the proceedings of those bodies, which is afterwards published. Each branch has a *doorkeeper*; and each, or sometimes both together, a *sergeant at arms*, whose duty it is to maintain order among the spectators, to execute the commands and serve the process of the legislature, to attend persons charged with messages from one house to the other, and the like.

7. Each house is empowered to determine the rules of its own proceedings, to punish its members for disorderly conduct, and in certain cases to expel a member. In general, it is expressly provided, that each house may punish by imprisonment, during its session, any person not a member, who is guilty of disrespect to the house by disorderly conduct in its presence, or other declared contempt of its authority. Senators and representatives are usually, except in cases of treason,

felony, or breach of the peace, privileged from arrest during the session of the legislature, and for a specified time before its commencement and after its close: and they are not answerable, elsewhere, for any thing spoken in debate, in either house. The privilege from arrest operates by virtue of the election, which constitutes the individual a member, for most purposes, though he cannot vote until he has been sworn.

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## CHAPTER VIII.

### PROCEEDINGS IN COMMITTEES.

1. THE preliminary proceedings in the enactment of laws are conducted, in great part, in committees. At the commencement of the legislative session, each *house*, or branch of the legislature, or more commonly, in practice, its presiding officer, appoints, from among its members, a number of standing committees, on certain specified subjects, to continue in office through the session. There are also joint standing committees of both houses. To some one of these committees, which is deemed most appropriate, or to a select committee appointed specially for the purpose, matters coming before the house are usually referred for consideration, with leave to report upon them by bill or otherwise. These committees sit and deliberate upon the business submitted to them, commonly at times when their respective houses are not in session.

2. For certain purposes, especially for the primary discussion of propositions for imposing any tax or charge upon the people, or relating to appropriations of money, all the members of the house sit together as a *committee of the whole house*. On a vote of the house to resolve itself into a committee of the whole, the speaker leaves the chair, appoints a chairman to preside in committee, and himself sits as a member. If disorder

arise during the sitting, the speaker takes the chair; as he does also to receive any message that may be sent to the house. It is the business of a committee of the whole to digest and mature the subject matter before them, preparatory to future action upon it in the house. To this end the leading principles of the proposed measure are put into form, and are debated and modified as the sense of the majority shall dictate. When adopted, their resolutions are reported to the house, and if approved by it, are there further considered, or referred to other committees.

3. The rules of proceeding in a committee of the whole are substantially the same as in the house; but the debate is, in general, more free. No previous question can be taken in a committee, the mode of avoiding an improper or untimely discussion being, to move that the committee rise. A committee of the whole cannot adjourn, but if their business is unfinished, they rise, and the chairman reports to the house, that the committee have had under consideration such a subject, and have made progress in it, but not having time to complete it, have requested him to ask leave to sit again. When their business is concluded, the committee rise on motion, and the speaker resumes the chair. The chairman then informs the house, that the committee have gone through the matter submitted to them, and that he is ready to report upon it, whenever the house shall direct.

4. Bills are introduced into the house by motion for leave, or by an order of the house on report of the committee who have had the matter under consideration. When a member wishes to bring in a bill, on a particular subject, he moves for leave to do so, prefacing his motion with a general statement of his reasons for making it. If leave be granted, a committee, including customarily, the mover and seconder, is then appointed to prepare and report the bill. When first presented in the house, it is read by the clerk at the table, for the information of the members. A bill cannot be amended at the first reading, though it may be rejected; but it is

usually allowed to pass to its next stage, without opposition. After having received a second reading, the bill is commonly *committed*; that is, it is referred to a committee, to be further matured previous to the action of the house upon it.

5. When a bill is committed, it may be to a committee of the whole house, or to a select or a standing committee. If to a committee of the whole, the house determine on what day they will go into committee for the purpose of considering the bill. If it be referred to a select committee, the presiding officer commonly appoints the committee, but any member may nominate one person to be upon it, and the house may change or modify it as they please. It is usual to place upon the committee some who take exceptions to the details of the bill, but not those who are radically opposed to its principles. All committees have a right to choose their own chairman to preside over them, and report their proceedings to the house. But ordinarily, by courtesy, the person first named upon a committee is allowed to act as chairman.

6. The bill or other paper under consideration before a committee, may be one originating with themselves, or one committed to them, after having been read in the house. In the latter case, they have full power to modify its provisions, though they cannot change its subject or title. When the committee, whether a special or a standing one, or a committee of the whole, take up the bill, it is first read throughout, and afterwards by clauses, which are considered and discussed separately, in their order. The chairman, as they proceed, puts such questions as are proposed, for amendments, by inserting or striking out. Where the bill originates with the committee, but not where it is referred to them, the question is taken, at the close, whether they will agree to the bill, as a whole, as it then stands. In entering their amendments, the committee do not make erasures and interlineations in the bill itself, but write down, upon a separate paper, the words that are to be omitted or inserted, and state, by reference to the page,

line, and word of the bill, the place where the alterations are to be made.

7. Having completed their work, the committee rise, and the chairman, afterwards, when the house is in session, states to that body, that the committee to whom was referred such a bill, have, according to order, had it under consideration, and have directed him to report it, without amendment, or with amendments, as the case may be, which he is ready to do. If the house signify their pleasure to hear the report presently, he reads the amendments, if any, in their proper connection, and explains the alterations, and the reasons of the committee for making them. He then delivers in the report at the clerk's table, and the committee, if a special one, having now performed its office, is dissolved. A bill, after having been thus reported, is sometimes recommitted, and usually to the same committee, whose power, for that purpose, is revived.

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## CHAPTER IX.

### ORDER OF BUSINESS AND DEBATE.

1. THE debate upon bills and other matters, at their several stages, in passing through the house, is subject, as to its course and extent, to certain regulations called *parliamentary rules*. Legislative bodies have their particular standing rules of proceeding, which are commonly printed for the use of the members. To prevent confusion and waste of time, they have also, as far as practicable, an established arrangement of business, fixing the order in which different subjects and kinds of business shall be entitled to consideration. These rules, and the settled course of proceedings, cannot be changed or dispensed with, except in the prescribed mode.

2. It is the duty of the presiding officer to preserve

decorum in the house, and to direct its proceedings in such manner as best to secure the regular and orderly despatch of business. As soon as he has taken the chair, and called the house to order, the members all sit in their places. When a member wishes to speak upon a question, he rises in his place, and addresses himself to the speaker or president, who calls him by his name; that the house may know who is to speak. The member who first rises and addresses the chair, is entitled to speak first. If two rise nearly at the same time, the presiding officer names the person who shall speak; but if the house are dissatisfied with his decision, they may have the question put, which member was first up? When the member has finished speaking, or is called to order, he sits down.

3. Questions of order are decided, in the first instance, by the chair, from whose decision there is an appeal to the house. The presiding officer has a right to speak to points of order, and to be heard in preference to other members; but he is restricted from speaking on other subjects, except, for the information, and with the leave of the house, to state facts within his knowledge. Regularly, no member is allowed to speak more than once to the same question, or to the same bill at any one reading, unless it be to elucidate a matter of fact, or to make some material explanation, or the like. But there is a diversity, on this point, in the rules of different legislative bodies.

4. The member speaking is to confine himself to the question under debate, and to avoid personalities. If he has occasion to mention a member present, he should not call him by his name, but designate him by reference to the place he represents, to his seat in the house, his position in the debate, or other appropriate description. It is not in order for a member, in debate, to cast reflections upon the determinations of the house, or to refer to any thing that has been said or done upon the same subject matter, in the other house. If a member be called to order for words spoken, the exceptionable words should be taken down in writing,

that the presiding officer may be better enabled to judge whether they are disorderly.

5. When a motion is made, it is not in the possession of the house, until it has been seconded. The motion must be reduced to writing, if desired, delivered in at the table, and read by the presiding officer, before it can be debated, or the question taken upon it. In voting upon a question, the affirmative side is first put, and then the negative. Generally, the question first moved and seconded, is to be first put. But in filling up blanks, the largest sum or number, and the longest time, have the preference. So, where a motion is made to strike out, or to insert a paragraph, motions to amend it are put before the vote is taken on striking out or inserting the whole paragraph. And there are some other cases in which questions growing out of the matter in debate, such as points of order, and the like, are to be decided before the original question.

6. There are also certain questions which, in their order, take precedence of other matters, and which are called *privileged questions*. Such are the motion to adjourn; for the orders of the day; for the previous question; to lay on the table; to postpone indefinitely, or to a day certain; to commit; and to amend. The motion to *adjourn* has priority over all others, and is always in order, except when the house is actually engaged in voting upon another question. So, when it appears that a quorum is not present, any member may require the house to be counted; and if it be found deficient, business cannot proceed. Next to the motion for adjournment, a motion to proceed to the *orders of the day*, is entitled to the preference, and if it be carried, the orders are read and proceeded upon in their course.

7. The moving of the *previous question* suspends the further discussion of the main question, on the merits of the case. The question from the chair is, "shall the main question be now put?" and if this be decided in the affirmative, the main question is put immediately, and no member can speak further to it. A vote that

the main question be not now put, removes the whole subject matter from under the consideration of the house for that day. This kind of question was designed to suppress the useless or unseasonable discussion of a subject; but, in practice, it is sometimes abused to the purpose of stifling the freedom of debate. A vote to *postpone indefinitely*, disposes of the proposition for that session. When a matter is *laid on the table*, it may be called up at any time, but frequently such a disposition of a subject is tantamount to a refusal of the house to act upon it.

8. *Amendments* may be proposed of such a nature as materially to change the character of a bill or provision, and this is sometimes done in order to render it odious to its former supporters. So also the whole of a bill, after the enacting words, may be struck out, and a new bill ingrafted upon them, as an amendment to the original bill. A vote to strike out the enacting words of a bill, is equivalent to its rejection. Upon a motion to amend by inserting, or by striking out a particular clause, the clause should be made as perfect as possible, by amendments, before the question is taken for inserting or striking it out. For if it be determined, in the former case, to insert, and in the latter, not to strike out, which is, in effect, to retain, the clause cannot be amended afterwards, at the same stage; the house having, by their vote, agreed to it, in its existing form.

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## CHAPTER X.

### THE ENACTMENT OF LAWS.

1. PREVIOUS to its passage, every bill receives, in each house, three several readings, which, regularly, should be, though they are not always, upon as many different days. At each time, the clerk reads the bill,

and then hands it to the presiding officer, who, rising, states to the house the title of the bill, and whether it is the first, second, or third time of reading it; and also states, at each reading, what the question will be. At the first reading the question is, whether the bill shall be read a second time? But if opposition be made to the bill, the practice sometimes is, to put the question, "shall the bill be rejected?" The question at the second reading is, whether the bill shall be committed, or shall be engrossed and read a third time? At the third reading it is, whether the bill shall pass?

2. When a bill, on its second reading, is committed, and the committee have made their report upon it, the report lies upon the table until it suits the convenience of the house to take it up. If the bill was reported with amendments, the amendments only are then read by the clerk. The speaker puts the question upon each of the amendments, in its order, until the whole have been rejected, or adopted, either in the form proposed by the committee, or as amended at this time. When all the amendments of the committee have been disposed of, and not before, it is in order for members to propose amendments to the body of the bill.

3. In like manner, if the bill was reported by the committee without amendments, or if, as is sometimes the case, at its second reading, it is not referred to a committee, but is considered and debated by the house, in the first instance, it is taken up and considered by paragraphs, the presiding officer putting the question on each amendment proposed, in its order; and in these cases, as well as where the bill has been reported with amendments, after it has been sufficiently discussed, and amended, the question is put, whether the bill shall be read a third time? Amendments proposed at the second reading of a bill, are, in general, required to be read twice, and those proposed at the third reading, to be read three times.

4. When upon its second reading, a bill has, by the aid of amendments, received as perfect a form as its friends can give it, those fundamentally opposed to the

bill may most advantageously exert their strength to defeat it. If, however, it pass to a third reading, it is then *engrossed*; that is, the bill in its perfect, amended form, is copied out in a plain, large or *gross* hand, upon paper or parchment. But that is not required, if the bill came from the other house, as in that case, it always comes already engrossed. In some legislative bodies, the practice is, not to have bills engrossed till after the third reading, in order that amendments may be made at that reading, which, otherwise, could not be done without marring and disfiguring the engrossed copy.

5. At the third reading a bill is sometimes, though rarely, committed; but where it has been previously engrossed, amendments which occasion erasures and interlineations, and thereby render the bill suspicious, are admitted, at this stage, with great reluctance. Sometimes, when an important provision has been omitted, rather than alter the bill itself, a clause engrossed on a separate piece of paper or parchment, and called a *rider*, is attached to the bill, after having been read, and the question upon it put three times. At this reading, the bill is again debated, which may be done more effectually than at the previous readings, its supporters and its opposers having, in the earlier discussions of it, become acquainted with the grounds taken on each side, and this being the time which is to decide finally the fate of the bill.

6. The debate being ended, the presiding officer holding the bill in his hand, puts the question for its passage by saying, "as many as are of opinion that this bill shall pass, say *ay*;" and after the affirmative voice is expressed, "as many as are of the contrary opinion, say *no*." He then declares whether the ayes or noes have it, if he be himself satisfied on which side is the majority. But if he is in doubt, or his decision is questioned, the house is *divided*; those in the affirmative, and then those in the negative, are counted, by the presiding officer, or by *tellers*, and the vote is then declared accordingly. After a vote has been passed,

any member who voted with the majority, may, under certain limitations, move for a reconsideration of it; and a vote taken upon such a motion cannot be reconsidered, but is final.

7. When a bill has passed in the house in which it originated, it is sent to the other house, where it is taken up, receives three readings in like manner, and goes through substantially the same processes as if it had originated in that house. The bill may be rejected in the house to which it is sent, or it may be passed either without or with amendments; and in the last-named case it is returned, with the amendments, to the house in which it originated. The amendments are there three times read, and the house either concur in them or disagree to them. In the latter event, the bill is again sent to the other house, and if the one house insist on their amendments and the other on their disagreement to them, after a certain formal course of proceedings, a committee of conference of the two houses is usually appointed. If no agreement can finally be effected, the bill is lost.

8. After a bill has passed both houses, it is commonly enrolled upon parchment, and having been carefully examined and compared with the engrossed bill, by a committee of each house, or a joint committee of both, and found to be correct, it is signed, first by the speaker of the house of representatives, and afterwards by the president of the senate. The bill has, in general, still another ordeal to pass, before it is perfect. By the constitution of the United States, and those of most of the states, it is provided that bills, after having passed both houses, shall be presented to the chief magistrate for his approval; and for this purpose, the bill is accordingly despatched, as soon as it has been signed by the presiding officers of the two houses.

9. When the bill is laid before the chief magistrate, if he approves, he signs it, and by message announces the fact to the house in which the bill originated; and that house informs the other. If he disapproves, he returns the bill, with his objections, to the house in

which it originated, who enter the objections on their journal, and proceed to reconsider the bill. If two thirds of all the members present, or in some of the states, a majority of all the members elected to that house, voting by yeas and nays, agree to pass the bill, it is then sent, with the objections, to the other house, and if passed in like manner there also, it becomes a law. If the bill be not returned by the chief magistrate within a specified number of days after its presentation to him, it becomes a law, unless the legislature, by their adjournment, prevent its return.

10. The bill having passed through its several stages, in the prescribed form, is now complete, and if of a public nature, it becomes a part of the law of the land; and all persons within the jurisdiction, are bound to take notice of it accordingly. Statutes, regularly, go into effect from the time they receive their final approval, unless there be some positive provision to the contrary. Hence it would happen, that a statute might be in force some time before persons in remote parts of the state could possibly have notice of its existence as a law. To remedy this inconvenience and hardship, statutes frequently specify a future day on which they shall go into operation; and in some of the states there is a general provision that every statute in which no time is expressly declared for that purpose, shall take effect a stated number of days after its final approval. The enrolled bills, when passed into laws, are deposited in the office of the secretary of state, and are there preserved; and copies of them are printed for the public use.

## CHAPTER XI.

## THE EXECUTIVE DEPARTMENT.

1. THE executive power, in all the state governments, is vested in a *governor*, who is chosen by the qualified voters of the people, except in the states of New Jersey, Virginia, and South Carolina, in which he is elected by the two houses of the legislature, by *joint ballot*; both voting together, that is, as one body. In the New England states, the person having a *majority* of the votes, or a greater number than all other candidates together, is chosen; in the other states, a *plurality* elects, or the person having a greater number of votes than any one other candidate, is deemed to be chosen. If no person have the required number of votes, the senate and house of representatives, generally by a joint vote, choose a governor out of two or more of the candidates, having the greatest number of votes.

2. A majority of the state constitutions provide, that the governor shall be a citizen of the United States. Nearly all of them require that he shall have resided a certain number, varying from two to ten years, within the state for which he is chosen; and also that he shall be of a certain age, which is fixed, for the most part, at thirty, rarely at thirty-five years. In a few of the states, a property qualification is required. In the New England states and New Jersey, the governor is chosen for one year; in all the others, for two, three, or four years. He is uniformly paid for his services by a fixed annual salary.

3. In the states of Maine, New Hampshire, Massachusetts, Virginia, and North Carolina, there is a *council*, consisting of from three to nine persons, chosen, in New Hampshire, by the people, in the other states, by the legislatures, by joint ballot. They hold regular

sessions, the governor presiding, to deliberate upon matters coming before the executive, and their advice and consent are required in the performance of many of the duties of that department. In some of the other states, the senate discharge a part of the appropriate functions of a council; such as confirming the nominations of public officers. When appointments are to be made with the approbation of the council or senate, the governor nominates to that body the candidates he proposes, and at some future day, they decide by vote whether or not they will advise and consent to the appointment.

4. The duties of the governor are various. In a majority of the states, he has a qualified negative upon the passage of laws, whereby he may defeat them, unless afterwards repassed by the required majority in both houses. He is to see that all laws in force are faithfully executed. He is commander in chief of the military forces of the state. Either by himself, or with the advice of the council where there is such a body, or of the senate in some of the other states, he appoints various state officers; and he signs all commissions that are issued in the name of the state. He, with the council, if any, is usually empowered to grant reprieves and pardons after conviction of the offender, except in cases of impeachment. It is his duty to communicate to the legislature, at every session, the condition of the state, and to recommend to their consideration such matters as he shall judge expedient; and, in general, he is authorized to convene the legislature on extraordinary occasions.

5. In about half of the states, there is a *lieutenant governor*, who, for the most part, by virtue of his office, presides in the senate, but has only a *casting* vote; that is, he is entitled to vote only when the senate are equally divided. The principal design of the office of lieutenant governor is, that there may be some one already appointed, to perform the duties of governor, in case that place should become vacant during the regular term. In the event of a vacancy in the office

of governor, or of governor and lieutenant governor also, where the latter office exists, it devolves usually upon the president or speaker of the senate, and next to him, upon the speaker of the house of representatives, to discharge the duties of governor, until one is chosen.

6. In each state there is a *secretary of state*, commonly elected by joint ballot of the two houses of the legislature. The secretary has the custody of all public records and documents, particularly of the acts, resolutions, and orders of the legislature. He is bound to keep a fair register of the acts and proceedings of the executive, and, when required, to lay it before either branch of the legislature; and to perform such other duties as are enjoined upon him by law. He usually attests or *countersigns* commissions and other instruments issuing in the name of the state, certifies copies of records and papers in his office, and keeps the seal of the state and affixes it to such documents as require it; though sometimes the governor is intrusted with the sole custody and use of the state seal.

7. Each state has also a *treasurer*, who is chosen, almost invariably, by joint vote of the two branches of the legislature, and whose business it is to receive and to disburse all moneys belonging to the state. It is usually provided that no money shall be drawn from the treasury except under the proper warrant, and in consequence of appropriations made by law. An accurate account of the receipts and expenditures of the public money, is required to be published annually, or at other specified times. The treasurer gives bond, with sureties, in such manner as is prescribed by law, conditioned for the faithful discharge of his official duties. The public standard weights and measures are commonly kept in the treasury.

## CHAPTER XII.

## THE JUDICIAL DEPARTMENT.

1. To the judicial power it belongs to expound and enforce the laws. As laws are established to be the rules of action, they ought to be expressed in the most clear and intelligible form. But from the imperfection of language, and sometimes also from the want of sufficient care on the part of legislators, it happens that statute laws are seldom so happily framed as to admit of but a single interpretation, and that a plain and obvious one. Cases often occur, too, such as were not within the contemplation of the legislature; and the application of the law to such cases is sometimes not a little difficult. Laws would be very inadequate to the purpose for which they are designed, were there not some tribunal competent to decide authoritatively upon their meaning and application, and clothed with power to enforce and effectuate its decisions.

2. It is necessary, also, in governments, which like ours are administered in subordination to written constitutions, that there should be, somewhere in the state, a power to try the laws by the standard of the constitution, under which they profess to be made. This authority to test the constitutionality of laws, resides in the courts of justice. It is the right and duty of the judicial power in each state, to declare null and void every act of its legislature made in violation of any provision of its own constitution, or of the constitution of the United States, whenever such act, being capable of a judicial investigation, is brought, in due form, before the proper court. And the decision of the highest judicial court of any state, upon questions touching its own constitution merely, and in some other cases, or of the supreme court of the United States upon questions regularly before it, is conclusive.

3. Besides the law that has been expressed in the form of *statutes*, or legislative acts, there is much which has never been embodied in any code, or declared by any legislature. This is no other than the unwritten, or as it is called, the *common law* of England, consisting of a collection of principles, usages, and rules of action, which have grown into force gradually, as laws, without any legislative interposition. This common law, so far as it was applicable to the circumstances of their situation, our colonial ancestors brought with them from the mother country; and where it has not been altered by statute, it still exists in its full vigor. Cases which depend upon the common law, are to be decided by reference to legal principles, and on the authority of judicial decisions, if any exist that are applicable; and it belongs to the courts, in such cases, to declare what the law is.

4. The highest judicial court of each state, denominated commonly a *supreme court*, is that before which, in general, all questions of law may be brought for final decision. When sitting as a full court, its business is chiefly to hear arguments preparatory to the decision of law questions. The opinions of the judges are afterwards drawn up by themselves, and are read in court; and the decision of each case is according to the opinion of a majority of the judges. Usually, in practice, the opinion of the whole, or of the major part of the judges, is delivered by some one of their number, as *the opinion of the court*. When there exists a difference of opinion among them, those in the minority sometimes deliver *dissenting* opinions. The decisions of the highest court, thus made, are published under the name of *Reports*, and are binding as precedents in all subsequent cases of a like character.

5. The inferior courts, which are known, in the different states, by various names, such as *courts of common pleas*, *circuit*, *district*, or *county courts*, are principally employed in trying matters of fact, with the assistance of a jury. In most of the states, the individual judges of the highest court also sit for the trial

of jury cases. Questions of law, arising before inferior courts, or before a single judge, at such trials, are determined, for the time being, by the court or judge, but subject to revision by a higher court, or by all the judges, as the case may be. *Justices of the peace* have jurisdiction, within their own counties, of cases of small magnitude, and are authorized to hold courts for the trial of such cases; and from their decisions, usually, an appeal lies to a higher tribunal. Justices of the peace, as well as all judges, are likewise conservators of the peace.

6. Besides the courts of *law*, properly so called, there are courts of *chancery* or *equity*, which in some of the states are a distinct organization, while in others the judges of the highest court of law are invested with the exercise of chancery powers. Courts of equity sit without a jury, the questions that come before them being decided by the judges. Their decisions, however, do not proceed on their own arbitrary notions of the abstract right or justice of each particular case; for these courts, as well as others, are bound by authority and precedents. But they are governed by rules peculiar to themselves, which enable them oftentimes to do more full and complete justice, and to furnish remedies and afford relief in cases which could not be reached by the ordinary processes of courts of law, following their own course of proceedings.

7. There are also courts of *probate*, usually one for each county. These are held by a *judge of probate*, or as he is called in some of the states, a *surrogate*, or a *register of wills*. The *register of probate* is the officer who records the decrees, orders, and proceedings of the court, and assists in the transaction of its business. It is the office of courts of probate to take the *probate* or *proof* of wills, presented to them for approval, to grant administration of the estates of persons deceased, and to appoint guardians for minors and others, in the cases prescribed by law. They have jurisdiction of all matters relating to the settlement of estates, and to the interests of persons under guardianship. From their

decisions an appeal lies to such other court as is designated by law. In some of the states, the courts performing a part or all of the duties in question, are called *orphans' courts*.

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## CHAPTER XIII.

### THE ORGANIZATION OF COURTS.

1. THE term *court* is used in various significations. A court has been defined to be a place where justice is judicially administered. Sometimes the word is employed to designate the judges alone, as contradistinguished from the jury. In another sense, the judges, clerk, attorneys, and ministerial officers, are said to constitute the court. It is in this last acceptation that the term is to be understood, in speaking of the organization of courts, and of their several constituent parts. The particular duties and offices of different courts are usually marked out and assigned by statute provisions. For the most part the jurisdiction in both civil and criminal cases, is distributed among the same courts: but sometimes, and especially in cities and large towns, there are courts established exclusively for the cognizance of criminal matters.

2. The *judges* are the officers who preside in the court, direct its proceedings, and determine all questions of law that arise. The highest court in each state consists, usually, of three, four, or five judges, and for the final decision of law questions, they all, or a majority of them, sit together. For the purpose of hearing jury trials, courts are held by a single judge of the highest court, either alone, or assisted by county judges; and also by judges of inferior courts, having jurisdiction throughout the state, or more commonly by a presiding judge for each circuit or district, with assistant county judges. Courts of chancery, where they exist as a separate or-

ganization, are usually held by a single individual, called a *chancellor*.

3. Judges are appointed, in some of the states, by the governor, with the advice of the council or senate; in others, they are chosen by joint ballot of the two branches of the legislature, and in Mississippi, by the people. In some of the states, they hold their office during good behavior; in others, by the same tenure, but are disqualified at a certain age; while in others still, they are appointed for a stated number of years. The salaries of judges are fixed by law, and to secure the independence of the incumbents, there is, in a majority of the states, a provision that their salaries shall not be diminished during their continuance in office. Justices of the peace are appointed, sometimes by the governor, with the approbation of the council or senate, but in many of the states, they are chosen by the people. They are paid by fees, and hold their office for a term of years.

4. *Attorneys*, and *counsellors*, are officers of the court, by which they are admitted to practice after having passed through a prescribed course of preparation. Their business is to assist the parties in the preliminary stages of legal proceedings; to prepare the *pleadings*, or written allegations, in the case; and to manage suits in court, unless the parties, as they are permitted to do, appear and conduct their own causes in person. Each state has usually an *attorney general*, whose duty it is to appear in behalf of the state, and prosecute and conduct suits in which the state is concerned; and also to give his advice on questions of law, when required by the executive, or other officers of the government. There are likewise *district attorneys*, or *county solicitors*, who assist the attorney general, and except in cases of great importance, for the most part manage the actions of the state within their respective districts or counties.

5. The *clerks* of the court are appointed commonly by the judges, sometimes by the legislature. The clerk has the custody of the seal of the court, and it is his

duty to sign and seal all *writs*, and *process*, or compulsive written orders, issuing from the court. He is also required to attend the court, during its sittings, to record its proceedings and judgments. These and other records, together with all papers and documents used in court in the course of legal proceedings, it is the duty of the clerk to preserve in his office, which is at the *shire town* of the county, or place where the courts are held, and is usually kept open, for the public convenience. The clerks of courts are compensated for their services by fees; and they are required to give bonds for the faithful performance of their duties.

6. There is usually a person appointed under the authority of the state, either by the governor or legislature, or by the judges of the highest court, to report the decisions of that court, when sitting for the determination of questions of law. The *reporter* attends the sittings of the court, and takes minutes of the proceedings, at the argument of each case, from which, and from the papers in the case, he draws up a brief statement of the facts and evidence, and adds commonly an abstract of the arguments of counsel. These serve as an introduction to the opinion and decision of the court, a copy of which is furnished to the reporter by the judges, and the whole together makes up what is called a *report* of the case. Sometimes the reports of decisions are prepared for the press by the judges themselves.

7. The *ministerial* officers of the court are those who execute its mandates and serve its process. Each county has a *sheriff*, whose duty it is, either himself or by his *deputies*, to execute, within his county, all writs and process issuing from the judicial tribunals of the state, and directed to such sheriff, or his deputy. Sheriffs are appointed by the governor, with the advice of the council or senate, or are chosen by the qualified voters of their respective counties, and they hold their office for a term of years. They give bonds for the faithful discharge of their duties, and are responsible, civilly, for the official conduct of their deputies, whom they are authorized to appoint, and who, in fact, perform

a large part of the duties of the office. Both the sheriffs and deputies are paid by fees. During the sittings of the courts, the sheriff attends in person, with some of his deputies, to maintain order in and about the courthouse, and to execute the commands of the court.

8. *Coroners*, of whom there are several in each county, are appointed much in the same way as sheriffs. In some states, at least, they are authorized, within their respective counties, to serve all writs and precepts, and to perform all other duties of the sheriff, where the latter is a party or interested in the case, and also where the office of sheriff is vacant. Coroners act too, in part, in a judicial capacity, it being their duty to hold *inquests* over the bodies of persons supposed to have come to a violent death. For this purpose, they assemble a jury, who being sworn, upon inspection of the dead body, and after hearing the testimony of witnesses, if any, draw up and subscribe their *inquisition*, or statement of the result of their investigation, setting forth, as nearly as they have been able to ascertain them, the time, manner, and circumstances of the death.

9. *Constables* are commonly elected by the people of towns. They are bound to obey all warrants and precepts regularly directed to them by sheriffs, coroners, justices of the peace, or the selectmen, or chief magistrates of their town; and they are authorized, in some of the states, to serve writs and process within their respective towns, in civil actions of small magnitude. Both sheriffs and constables are keepers of the peace within their several limits. The *crier* of the court is appointed by the court, and it is his duty to make public proclamation of the opening and adjournment of the court, to count the jurymen as they are called over by the clerk, to perform the ceremony of calling absent parties to come into court and maintain or defend their suits, and the like.

## CHAPTER XIV.

## THE CONSTITUTION OF JURIES.

1. JURIES are of two kinds, *grand juries*, and *petit* or *traverse juries*; whose duties are very different. The province of grand juries is confined to preliminary proceedings, in criminal cases; while the office of petit juries is to try persons duly charged with the commission of crimes or offences, and to determine questions of fact, in civil actions. The persons who are to compose both these juries are selected and summoned in nearly the same way, but each expressly for his own office. The particular mode in which this is done is usually prescribed by statute, but the process is substantially as follows.

2. A sufficient time before the sitting of the court, at which the jurors are to attend, there issues from the clerk's office a writ or precept called a *venire facias*, or simply a *venire*, which is a command to *cause to come* such a number of men, qualified to serve as jurors, at a time and place specified in the precept. The whole number of jurors to be returned at any court, is apportioned among the several towns and places within the county or district for which the court is to be held, as nearly as may be in proportion to the number of inhabitants in each. And in order that the duty of serving as jurors may not be onerous to individuals, there is usually provision made by law, that the same person shall not be required to serve as juryman oftener than once in a stated number of years.

3. By the common law mode, the *venire* is directed to the sheriff, and he summons the jury. This method prevails in some of the states; in others the practice is different. In Maine, Massachusetts, Connecticut, and New Hampshire, a *venire* issues to each town that is

required to send jurymen, and it is directed to a constable of the town, but in New Hampshire to the town-clerk. In the New England states, at least, the names of those who are to serve as jurors are always drawn from a box. Usually a selection is made, from time to time, in each town, of a sufficient number of persons who are deemed qualified to serve as jurors, and their names are written each upon a separate piece of paper, and put into a box. From this *jury-box*, in the manner and by the person designated by law, as many names are drawn out as are equal to the number of jurors the town is required to return at that court.

4. The persons thus drawn are notified of their appointment, by the officer to whom the *venire* was directed. He then returns the *venire*, with his doings upon it, and the names of the persons who have been chosen jurymen, to the clerk's office, on or before the first day of the term, in order that the court, in organizing the juries, may know who have been regularly returned. If both grand and petit jurors are to be appointed for the same court, the return of the officer must specify which of the jurors are to serve in one capacity, and which in the other. The individuals who have been appointed and warned, are, unless prevented by some weighty reason, to attend at the time and place directed, on pain of incurring such penalty as is prescribed by law.

5. When the *venires* are returned into court, the clerk makes out an alphabetical list of the persons chosen and summoned to serve as jurors, which list is called a *panel*. Properly, the term *panel* signifies the roll or oblong piece of paper or parchment, containing the names of the jurors who have been summoned, and their places of abode, which, according to the common law method, is annexed to the *venire* and returned with it into court. If a sufficient number of jurors do not appear, or if, at any time during the term, by challenges or otherwise, the panel be exhausted before a full jury is completed, the court may order what is called a *tales de circumstantibus*, which is an order to the sheriff or other officer, to return from among the *bystanders*, or

from the county at large, so many *such men*, that is, men possessing the like qualifications with those summoned on the first panel, as will supply the deficiency. Jurors thus selected are called *talesmen*.

6. A grand jury may consist of any number of men from twelve to twenty-three inclusive. It must contain twelve at least, because the concurrence of that number is required in order to put a party accused upon his trial; and if there were more than twenty-three, great inconvenience might arise, since a complete jury of twelve might concur in finding a bill, while an equal or greater number were opposed to it. The persons who have been summoned to serve as grand jurors being in attendance in court, the clerk, from his list, calls them by their names, and as many as are present answer to the call, and are counted by the crier. The number present being ascertained, one of them is then appointed by the court to serve as *foreman* of the jury; but in some states they are permitted to choose their own foreman, after they have retired to their room. The jurymen who are in attendance, but not exceeding twenty-three in number, are then sworn by the clerk.

7. The oath is administered first to the foreman, if he has been appointed, and is in the following terms: "You, as foreman of this inquest, for the body of the county of—, do swear, that you will diligently inquire and true presentment make, of all such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service; the commonwealth's counsel, your fellows' and your own you shall keep secret; you shall present no one for envy, hatred or malice, nor shall you leave any one unrepresented for fear, favor, affection, or hope of reward; but you shall present all things truly, as they come to your knowledge, according to the best of your understanding." The other grand jurors are then called, usually a part at a time, and are sworn to observe the same oath which the foreman has taken. If the foreman has not been appointed, the oath is first adminis-

tered to two or three of the jurors, and then the rest are sworn to its observance.

8. A petit jury regularly consists of precisely twelve men. There are commonly petit jurors enough summoned to constitute two juries, in order that while one jury are deliberating upon a cause, the other may be in readiness to hear any other cause that may come before the court. The jurors being in court pursuant to direction, the clerk, from his list, calls over their names. The first twelve in order upon the list are then sworn and empanelled as a jury for the trial of any civil actions that may come before them during the term; and in like manner the next twelve, if there be so many. A foreman of each jury is either chosen by themselves, or appointed by the court. The *supernumerary* jurors, if any, are sworn, and are kept in attendance, that they may be put upon either of the juries, if occasion should require. In criminal trials, a jury must be sworn and organized anew for each case.

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## CHAPTER XV.

### PROCEEDINGS IN CIVIL ACTIONS.

1. CIVIL actions or suits are such as are brought to obtain redress for private wrongs, or *civil injuries*; and their object is to put the injured party in possession of the right of which he has been deprived. This may be effected, either by a specific delivery or restitution of the article, or subject matter in dispute, to the rightful owner; or, where that cannot be done, as well as where it would be an inadequate remedy, by making the sufferer a pecuniary compensation in damages. The process of law is the instrument by which this redress is obtained; but the act of the parties is necessary in order to set the law in motion.

2. When a right to which a party deems himself

entitled, is withheld from him, and he would resort to the aid of the law to enforce that right, he usually applies to an attorney, to institute legal proceedings in the matter. The instrument most commonly employed for this purpose is called a *writ*. The attorney procures, at the clerk's office, blank writs, which issue in the name of the state, are sealed with the seal of the court, and signed by the clerk. The formal parts of the instrument are printed, with blanks left for inserting names, dates, and the cause of action; and one of these blank forms is filled up by the attorney whenever he has occasion to make a writ.

3. In its form, a writ is a mandatory letter, directed to the sheriff of the county or his deputy, or in particular cases, to a constable or coroner, commanding him to do certain acts. These, according to the practice in New England, generally are, to attach, to a given amount, the goods or estate of the party who is charged as withholding the right, or as guilty of the injury, and who is called the *defendant*, and to summon him to appear at court, at a time and place therein named, to answer to the party who complains that his right is withheld, or violated, and who is styled the *plaintiff*. Then follows the *declaration*, or statement of the plaintiff's cause of action, reciting the contract, or other duty or liability of the defendant, and his breach of it, and in conclusion, laying the *damages* claimed by the plaintiff.

4. The writ is served upon the defendant, by the officer, sometimes by reading it to him, or giving him an attested copy of it; but in the form which is in most frequent use, there is a separate paper, attested in the same manner as the writ, and called a *summons*, which is left with the defendant, informing him that such a suit has been commenced against him, and directing him to appear at court. Upon the back of the writ itself the officer enters a written statement of his doings in the matter, which is called his *return*, and which, as between the parties to the action, cannot be controverted. The writ must be served a certain period

of time before the first day of the court to which it is returnable, and on that day the officer is required, in pursuance of a command expressed in it, to have the writ in court.

5. The clerk receives the writs and puts them upon file; and all those which have not already been settled by the parties, are, at the request of the several attorneys by whom they were made, entered in court by the clerk. This is done by writing the names of the plaintiff and defendant in each action, and numbering the actions consecutively, in a blank book, ruled and prepared for the purpose, denominated a *docket*. The name of the attorney who causes the action to be entered, is written in the margin, opposite to that of the plaintiff. After the docket is made up, the attorney, if any, employed by the defendant to appear in his behalf, writes his name upon the docket, opposite or underneath the name of the defendant; which is called *entering an appearance*.

6. Early in the term the docket is called by the court, that is, the names of the parties in the actions are read in their order by the clerk, who minutes upon the docket the manner in which each action is disposed of. If there is no appearance on the part of any defendant, he is *defaulted*, as it is termed. For this purpose, the crier makes proclamation for the defendant, calling him by name, to come into court, and answer to the plaintiff, or his default will be recorded; and if he do not appear, either personally or by attorney, the entry of default is made upon the docket. The rest of the cases are marked for *trial*, or *continued* to the next term, or otherwise disposed of, as the attorneys of the parties can agree, and the court shall direct. All the actions of which no final disposition is made during the term, are continued, and go to form the *old docket* for the next term of the court.

7. On the first day of the sitting of the court, the persons who have been summoned to serve as petit jurors, are in attendance, and are organized into juries for the trial of causes. Such a jury should consist,

uniformly, of twelve men, and neither party is obliged to proceed with a less number. But that is occasionally done, in civil actions, by agreement of the parties, where a juror is sick, absent, or the like, when a cause comes on for trial. Jurors may be objected to, or as it is termed, *challenged*, by either party, for cause shown; such as that the juror is wanting in the requisite qualifications, or is unfitted for the service by reason of relationship to either party, or by interest, partiality, or other sufficient cause. If the objection is sustained, the juror is set aside, and another is substituted in his place.

8. The office of a jury, in civil actions, is to try issues of fact. An *issue* is some specific point or matter, affirmed on the one side, and denied on the other. This issue or point disputed between the parties, and mutually proposed and accepted by them as the subject for decision, is evolved by a series of alternate allegations on the one side and the other, called *pleadings*, which are previously drawn up in writing by the attorneys of the parties. This process, however, is greatly simplified, in many of the states, by statute provisions. When the result is attained, the parties are said to be at *issue*; and the question so set apart for decision is itself called *the issue*. If it be an issue or question of *law*, it is to be decided by the court; if an issue in *fact*, by the jury.

9. The jury are sworn well and truly to try the causes committed to them, and to render a true verdict according to law and the evidence given them. They are to take no matter into consideration but the question in issue; that question, and that alone being before them for trial. They are bound to give their verdict for the party, who, upon the proof, appears to them to have established his side of the issue. The burden of proof is regularly upon the party who maintains the affirmative of the issue, a negative being, in general, incapable of proof; and consequently, unless the affirmative is made out, the jury are to consider the negative as established, and are to give their verdict accordingly.

10. The attendance of witnesses at court, is either voluntary, upon the request of the parties, or it is enforced by causing to be served upon them a summons, called a *subpœna*, and by payment of their fees. The witnesses when called at the trial, are sworn to declare the truth, the whole truth, and nothing but the truth, relative to the cause in hearing. After a witness has been examined by the party who offers him, which is called the *examination in chief*, he may be examined by the opposite party. This, which is styled the *cross-examination*, is designed to test the ability and willingness of the witness to tell the truth; and it is directed to ascertaining his opportunity and capacity to acquire a knowledge of the facts to which he testifies, his powers of memory, his situation in respect to the parties, and his motives.

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## CHAPTER XVI.

### TRIAL OF CIVIL ACTIONS.

1. THE whole proceeding of trial by jury takes place under the direction and superintendence of the presiding judge or judges, in this connection usually denominated *the court*. It is the duty of the court to decide, for the time being, all questions that arise in the course of the trial, respecting the competency of witnesses, and the admissibility of evidence; and to direct the jury on points of law, so far as is necessary for their guidance in appreciating the legal effect of the evidence, and drawing from it the proper conclusions. But as questions of law, at the trial, must be decided upon first impression, and without opportunity to consult authorities, there is commonly some provision by which exceptions may be taken to these summary rulings of the court, and carried to a higher tribunal, or to the full court, to be decided afterwards, upon deliberation and argument.

2. When a cause comes on for trial, it is usually conducted by one or more counsel on each side. The counsel for the party having the affirmative of the issue, who is generally the plaintiff, opens the cause to the jury, by reading the writ and pleadings, or stating the substance of them. He next gives a general outline of the case, states the positions he proposes to establish, and observes upon the evidence which he intends to adduce to substantiate them. He then calls his witnesses, who are examined and cross-examined, and also produces and reads to the jury such documentary evidence as he may have, which he wishes to put into the case.

3. The counsel upon the other side then opens the defence and states the nature of it, and produces his evidence to support it. He then addresses the jury, and goes into a full argument of the case, applying and enforcing his own evidence, and endeavoring to meet the force of that arrayed against him. The counsel of the opening party then follows in reply, in like manner commenting upon the evidence on both sides, and answering, as best he may, the arguments advanced by the opposite party. When the case is closed, on both sides, the judge *charges* the jury; that is, he states to them what are the real points of difference between the parties, recapitulates, sums up, and comments upon the evidence, and explains the principles of law that bear upon the case, and the manner of their application.

4. The cause is then committed to the jury, who retire to deliberate upon it, to a room provided for the purpose, in the custody of an officer, who is sworn to keep them, and to suffer no one else to speak to them, neither to speak to them himself, unless to ask them whether they have agreed. The jury are to decide the matter upon the evidence that has been given them in court. Any fact in relation to it, within the knowledge of any of their number, cannot be received by them, in the jury-room; but in such a case, the juror may be sworn and give his testimony, like any other witness,

in open court. Unless sooner discharged by order of the court, the jury are not allowed to separate until they have agreed upon a *verdict*, which must be *unanimously* given.

5. After the jury have decided upon their verdict, they come into court, bringing with them their verdict, in writing, which, if not correct already, is then put into form, and is signed by the foreman. The verdict is next read to the jury, by the clerk, who asks them if they agree to it, and any juror may then express his dissent; but if it is affirmed by them all, the verdict is entered of record. The finding of the jury, in an action on a contract, for example, is, when for the plaintiff, that "the defendant did promise in manner and form as the plaintiff in his writ has declared against him;" and where damages are claimed by the plaintiff, they assess damages at such a sum as they think warranted by the evidence. When the verdict is for the defendant, they find that the defendant did not promise in manner and form alleged. If the jury cannot agree, or are prevented by any other cause from giving a verdict, the case goes over, to await another trial.

6. When a case has been decided by the verdict of a jury, on matters of fact, or by the court, on matters of law, or where the defendant has been defaulted, or, as is sometimes done, the plaintiff abandons his action and becomes *nonsuited*, *judgment* is rendered by the court for the prevailing party. When given for the defendant, the judgment usually is, that he recover his costs of suit; when for the plaintiff, that he recover his damages, or recover the debt or subject matter demanded, together with his costs. If the judgment for damages be upon a verdict of a jury, it is for such sum as was assessed by the jury. In other cases the damages are generally assessed by the court, or in practice, by the clerk, upon such sufficient evidence, as to the amount, as the plaintiff may produce.

7. The *costs* and charges of suit, to which the prevailing party is entitled, consist of certain outlays and allowed fees, such as for the price of the writ, service

and entry; for travel to and from court, and attendance there during the sitting of the court, by the party's attorney, to take charge of the suit; for travel and attendance of witnesses, and various other items. The party himself has judgment for the costs in his own name, but they or a sum equal to them, belong, properly, to the attorney, to be by him distributed among the several persons who have a right to them, as the sheriff, clerk, witnesses, and the attorney himself. The attorney is entitled to receive the bill of costs of his client, whether he be able to collect them of the debtor or not; the right, on the part of the persons employed, to a compensation for their services, not depending upon the success of the suit.

8. After judgment has been rendered, the prevailing party is entitled to an *execution* to put in force the sentence that the law has given. This is a writ, which issues from the clerk's office, and is addressed to the sheriff or his deputy, commanding him, according to the nature of the judgment in the case, to give the plaintiff possession of the subject matter of the action, or to collect and pay over to the plaintiff the amount of the debt or damages and costs recovered, or to the defendant the amount of his costs, out of the property and effects of the opposite party. In those states where imprisonment for debt is allowed, the officer is commanded, for want of finding money, goods, and chattels, to the acceptance of the creditor, to commit the debtor to prison.

9. If the execution be not paid, when shown to the *judgment debtor*, or party against whom it runs, the sheriff may proceed to sell such of his property as he can find, and as is needed for the purpose. Out of the proceeds, he satisfies himself for his fees, pays the amount of the execution to the creditor or his attorney, and returns the residue, if any, to the debtor. Where, as in New England, property may be attached at the commencement of the action, or as it is called, on *mesne process*, such property is held until a specified time after judgment is rendered in the action, to answer to that

judgment in case the plaintiff shall prevail in his suit. The term *mesne* process is applied to the first and intermediate process or writs in an action, as contradistinguished from *final* process, which is the writ of execution.

10. When the execution is satisfied, the sheriff indorses upon it a statement or *return* to that effect, and then returns the writ to the court from which it issued, to be there filed away in the clerk's office, together with the papers and documents in the case, and preserved as an evidence that the demand to which it relates, has been settled. After a case has been finally disposed of, the clerk makes out a *record* of it, which is a brief history or abstract of the proceedings in the various stages of the case, from first to last, including all the orders and awards of the court in reference to it. These records are copied into substantially bound volumes, which are kept and preserved in the clerk's office forever afterwards, to be referred to when occasion may require.

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## CHAPTER XVII.

### PROCEEDINGS IN CRIMINAL CASES.

1. UNDER our laws, there is a provision for the prevention of crimes, which is highly salutary, inasmuch as *preventive* justice is incomparably better than *punitive* justice. This provision consists in requiring those persons, whom there is probable cause to suspect of future misbehavior, to enter into an obligation, with sufficient sureties, to the state, to keep the peace generally, and especially towards the person who makes the complaint, for a specified term of time. The person requesting the security must make oath to the truth of the complaint, and this is called *swearing the peace* against another. If the party do not find such sureties as the

justice, before whom the matter is brought, in his discretion shall require, he may be committed to prison till he does furnish them.

2. A *criminal prosecution* is the means adopted to bring to justice, by due course of law, persons suspected of having committed crimes or offences. Such prosecutions are carried on in the name of the state, and have for their principal object the general security and happiness of the community. When the party suspected is at large, it is commonly desirable, in the first instance, to have him arrested and taken into custody. An *arrest*, in criminal cases, is the apprehending or detaining of the person, in order to be forthcoming to answer an alleged or suspected crime. - When a person is to be arrested, the proper and only safe course, where the circumstances of the case will admit, is, to obtain the authority of a magistrate, under which to proceed.

3. For this purpose, the party who knows or suspects that a criminal offence has been committed, usually goes before a justice of the peace, and states the grounds of his complaint. The justice interrogates, upon oath, the accuser and the witnesses, if any are produced, in relation to the subject matter. The complaint is reduced to writing, and subscribed by the complainant. Upon this, the justice, if he is of opinion that there is sufficient cause for instituting proceedings, issues a *warrant*, in the name of the state, under his own hand and seal, setting forth the name of the person to be apprehended, if known, otherwise giving him the best description the nature of the case will allow, and reciting the substance of the accusation.

4. The warrant is directed to the sheriff or his deputy, or to a constable, or other peace officer, who is bound to arrest the party, if found within his precinct. The order may be either general, to bring the party before any justice of the peace for the county, or special, to bring him before the justice only who granted the warrant. If the officer succeeds in making the arrest, he is bound to carry the prisoner immediately, or as soon as seasonably may be, before the proper magis-

trate for examination. And such magistrate is required to take and complete the examination of all concerned, and to discharge, bail, or commit the individual accused, as soon as the nature of the case will allow, and within a reasonable time.

5. The complainant and his witnesses must be ready to confront the prisoner, in whose presence the evidence must always be given, in order that he may have the advantage of cross-examining them, and contradicting their testimony. The party accused is not bound to criminate himself, nor, indeed, to answer any questions; but any admissions he may make, will ordinarily be evidence against him, on his trial. His examination, to make it evidence, should not be taken upon oath, the principle being, that every admission of the prisoner, to be available as evidence, must be purely voluntary. Accordingly, any confession obtained through improper influence, whether by promises or threats, however slight the inducement may have been, cannot be used as evidence.

6. If, upon the examination of the whole matter, it manifestly appears, that the suspicion entertained of the prisoner was wholly groundless, the magistrate may discharge him. But if he is of opinion that the party is not entitled to be completely discharged, he is then, except in case of those minor offences, for which he may himself try, judge, and sentence the accused, to determine whether he shall bail, or commit him to prison for safe custody. In most offences of inferior degree, bail must be received, if sufficient security be offered; in some others of a higher grade, it may be taken or refused, in the discretion of the magistrate; while, for the most atrocious crimes, and those which are punished capitally, no bail can be received by a magistrate. Persons charged with such crimes, it has been said, have no other sureties than the four walls of the prison.

7. *Bail* is defined to be a delivery or bailment of a person to his sureties, upon their giving, together with himself, sufficient security for his appearance at the

time and place of trial; he being supposed to continue in their friendly custody instead of going to prison. If the sureties are apprehensive that the party will escape, they may surrender him to the justice or court, and discharge themselves of their liability. If there appears probable ground to suppose that the accused will be tried for the offence, it is the duty of the magistrate, to take from such of the witnesses before him, at the examination, as may probably be able to give material evidence against the prisoner, an obligation, called a *recognizance*, to appear as witnesses at the next court having jurisdiction of the case. And if any witness refuse to enter into such recognizance, he may be committed to prison.

8. Where a party has been apprehended for a crime that is notailable, and upon the examination a case is made out sufficient to put him upon his trial, or where the charge is for an offence which isailable, but no sufficient bail is offered, he must be committed to prison for safe custody. For this purpose, the justice makes out a warrant of commitment, called a *mittimus*, to the jailer, to receive the prisoner. Every final commitment thus made must be in writing, under the hand and seal of the justice, and in the name of the state, properly directed to the sheriff or his deputy, the constable, and jailer, and containing a sufficient description of the prisoner, and specification of the accusation and offence, and the place, time, and mode of imprisonment.

9. When a person thus committed is advised that his commitment is illegal, or that he is entitled to be discharged or bailed by a superior jurisdiction, he may obtain relief by a writ of *habeas corpus*, so called from the emphatical words in the writ, commanding to *have the body* of the prisoner before the required tribunal. This writ is to be procured by motion to such higher court, in term time, or while the court is in session, or by application to a judge of the court, in vacation. In support of the application, an affidavit is usually required, stating the circumstances under which the party considers himself entitled to relief. If just cause be

shown, a writ issues, directed to the person in whose custody the applicant is actually detained, who is bound, within a certain number of days, to make return of the writ to the court or judge by whom it was issued.

10. In this return he is required to set forth whether or not he has the party in his custody, and if he has, by whom, when, and for what cause, he was committed; and, at the time of making the return, he is to bring up the body of the person, if in his custody or power. When the prisoner, as also the depositions upon which the commitment was founded, and the warrant of commitment, with the writ of *habeas corpus*, are duly returned, the court or judge consider and determine whether to discharge, bail, or recommit him. The writ of *habeas corpus* is granted also in other cases where a person is illegally restrained or deprived of his liberty; as, for example, where a minor has enlisted into the military or naval service, without the consent of his parent or guardian.

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## CHAPTER XVIII.

### INDICTMENT AND ARRAIGNMENT OF CRIMINALS.

1. It is provided by the constitution of the United States, that, except in cases arising in the military or naval service, no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury. At the opening of the court having jurisdiction of criminal matters, the grand jury having been first organized and sworn, the clerk directs the crier to make proclamation that all persons present keep silence while the judge delivers his *charge* to the grand jury. This charge or address is designed to instruct the jury in relation to the duties of their office; but occasionally it is devoted chiefly

to some collateral subject. When the charge is concluded, the grand jury retire to a separate room, to hold their deliberations.

2. All cases of persons who have undergone an examination on criminal charges, before justices of the peace, and have been either bailed or committed, and also other matters and complaints, come before the grand jury for investigation. They can, in general, inquire of nothing but what arises within their county or district. They hold their sessions in secret, examine witnesses upon oath, and receive other evidence that is laid before them. Any person who may be present on the occasion, is bound not to disclose what takes place. The grand jury, for the most part, hear evidence only in support of the charge, and not in exculpation of the defendant; this being only a preliminary investigation, and not conclusive upon the party accused, and the duty of the grand jury being, merely to inquire whether there is sufficient ground for putting him on his trial before another jury of a different description.

3. A *presentment*, properly speaking, is the notice taken by a grand jury, at their own instance, of some offence within their knowledge. An *indictment* is a written accusation of a person, preferred to a grand jury, and by them presented upon oath as true, setting forth the offence with sufficient certainty of time, place, and circumstances. Usually, by the help of the examinations returned by justices of the peace, and from other information, a bill of indictment is framed, in the first instance, by the officer on the part of the government, and submitted to the grand jury, having indorsed upon it the names of the witnesses who are expected to give evidence against the party. An indictment must describe the party accused, the nature of the offence, the time and manner of its commission, and other necessary particulars, in all material points conformably to the actual proofs.

4. When the grand jury have heard the evidence in a case, if they think the accusation not supported, they write on the back of the bill, "not a true bill;" or "not

found." If they are satisfied of the truth of the accusation, they indorse upon the bill, "a true bill." This indorsement is signed by the foreman, and the bill is then said to be *found*. Having disposed of all the business before them, the grand jury return into court. The clerk then calls all the jurymen by name, to ascertain that they are present. He then inquires whether they have agreed upon any bills, and bids them present them to the court; whereupon, the foreman hands them to the clerk, and the grand jury are then dismissed. At the close of the session, or earlier, all those persons in custody, against whom no bills have been found, are discharged.

5. It sometimes happens, that an indictment is preferred and found against a person in his absence, which may be done equally well, since, if present, he could not be admitted or heard before the grand jury to oppose it. But the indictment cannot, in general, be tried, unless the party accused be personally present. Accordingly, if he has not been arrested, or does not appear, *process* issues, which is so denominated because it *proceeds*, or goes forth, in order to bring the defendant into court, to answer the charge alleged against him. The term signifies, generally, the writs or judicial means employed in any action, civil or criminal, to compel the appearance of parties, or to enforce obedience to the mandates of the court. On indictments for offences of a heinous character, especially, the process that issues is a *capias*, which is a command to the sheriff or other officer, to *take* the individual, and have him before the court.

6. The party accused, being present in the proper court, is there *arraigned*; that is, he is called to the bar of the court, to answer the matter charged upon him in the indictment. The first part of this process consists in the clerk's calling upon the prisoner by his name, when brought to the bar, and, in capital cases, at least, commanding him to hold up his hand; which is done in order that, by this physical act, the prisoner may be the more certainly identified as the party named in the in-

dictment. Next, the indictment is read to him distinctly, that he may fully understand the nature of the accusation which he is called to meet; and when that is finished, the clerk concludes by asking the prisoner, "How say you, are you guilty or not guilty?"

7. If the prisoner plead guilty, the confession is recorded; and then the matter rests till sentence is pronounced. But the court are very reluctant to receive such confessions, especially where the punishment is capital, and will sometimes, out of tenderness to the party's life, advise him to retract his plea. If he deny the charge, he answers, "not guilty;" whereupon, the clerk, in behalf of the state, replies by two abbreviations, "*cul. prit.*" — which are explained to amount to a joinder of issue on the question of the prisoner's guilt, — and immediately proceeds to ask the prisoner, "How will you be tried?" to which he replies, "By God and my country;" and the clerk, in the humane presumption of the party's innocence, subjoins, "God send you a good deliverance." And thus the form of the arraignment is concluded.

8. When the prisoner, upon his arraignment, has pleaded, "not guilty," counsel are assigned him by the court, if he be not already provided with counsel, to manage his defence; and he is entitled to a speedy and public trial. It is sometimes thought to involve a sacrifice of principle to undertake the defence of supposed criminals. This is prejudging the guilt of the party accused, since surely it would not be deemed derogatory to any man, to defend one who had fallen under suspicion of a crime, however atrocious, but who was really innocent. But it frequently happens, that in cases where the public feeling is the strongest against the accused, the guilt of the party cannot be known, for a certainty at least, to any one except himself; and it would be unfortunate, if counsel, through the fear of being instrumental in assisting the guilty to escape from justice, should, in fact, suffer the innocent to be sacrificed.

9. • Furthermore, every man is, in justice, entitled to the benefit of whatever can fairly be said in his vindi-

cation, be that little or much. Counsel cannot make out a case before an intelligent court and jury, unless they have something of which to make it. And it is not only the right of the accused, but it is for the interest of the community, that whatever means really exist, should be fairly used and insisted upon in his defence. While the public security requires the punishment of the guilty, the safety of the innocent imperiously demands, that no man, be he guilty or otherwise, shall be punished but in pursuance of due process of law. It is the just pride of our country, that ours is a *government of laws*. If any man, however guilty, could be punished without the forms of law and of a trial, small would be the chance of the innocent, who had been so unfortunate as to turn upon himself the torrent of popular indignation.

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## CHAPTER XIX.

### THE TRIAL IN CRIMINAL CASES.

1. AFTER the prisoner has been arraigned, and counsel assigned him, he is allowed a reasonable time to prepare his defence. In the mean time, a jury is summoned, or more commonly, one is taken from the regular panels returned to court. The time for the trial having arrived, and the prisoner being placed at the bar, the clerk calls the petit jurors, who answer to their names. When a full jury appears, the clerk addresses the prisoner, and says to him, "You are now set to the bar to be tried, and these good men whom you shall now hear called, are those who are to pass between the state and you; if therefore you will challenge any of them, you must do it as they are called, and before they are sworn."

2. Challenges are either *peremptory*, or *for cause*. A prisoner who is to be put on trial for his life, is al-

lowed to challenge, without assigning any cause whatever, a certain number of jurors, which by the common law was thirty-five, but the number is sometimes limited by statute to twenty. This is, that the prisoner should not be tried by any one to whom, from his appearance or otherwise, he conceives a dislike or prejudice, nor by one who may have been provoked by an unsuccessful exception taken to him. After the prisoner has exhausted the whole number of peremptory challenges allowed him, he may still challenge as many other jurors as he can show good cause for setting aside. And in all criminal cases, the accused, as well as the government, may always challenge for cause.

3. When a juror who has been called, is not challenged, or the challenge is not allowed, he is sworn by the clerk, in substantially this form: "You shall well and truly try, and true deliverance make between the state and the prisoner at the bar, whom you shall have in charge, and a true verdict give according to the evidence." The juror who has been thus sworn, is set apart on the jury-box; and when a full jury of twelve unexceptionable men have been each sworn, in like manner, the clerk calls over their names, and directs the crier to count them, who does so, and then says to the jury, "Twelve good men and true, stand together and hear your evidence." The rest of the jurors in attendance are then discharged.

4. The jury having been thus organized and sworn, the clerk, in capital cases, calls to the prisoner at the bar to hold up his hand, and then directs the jury to "look upon the prisoner and hearken to his cause." He then reads the indictment, and adds, "upon this indictment the prisoner has been arraigned; upon his arraignment he pleaded not guilty; and for his trial has put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of the crime whereof he stands indicted, or not guilty. If you find him guilty, say so; if you find him not guilty, say so, and no more. Hear your evi-

dence." In trials for misdemeanors, or minor offences, the indictment is not always formally read over to the jury.

5. The counsel for the prosecution, being usually the attorney general, or district attorney, or both of them, appearing officially in behalf of the state, then open the case, giving an outline of the indictment, and stating the circumstances of the offence, and the leading facts which they expect to prove. The evidence on the part of the government is then put in, the witnesses being examined always in the presence of the prisoner. When the evidence for the prosecution is concluded, the counsel for the prisoner opens his case to the jury, states his grounds of defence, and introduces his evidence. The prisoner is entitled to have compulsory process to bring into court witnesses in his favor. The evidence for the defendant being all in, his closing counsel argues the case fully to the jury, and is followed by the closing counsel on the part of the state.

6. The counsel on both sides having concluded, the court next address the jury, instructing them in relation to the law, and summing up the evidence in the case. The jury then retire to a room, provided for the purpose, in charge of a sworn officer, who is to keep them together, and apart from every one else. During their deliberations they are allowed no refreshment, without the permission of the court; nor can they, but with the like permission, separate until they have agreed upon a verdict, in which they must be unanimous. A jury sworn and charged in a capital case, cannot, unless from evident necessity, be discharged till they have given a verdict. During the progress of criminal trials especially, precautions are taken to keep the jury as far removed as possible from foreign influences; and in capital cases, at least, if the court adjourn from day to day, the jury retire together under the care of an officer.

7. When the jury have agreed upon their verdict, they return to the jury-box, the court being in session,

and the defendant present. The clerk then calls them by their names, to ascertain that they are all present, and asks them whether they have agreed on their verdict; to which they answer in the affirmative. He then inquires, "Who shall speak for you?" and some one replies, "The foreman." The clerk then requests the prisoner to hold up his hand, and the jury to look upon the prisoner, and say whether he is guilty or not guilty. The foreman answers as the verdict is, and the clerk having written down the answer upon the record, again addresses the jury: "Hearken to your verdict, as the court has recorded it. You say that the prisoner is guilty, (or not guilty, as the case may be,) of the crime whereof he stands indicted. So you say, Mr. foreman; so say you all."

8. If the jury, by their verdict, find the prisoner not guilty, he is, in general, forever discharged of the accusation, and on such acquittal, is immediately set at liberty. It is declared by the constitution of the United States, that no person shall be subject, for the same offence, to be put twice in jeopardy of life or limb. But if the jury find him guilty, he is then said to be *convicted* of the crime with which he was charged; and judgment is afterwards pronounced against him by the court. There are several modes, by which, at the different stages, the proceedings may be vacated, if they have been, in any respect, essentially irregular or defective. In general, also, the executive is invested with the power of pardoning offences, after conviction. But if none of these means can be resorted to with effect, the judgment or sentence of the court is carried into execution, according to its terms.

## CHAPTER XX.

## IMPEACHMENTS.

1. By the constitution of the United States it is provided, that the house of representatives shall have the sole power of impeachment, and the senate the sole power to try all impeachments. And it is declared that the president, vice president, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors. Provisions of substantially the same nature, are found in most of the state constitutions. The object of prosecutions of this sort has been stated to be, to reach high and potent offenders, who would be likely to escape punishment in the ordinary tribunals, either from their own great influence, or from the imperfect organization and powers of those tribunals.

2. The process of impeachment is instituted by a formal accusation, called *articles of impeachment*, which are in the nature of a bill of indictment. When an officer, who is subject to this species of prosecution, is supposed to have been guilty of any official misconduct or malversation in office, the matter having been brought before the house of representatives, by motion of a member, or by memorial, or otherwise, is usually referred to a committee for investigation. If the committee are of opinion that the case is such as to require the exercise of this constitutional power, they recommend in their report to the house, that the party be impeached.

3. If a majority of the house are in favor of impeachment, a resolution is passed accordingly, and a committee of the house is then appointed to go to the senate, and in the name of the house of representatives and of the people, to impeach the party, and to

acquaint the senate that, in due time, particular articles of impeachment will be exhibited against him, and made good. A committee of the house is next selected to prepare and report articles of impeachment, and when the house have agreed upon the articles, they choose *managers* to conduct the proceedings. On the day appointed by the senate for that purpose, the managers repair to the senate chamber, and the articles are there read by one of their number, and handed in at the table of the secretary.

4. The senate issue process, which is served, and a return of it made, under oath, by the sergeant at arms of the senate, summoning the party accused, to appear before that body, on a stated day, to answer to the articles. On the day assigned, the senate resolve themselves into a court of impeachment, and the party impeached is called to answer. If he does not appear, his default is recorded, and the charge may be tried in his absence. If he appears, an issue is framed between the government and the accused, and a time is fixed for the trial. The general rules of law and evidence, applicable to common trials, are observed in the proceedings. The trial is conducted, on the part of the house, by their managers; on the part of the accused, by himself and his counsel; and the senate sit as judges.

5. When sitting as a court of impeachment, the senators are required to be under oath or affirmation to do justice according to law. When the president of the United States is tried, the chief justice of the supreme court is to preside at the trial. There must be a quorum of the senate present, to try an impeachment, and no person can be convicted without the concurrence of two thirds of the senators present. It is also provided by the constitution, that judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States. But the person convicted is, nevertheless, liable to indictment, trial, judgment and punish-

ment, according to law. The provisions of the state constitutions, in this respect, are essentially the same.

6. The trial of impeachments being before a political tribunal, the offence is, for that purpose, regarded in a political point of view; and the punishment administered is such as will serve to secure the public against political injuries, by taking from the offender the opportunity of doing further harm. But in so far as the offence is of a civil nature, it is left to be disposed of by the ordinary tribunals of justice, according to the laws of the land, upon an indictment found by a grand jury, and tried by a petit jury, as in common cases. Where the executive is invested with the power of pardoning offences, cases of impeachment are expressly excepted. For, otherwise, in the event of a corrupt coalition among the officers of government, the chief magistrate would have it in his power to screen the guilty, and frustrate the object of this kind of prosecution.

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## CHAPTER XXI.

### CONGRESS.

1. ALL legislative power granted by the constitution of the United States, is vested in a *Congress*, consisting of a senate and house of representatives, which are independent bodies possessed of coördinate powers. The house of representatives is composed of members chosen every second year, in the several states, by persons qualified to vote for members of the more numerous branch of their own state legislature. No one can be a representative, who has not attained to the age of twenty-five years, and been seven years a citizen of the United States, and who is not, when elected, an inhabitant of the state in which he is chosen. Nor can any person be a member of either house, while he holds any office under the United States.

2. The representatives are required to be apportioned among the states, according to their numbers, as determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. This mode of determining the numbers was adopted with reference to the slaves. In the convention that framed the constitution, the slaveholding states contended for a representation according to the whole number of persons, without distinction of condition; the other states, for one according to the number of free persons only. The controversy was finally settled by a compromise, by which three fifths of the slaves were to be reckoned along with the free persons, and to be represented accordingly.

3. The number of inhabitants is ascertained by an actual enumeration, or *census*, made every ten years, and upon each new census there is a new apportionment of representatives, which goes into effect on the 4th of March of the third year after the census is taken. In making the apportionments, a practical difficulty arises, inasmuch as the number that may be fixed upon for the ratio, will never be an exact common divisor of the numbers in each state, but will leave a fraction in most or all of the states. The course pursued under the first five enumerations was to allow to each state one representative for every time the entire ratio adopted, was contained in its numbers, and to reject all fractions. But under the sixth census, that of 1840, an additional representative is allowed to each state, of which there are five, having a fraction greater than a moiety of the ratio.

4. By the constitution, the number of representatives cannot exceed one for every thirty thousand; but each State is entitled to have at least one representative. It was provided that an enumeration of the inhabitants should be made within three years after the first meeting of the congress of the United States. The number fixed to compose the house of representatives, until such enumeration should be made,

was sixty-five, who were specifically distributed among the thirteen states. The number of representatives, according to the several apportionments made upon the census of 1790, and each subsequent decennial census, and the ratios upon which those apportionments have proceeded, have been determined in such manner as congress has thought fit, in each case. Every organized territory of the United States is allowed one *delegate*, who has a seat in the house of representatives, with the right of debating, but not of voting.

5. The times, places, and manner of holding elections for representatives, are left to be determined by the different state legislatures, but congress may, at any time, by law, make or alter such regulations. The representatives are generally chosen at the state elections which are held next preceding the 4th of March on which their term is to commence. For the choice of representatives, most of the states have usually been divided into districts, each district choosing one or more representatives; but in some of the states they have been chosen by general ticket, throughout the state. By the act of congress of 1842, the representatives of each state which is entitled to more than one, are required to be elected by districts composed of a contiguous territory, equal in number to the number of representatives to which the state is entitled, no one district electing more than one representative. When vacancies happen in the representation of any state, it is the duty of the executive of the state, to issue writs of election to fill them.

6. The senate of the United States is composed of two members from each state, chosen by the state legislatures, for six years, and each senator has one vote. In the equal suffrage of the states in the senate, a feature of the confederation is observable. Under that system each state had, in congress, one vote. In the convention which framed the constitution, the smaller states strove to retain this equality, which the larger states resisted. The basis of numbers was finally agreed to in reference to the house of repre-

sentatives, and after a severe and protracted struggle, the basis of equality was conceded in regard to the senate. No person can be a senator who has not attained to the age of thirty years, and been nine years a citizen of the United States, and who is not, when elected, an inhabitant of the state for which he is chosen.

7. From the manner in which it is constituted, the senate might naturally be supposed to be a more stable and independent body than the house of representatives; and such it was doubtless designed to be. But there is a provision superadded, which, without impairing the efficiency of the senate, serves to keep it sufficiently within the control of the people. At their first meeting under the constitution, the senators were, as directed by that instrument, divided as equally as possible into three classes, whose seats were to be vacated at the expiration of two, four, and six years, respectively. The senators of states since admitted into the Union, have been equally distributed among these three classes, so that one third of the senate is renewed regularly every second year.

8. The provision as to the times and manner of choosing senators, is the same as in regard to the choice of representatives; but congress has no authority to prescribe the *place* for choosing senators, it being deemed but reasonable that the state legislatures should select their own place of sitting. In some of the states it is the custom to choose the senators by a *joint* vote of the two branches of the legislature, assembled in convention, and voting as one body. In others, they are chosen by a *concurrent* vote, each branch voting separately and independently, and their concurrence being required for a choice. The latter mode is the more generally practised. If vacancies in its senatorial delegation happen, by resignation or otherwise, during the recess of the legislature of any state, the executive of the state may make temporary appointments, to continue until the next meeting of the legislature, which shall then fill such vacancies.

## CHAPTER XXII.

## MEETINGS AND PRIVILEGES OF CONGRESS.

1. THE constitution declares that congress shall assemble at least once in every year, and that such meeting shall be on the first Monday in December, unless they shall by law appoint a different day. And on extraordinary occasions, the president may convene both houses, or either of them. The first session of congress under the constitution, was held in the city of New York. Afterwards, the sessions were held at Philadelphia, until the year 1800, when the place of meeting was transferred to Washington, in the District of Columbia, which had been selected by congress, and ceded by Maryland and Virginia, to the United States, under authority of the constitution, to be the permanent seat of the national government.

2. The whole term of two years, for which representatives are elected, commencing on the 4th of March, is called one *congress*. The sessions have frequently, by special act of congress, or by proclamation of the president, commenced at an earlier day than that prescribed by the constitution, and in six instances, there have been distinct *extra* sessions, thus making three sessions for each of those congresses. The first session of each congress may be continued indefinitely. Usually, the first regular session has not extended beyond the month of May, succeeding its commencement; but in a few cases it has been protracted as late as to July, and the session in 1842 continued till the end of August. The last session of the congress necessarily closes on the 3d of March, since the term of office of the representatives and of a part of the senators, then expires.

3. On the meeting of a new congress, the president of the senate calls that body to order, and qual-

ifies the new members, and they then, through their secretary, acquaint the house of representatives, if such be the fact, that a quorum of the senate is assembled, and ready to proceed to business. The house of representatives is called to order by the clerk of the house for the preceding congress, who then calls, in the order of the states, the names of those persons who, from the proper evidence furnished to him, appear to have been elected members. When through, he announces the attendance of a quorum, if so many have answered. The house then proceed to the election of a speaker. This was always done by ballot, until a few years since, when the method of voting *viva voce*, that is, *orally*, was introduced into the house. The speaker holds his office for the entire congress.

4. On his taking the chair, an oath to support the constitution of the United States is administered to the speaker, usually by the oldest member of the house. The members are next called, in the order of the states, and as many as are present are sworn, in like manner, by the speaker. The others are qualified as they appear, before taking their seats. After the house is organized by the choice of a speaker, a message to that effect is sent to the senate. A joint committee is then appointed to wait on the president of the United States, and inform him that a quorum of the two houses has assembled, and that congress is ready to proceed to business. Thereupon, he usually sends, by his private secretary, a message to both houses, which is read in each by its secretary or clerk. Formerly it was the custom for the president, instead of sending a message, annually to deliver a speech to congress, to which each house returned a formal answer.

5. The vice president of the United States is, by the constitution, made president of the senate, but has no vote except in case of an equal division of the senators, when he has a casting vote. The senate choose a president *pro tempore*, that is, for the time being, in the absence of the vice president, or when he

exercises the office of president of the United States. It is the practice for the vice president to vacate the chair, a short time before the close of each session, to enable the senate to choose a president *pro tempore*, who may be already in office, in case the vice president, in the recess of congress, should be called to perform the duties of chief magistrate. The office of president *pro tempore* is understood to terminate, when the vice president appears and takes the chair.

6. The clerk of the house of representatives is deemed to continue in office until another is appointed; which is usually done soon after the commencement of each congress. About the same time, the house choose a sergeant at arms, door keeper, postmaster, and a printer to the house of representatives. These officers are elected, at present, *viva voce*, the speaker naming commonly three tellers to superintend the voting. The senate choose their secretary, sergeant at arms and door keeper, and assistant door keeper, by ballot, on the second Monday of the first session of each congress; and they likewise choose a printer to the senate. Each house elects a chaplain, at every session. The secretary of the senate and clerk of the house of representatives, besides taking an oath of office, each give bond, in the sum of twenty thousand dollars, conditioned for the faithful application of such contingent funds of their respective houses, as shall come to their hands.

7. Members of congress are allowed eight dollars a day for attendance, and the same sum for every twenty miles of estimated distance, by the most usual route, from their several places of residence to the seat of government, at the commencement and end of every session. But no member is entitled to receive a sum exceeding the rate of eight dollars a day, from the end of one session or meeting, to the time of taking his seat in another. The president of the senate *pro tempore*, when the vice president is absent, or his office vacant, and the speaker of the house of repre-

sentatives, are paid eight dollars a day for attendance, in addition to their compensation as members. The amount of pay due to the senators is certified by the president of the senate; and that of the representatives and delegates, by the speaker.

8. Each house of congress is made the judge of the elections, returns, and qualifications of its members, determines the rules of its own proceedings, and is invested with authority to punish its members for disorderly behavior, and with the consent of two thirds, to expel a member. No power is expressly given to punish contempts, committed by persons not members, but it has been decided that such a power exists, extending, however, not beyond imprisonment, which will terminate with the adjournment of congress. A majority of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members. Neither house can, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses are sitting at the time.

9. Each house is required to keep a journal of its proceedings, which is to be published, except such parts as may, in their judgment, require secrecy; and they are to enter the yeas and nays on any question, upon their journal, when demanded by one fifth of the members present. This restriction is designed to prevent the waste of time by a recurrence to that mode of voting, at the caprice of one or a few individuals. The members of both houses are, except in cases of treason, felony, and breach of the peace, privileged from arrest, during their attendance upon congress, and whilst going to its meetings and returning; and for any speech or debate in either house, they cannot be questioned elsewhere. No member of congress is allowed, during the time for which he was elected, to hold any civil office under the national government, which shall have been created, or the emoluments of it increased, within that time.

10. There are, at present, twenty-two regular standing committees in the senate, nineteen consisting of five, the others of three members each; and thirty-three in the house of representatives, of which twenty-two contain nine, and eleven five members each. There are also, usually, several select committees on particular subjects of immediate but temporary interest. The committees are appointed at the opening of each session, to continue in office through the session. In appointing their committees, the senate, by ballot, choose, separately, the chairman of each committee, and then, by one ballot, the other members to complete the committee. But sometimes it is left to the president of the senate to fill up the committees, after the several chairmen have been elected, or even to appoint all the members. In the house of representatives, all committees are appointed by the speaker, unless otherwise specially directed by the house; in which case, they are elected by ballot.

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## CHAPTER XXIII.

### RULES AND PROCEEDINGS OF CONGRESS.

1. EACH house of congress has its own separate rules; and there are also certain joint rules of both houses. The rules established by the house of representatives, at least, for one congress, are not binding upon the succeeding house, until it has adopted them as its own. But, in practice, the same rules are continued from congress to congress, with such occasional modifications and additions as circumstances are thought to require. At the hour appointed for the meeting of either house, the presiding officer takes the chair, and calls the house to order. Upon the appearance of a quorum, the journal of the preceding day is read, in order that any mistakes in the entries may

be corrected. The speaker of the house of representatives is required to examine and correct their journal, before it is read.

2. No member of either house is allowed to absent himself from its service without leave. If a less number than a quorum of the senate convene, they may send the sergeant at arms, or other authorized person, for members who are absent, at the expense of those members unless they shall offer a satisfactory excuse for their absence. Upon a call of the house of representatives, the names of the members are called over by the clerk, and the absentees are noted and called a second time. The doors are then shut, and those present, if fifteen in number, may order members to be taken into custody, as they appear, or may send special messengers for them. And when a member is discharged from custody and admitted to his seat, the house determine whether or not he shall pay fees and expenses.

3. In the senate, after the journal is read, the first business is the call for petitions, and then for reports from standing committees. The special orders of the day are not to be called by the chair before one o'clock, unless otherwise directed by the senate. In the house of representatives, the speaker first calls for petitions from the several states and territories, in their order; but after the first thirty days of the session, petitions are received only on the first day of the meeting of the house in each week. Reports of the standing, and then of the select committees, and afterwards resolutions, are called for. After an hour has been devoted to reports of committees and resolutions, any member may move to proceed to the orders of the day. The business of hearing petitions, reports and resolutions, cannot, except by permission of the house, be done at any other time in the day, than that which is appropriated to the purpose.

4. When a petition or memorial is presented in either house by the presiding officer or a member, a brief statement of the contents of it is required to be

verbally made by the introducer. In each house, the unfinished business in which that house was engaged at the last preceding adjournment, has the priority in the special orders of the day. In the house of representatives, the last two days in every week are set apart for the consideration of private bills, and private business, in preference to any other, if not otherwise decided by the house. After six days from the commencement of a second or subsequent session of any congress, matters which originated in the house of representatives, and at the close of the preceding session remained undetermined, may be resumed and acted upon, in the same manner as if no adjournment had intervened.

5. Every bill, previous to its passage, receives in each house, three readings, which, in the senate, must be on three different days, unless the senate unanimously direct otherwise; and in the house of representatives, no bill can be read twice on the same day without the special order of the house. No member can, without leave, speak more than twice in any one debate, on the same day, in the senate; nor, in the house of representatives, more than twice to the same question, nor more than once until every member has spoken who chooses to speak. Questions of order are decided by the presiding officer, subject to an appeal to the house. If it be determined that the member was in order, he may proceed; otherwise he cannot, unless the house grant him leave to proceed in order. The president of the senate and the speaker of the house, may name a member to perform the duties of the chair, but such substitution cannot extend beyond an adjournment.

6. It is a standing order of the day throughout the session, for the house of representatives to resolve itself into a committee of the whole house on the state of the Union, when bills that have been twice read are taken up and discussed. In the senate, bills on their second reading are, regularly, first considered by the senate in the same manner as if that body were

in committee of the whole, before they are proceeded on agreeably to the standing rules. Bills for raising revenue must, by the constitution, originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills. No amendment can be received for discussion at the third reading of any bill in the senate, except by unanimous consent of the members present; but at any time before its final passage, a bill may be committed. In the house of representatives, no amendment by way of *rider* is allowed to any bill on its third reading.

7. - In taking the vote, if the question be one of much importance, the *yeas* and *nays* are commonly called for. In that case, the presiding officer states what the question is, and that it is proposed that the yeas and nays be entered on the journal; and requests those who desire it, to rise. If one fifth of the members present rise, he then calls upon those who are in favor of the proposition, to answer in the affirmative, and those of the contrary opinion, to answer in the negative. The clerk or secretary then calls over the names of the members, alphabetically, notes the yea or nay of each, and hands the list to the presiding officer, who announces the result of the vote. Every member in the house is required to vote, unless, for special reasons, he shall be excused by the house.

8. When the senate are equally divided upon a question, the secretary takes the decision of their president. The speaker of the house is allowed to vote in all cases of ballot, but not in other cases, unless the house be equally divided, or unless his vote, if given to the minority, will make the division equal; and in case of such equal division, the question is lost. After a question has been carried in the affirmative or negative, any member of the majority may move for a reconsideration of it. But this, in the senate, must be done on the day the vote was taken, or within the next two days of actual session of the senate, and while the subject matter is in their possession. In the house of representatives, the motion must be made on the

same or the succeeding day, and it takes precedence of all other motions, except to adjourn.

9. In general, no rule of the house of representatives can be suspended, nor the established order of business changed, except by a vote of two thirds of the members present. When a bill which has passed in one house is rejected in the other, notice of the rejection is given to the house in which the bill passed; and such a bill cannot be again brought in, during the same session, without ten days' notice, and leave of two thirds of the house in which it is renewed. It is a joint rule, though sometimes dispensed with, that no bill which has passed one house shall be sent to the other for concurrence, on either of the last three days of the session; and that no bill shall be presented to the president for his approbation, on the last day of the session.

10. When nominations are made in writing by the president of the United States to the senate, a future day is assigned for taking them into consideration, unless the senate unanimously direct otherwise. All information or remarks, concerning the character or qualifications of any person thus nominated to office, and all confidential communications, made by the president to the senate, are required to be kept secret by the members. While acting on confidential or executive business, the senate chamber is cleared of all persons, except the members and officers of the senate. In like manner, when confidential communications from the president are received by the house of representatives, the house is cleared, and so continues while such matters, or others requiring secrecy, are under consideration. And, at any time, in case of disturbance or disorderly conduct in the galleries or lobby, the speaker is authorized to order them to be cleared.

11. When a treaty is laid before the senate for ratification, it is read first for information only. Its second reading is for consideration, and is on a subsequent day, when it is taken up as in committee of the whole, and the question may be moved on any particular article, " Will the senate advise and consent to the

ratification of this article?" So, also, amendments may be proposed, either by inserting, or omitting words; and in the latter case, the question is, "Shall the words stand as part of the article?" When through the whole, and the proceedings in committee have been confirmed in the senate proper, the votes are reduced into the form of a resolution for the ratification, with or without modification, as shall have been determined. The resolution is proposed on a subsequent day, when any one may move amendments to it. In all these cases, and on the final question for the ratification in the form agreed to, the concurrence of two thirds of the senators present is requisite to decide affirmatively.

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## CHAPTER XXIV.

### POWERS OF CONGRESS.

1. THE powers of congress are either expressly conferred by the constitution, or are derived from it by implication. The powers specially enumerated are, to lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare of the Union; to borrow money on the credit of the United States; to regulate commerce with foreign nations, and among the several states, and with the Indian tribes; to establish a uniform rule of naturalization, and uniform bankrupt laws, throughout the United States; to coin money, regulate the value of it, and of foreign coin, and fix the standard of weights and measures; to provide for the punishment of counterfeiting the securities or coin of the United States; to establish post offices and post roads; to promote science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their writings and discoveries;

2. To constitute tribunals inferior to the supreme

court; to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; to declare war, grant letters of marque and reprisal, and make rules concerning captures; to raise, maintain, and govern armies and a navy; to provide for calling out, organizing, and disciplining the militia; to admit new states into the Union; to dispose of, and make regulations respecting the territory or other property of the United States; to exercise exclusive legislation over the district wherein is the seat of the national government, and over all places purchased of the states, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; and to make all laws that may be necessary and proper for carrying into execution the powers vested by the constitution in the government of the United States, or in any department or officer of it.

3. The power of taxation, above specified, is generally understood as coupled with the clause that follows it; as given, that is, *for the purpose* of raising the means to pay the public debts and provide for the common defence and welfare. *Taxes*, in a large sense, may be said to include all charges, of whatever name or kind, imposed upon the people, for the use of the government. The word *duties* is most frequently employed in the sense of *customs*, or money collected upon imports and exports. The term *imposts*, though properly applicable to all taxes *imposed* or laid upon goods and merchandise, is often restricted to the duties levied upon such commodities as are *imported*, or brought into the country from abroad. *Excises* commonly signify inland charges, which are laid upon the consumption, sale or manufacture of articles, within the country. All duties, *imposts*, and excises are required to be uniform throughout the United States.

4. *Piracy* is robbery, or forcible depredation, on the high seas. The term *felony* is applied to offences of an atrocious nature, and commonly to such as are punishable with death. The *high seas* are understood to begin at *low water mark*, or the place to which the water

recedes, when the tide is at its ebb, and to embrace all the waters of the ocean, and those on the seacoast below that point. The *law of nations* denotes the rules and regulations which custom has prescribed, in relation to the rights and duties of nations and their subjects, in their intercourse with each other. *Letters of marque and reprisal* are commissions granted by the government to individuals, authorizing them to seize the property of a foreign state, or of its subjects, as a reparation for injuries suffered.

5. There are certain express prohibitions laid upon congress by the constitution. The writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. No bill of attainder, or *ex post facto* law, may be passed. No capitation or other direct tax can be laid, unless in proportion to the census. No tax or duty shall be laid on articles *exported* from any state. No preference is to be given, by any regulation of commerce or revenue, to the ports of one state over those of another. No title of nobility may be granted by the United States; and no person holding any office of profit or trust under them, can, without the consent of congress, accept of any present, office or title from any king, or foreign state. Congress can make no law respecting an establishment of religion, or prohibiting the free exercise of it; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

6. A *bill of attainder* is properly an act passed by the legislature, convicting a person of a capital or other heinous crime, without a trial, or legal proof of his guilt. It is a substitution of the despotic will of a legislative body, in the place of a regular trial by jury, before a court of justice, and according to the rules and forms of law. *Ex post facto* laws are such as have a retrospective operation. As here used, the phrase relates to penal and criminal proceedings, imposing punishments or forfeitures. An *ex post facto* law has been defined

to be one which makes an act punishable in a manner in which it was not punishable when it was committed. The effect of such laws is to create or aggravate public offences, by declaring acts criminal which, at the time they were done, were innocent and lawful, or by annexing a heavier penalty to acts, which were in a degree criminal when committed.

7. Treason against the United States is defined by the constitution to consist only in levying war against them, or adhering to their enemies, giving them aid and comfort. To convict a person of this crime requires the testimony of two witnesses to the same overt; or *open* act; or confession in open court. Congress is authorized to declare the punishment of treason, but it is provided that no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted. By *attainder of treason* is denoted the condition of a person after judicial conviction and sentence for treason. By the common law, the regular consequences of attainder were *forfeiture* and *corruption of blood*; that is, the estate of the attainted person was forfeited, or confiscated to the crown, and his blood lost all inheritable qualities, so that he could neither inherit real estate himself from any ancestor, nor hold that he already possessed, nor transmit it to any heir; and, moreover, he obstructed all descents to his posterity, wherever they were obliged to derive a title through him from a more remote ancestor.

8. A *capitation* tax, is a *poll* tax, or a tax upon the person. *Direct* taxes are such as are assessed directly upon the persons or estates of citizens, in contradistinction to taxes which are raised indirectly, from duties and imposts levied upon goods and merchandise, and which are paid by those who import, manufacture, consume, or traffic in the articles subject to such duties. Direct taxes are laid in proportion to the census, the numbers being determined according to the same rule as for the apportionment of representatives; so that they are imposed for three fifths of the slaves, as well as for all free persons. This provision in regard to direct

taxes was considered as in some sort a counterpoise for allowing that proportion of the slaves to be represented. But in fact, it has been of little practical importance, since direct taxes have been but rarely laid, there having been no more than three or four since the constitution was adopted.

9. The constitution also imposes some restrictions upon the states. It declares that no state shall enter into any treaty, alliance or confederacy; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender for debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility. No state is allowed, without the consent of congress, to lay any duties on imports or exports, except, under certain restrictions, for executing its inspection laws. Neither can any state, without the like consent, impose any duty on tonnage, keep troops or ships of war in time of peace, or enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

10. Besides those that have been already referred to, there are some salutary provisions of a general nature, designed as safeguards against encroachments upon the liberties of the people. It is provided that the right of the people to keep and bear arms shall not be infringed. No soldier can, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, but in a manner to be prescribed by law. Private property cannot be taken for public use, without just compensation. It is declared that the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and that no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## CHAPTER XXV.

## THE NATIONAL JUDICIARY.

1. By the constitution, the judicial power of the United States is vested in a *supreme court*, and in such *inferior courts* as congress may, from time to time, order and establish. Congress has established *circuit courts*, which are courts of *limited*, though not of *inferior* jurisdiction, and *district courts*. The judicial power extends to all cases arising under the constitution, the laws and treaties of the United States; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States are a party; to controversies between two or more states; between a state, when plaintiff, but not otherwise, and citizens of another state, or foreigners; between citizens of different states; between citizens of the same state claiming lands under grants of different states; between a state, or its citizens, and foreign states; and between citizens of a state and foreigners.

2. The *original* jurisdiction of the *supreme court*, meaning thereby its authority to entertain suits commenced there in the first instance, is very limited, extending only to cases in which a state is a party, and to cases affecting ambassadors, other public ministers and consuls. And in these cases, where a suit is brought *by* a state against citizens or aliens, or *by* an ambassador or other public minister, or where a consul or vice consul is a party, the jurisdiction of the supreme court is not *exclusive*; that is, the suit is not necessarily brought in that court. The supreme court has likewise *appellate* jurisdiction in some cases brought from the circuit and territorial courts of the United States, and from the state courts; by which is intended, that it has a right to revise the decision in certain cases where

suits have been instituted and decided in those courts. It is this, in fact, which constitutes the principal part of the business of the supreme court.

3. Final judgments and decrees in the circuit courts, in cases where the matter in dispute exceeds two thousand dollars, exclusive of costs, may be removed to the supreme court, and there re-examined, and reversed or affirmed; and if reversed, judgment is rendered in the supreme court, or, in certain cases, the cause is sent back to the circuit court, for final disposition. And the same may be done in respect to decisions in the circuit court of the District of Columbia, where the matter in dispute, exclusive of costs, exceeds one thousand dollars, and in particular cases, where it exceeds one hundred dollars. So, also, final decisions in the highest court of each of the organized territories, may be carried to the supreme court, in the same manner, and under the same regulations as from the circuit courts of the United States, where the amount in controversy, to be ascertained by the oath of either party, exceeds one thousand dollars.

4. In like manner, any final judgment or decree in the highest court of law or equity of any state, may be brought up to the supreme court of the United States, on error in point of law, where the validity of any treaty, statute or authority of the United States was drawn in question, in the state court, and the decision was *against* the validity; or where the validity of any state authority was drawn in question on the ground of its being repugnant to the constitution, treaties or laws of the United States, and the decision was *in favor* of the validity; or where the construction of any clause of the constitution, or of a treaty, statute or commission of the United States, was drawn in question, and the decision was *against* the right or privilege claimed under the authority of such clause.

5. The *circuit* courts have original cognizance, concurrent with the state courts, that is, the suits may be brought in either, of all actions of a civil nature, where the matter exceeds five hundred dollars, exclusive of

costs, and the United States are plaintiffs, or an alien is a party, or the suit is between a citizen of the state where the suit is brought and a citizen of another state. They have original jurisdiction in all suits arising under laws granting patents and copyrights, and in some cases growing out of the revenue laws of the United States. They have, likewise, exclusive cognizance of capital crimes against the United States, and concurrent jurisdiction of the crimes and offences cognizable in the district court. They have appellate jurisdiction of final decrees and judgments in civil actions, in a district court, where the matter in dispute exceeds fifty dollars, exclusive of costs. And in certain cases under the bankrupt law, they have concurrent jurisdiction with the district court, as well as the right to entertain appeals and questions from that court.

6. The *district* courts have exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, which are causes respecting acts or injuries done on the high seas, or on the seacoast, or growing out of maritime contracts or claims, and including seizures under impost, navigation and trade laws of the United States, and other seizures made within their respective districts, or on the high seas. They have also concurrent jurisdiction with the circuit courts, of all crimes and offences against the United States, the punishment of which is not capital. And in those districts where the business of the court demands it, the district courts are required to hold monthly adjournments of the regular terms, for the trial and hearing of criminal causes. The district courts have jurisdiction of all matters in bankruptcy, to be exercised summarily; and for that purpose they are deemed to be always open.

7. The constitution provides that the trial of all crimes, except in cases of impeachment, shall be by jury. The trial is required to be held in the state where the crime was committed; or when not committed within any state, at such place as congress may by law have previously directed. It is also declared,

that in suits at common law, where the value in controversy exceeds twenty dollars, the right of trial by jury shall be preserved. In the district courts, in all civil causes except those of admiralty and maritime jurisdiction; and in the circuit courts, in all suits except those of admiralty, maritime and equity jurisdiction, the trial of issues of fact is required to be by jury. And issues of fact, in the supreme court, in all actions at law against citizens of the United States, must be tried by jury. It seldom happens, however, that issues of fact come up to be tried in the supreme court.

8. Jurors to serve in the courts of the United States, in each state, are required to have the like qualifications, and are entitled to the like exemptions, as jurors of the highest court of law of that state; and they are to be designated and empanelled, as far as may be, conformably to the mode practised in the state. They are taken from such parts of the judicial district as the court shall direct, so as best to secure an impartial trial, and, at the same time, not to occasion unnecessary expense, or unduly burden the citizens of any part of the district with the service. Jurors are summoned and returned by the marshal of the district, or his deputy. The compensation of jurors, as also that of witnesses, in the courts of the United States, is one dollar and twenty-five cents for each day's attendance, and five cents a mile for travel, in going and returning.

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## CHAPTER XXVI.

### COURTS OF THE UNITED STATES.

1. THE judges, both of the supreme, and of the inferior courts, are appointed by the president, with the advice and consent of the senate. They hold their offices during good behavior, and are removable only by impeachment. For their services they receive a

compensation which is established by law, and which cannot be diminished during their continuance in office. No judge, appointed under the authority of the United States, can exercise the profession of counsel or attorney, or be engaged in the practice of law. The judges of the territorial courts are appointed by the president and senate, but hold their office for the term of four years only, except in Wisconsin, and in the District of Columbia, where the tenure is during good behavior.

2. The supreme court consists of a chief justice and eight associate justices, any five of whom constitute a quorum. It holds a session annually at the city of Washington, commencing on the second Monday in January, and continuing usually two or three months. If there is not a quorum present at the commencement of any session, a smaller number may adjourn the court from day to day, for twenty days, unless the required number shall sooner attend. The associate justices have precedence according to the date of their commissions, or where the commissions of two or more of them bear date the same day, according to their respective ages. The salary of the chief justice is five thousand dollars a year; that of the associate justices, four thousand five hundred dollars each.

3. The United States are divided into nine judicial *circuits*, and in each district of these circuits there are usually two circuit courts held, annually, and the presiding judge may appoint special sessions, at his discretion. The circuit courts are composed of one judge of the supreme court and the district judge of the district in which the circuit court is held. The judge of the supreme court may hold the circuit court alone, in case the district judge is absent, or if he has been of counsel or is interested in the suit. In some of the districts the respective district judges are authorized to hold the circuit courts, and sometimes circuit court jurisdiction and powers are given to district courts, by special provisions of law.

4. The circuit court may be adjourned from day to day, by the district judge, or if neither of the judges

be present at the commencement of the term, either of them may, by a written order to the marshal, adjourn the court from time to time, as the case may require. Where any question arises in the circuit court, upon which the opinions of the two judges are opposed, the point upon which the disagreement happens may be certified, under the seal of the court, to the supreme court of the United States, there to be finally decided. But in cases removed from a district court to a circuit court, the district judge has not a right to vote, but judgment is to be rendered in conformity to the opinion of the judge of the supreme court, presiding in the circuit court.

5. Each state of the Union composes one or more judicial *districts*, and for each state there is one district judge; and two for the several states of New York, Pennsylvania and Virginia. Six of the other states contain either two or three districts each, but in those states a single judge holds the courts in all the districts within his own state. The judicial districts are established by congress, and are frequently altered, as occasion is thought to demand. Each district court is required to hold, more commonly four, but several of them only two regular sessions, every year. In three districts, but one session, annually, is prescribed; in three others, more than four in a year are required. The district judges, generally, are authorized to hold special courts, at their discretion. The annual compensation of district judges varies from one thousand to three thousand five hundred dollars.

6. In each of the organized territories of the United States, there are courts established by congress. The highest court holds a session, annually, as a court of appeals, at the seat of government of the territory. The territories are divided into districts, in each of which courts are held by a single judge of the highest court. These courts, in cases arising under the constitution and laws of the United States, are invested with the powers and jurisdiction of circuit and district courts of the United States, and from them causes may be

carried to the highest court of the territory, and thence, in the cases and in the manner provided by law, to the supreme court of the United States. The District of Columbia has a local circuit court, consisting of three judges, and a district court, which is held by the chief justice of the circuit court, for that district.

7. The *attorney general* of the United States conducts all suits in the supreme court, in which the United States are concerned. In each judicial district, and in each of the territories of the United States, and the District of Columbia, there is a *district attorney*, whose duty it is to prosecute, within his district or territory, all delinquents for crimes and offences cognizable under the authority of the United States, and all civil actions in which the United States are interested. District attorneys are appointed by the president, with the approval of the senate, for the term of four years, but may be removed at the pleasure of the president. They are required to make to the secretary of the treasury, on the first of January and July in each year, a written report, verified by oath, of all fees and emoluments of their offices, of every kind; and if these amount, exclusive of their necessary office expenses and clerk hire, to more than six thousand dollars a year, the overplus is to be paid into the public treasury.

8. The *clerk* of the supreme court is appointed by the court, and is required to reside and keep his office at the seat of the national government. The district courts appoint their clerks, and until recently, the clerk for each district court was clerk also of the circuit court in the district. But it is now provided, that the circuit courts shall have the appointment of their own clerks, and in case of disagreement between the judges, the judge of the supreme court, presiding in the district, makes the appointment. The clerks are required to give bonds in the sum of two thousand dollars each. They are paid by fees and emoluments, of which they are required to make the same returns as the district attorneys; but no one may retain exceeding three thousand five hundred dollars as clerk of the district court,

or two thousand five hundred dollars as clerk of the circuit court, or six thousand dollars for both, over and above his necessary office expenses and clerk hire.

9. *Marshals* in the courts of the United States are analogous to sheriffs in the state courts, and their duties are similar. They are appointed, one for each judicial district, and each territory, and the District of Columbia, by the president, with the approbation of the senate, for the term of four years, unless sooner removed by the president. Marshals are authorized to appoint deputies, who are removable at the pleasure of the marshal, or of the judge of the district court, or circuit court sitting within the district. Each marshal is required to give bond in the sum of twenty thousand dollars, conditioned for the faithful performance of the duties of his office, by himself and his deputies. The marshals are bound to make the same returns as the district attorneys and clerks, and no marshal may retain out of the fees, for his compensation, a sum exceeding six thousand dollars a year, exclusive of the reasonable compensation to his deputies, and his necessary office expenses and clerk hire.

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## CHAPTER XXVII.

### CHOICE OF PRESIDENT AND VICE PRESIDENT.

1. THE executive power of the United States is vested in a *President*, who is required to be a natural born citizen, or a citizen of the United States at the time of the adoption of the constitution, to be at least thirty-five years of age, and to have been fourteen years a resident within the United States. There is a *Vice President* chosen at the same time with the president, and no person constitutionally ineligible to the office of president, is eligible to that of vice president. The president and vice president hold their offices for four

years from the 4th of March next after the regular time of their election ; and they are both chosen in the following manner.

2. Each state appoints, in such manner as its legislature may direct, a number of *electors* equal to the whole number of senators and representatives to which the state is entitled in congress, according to the apportionment then last established by law ; but no senator or representative, or person holding any office of profit or trust under the United States, can be an elector. The particular mode of appointing the electors is not prescribed by the constitution ; but in practice, it is believed, they are invariably chosen, at present, by the qualified voters in each state, voting by general ticket throughout the state, except in South Carolina, where they are elected by the legislature. In some of the states, the electors have sometimes been chosen by districts, in the same manner as representatives are now required to be chosen.

3. It is provided by act of congress, that the electors shall be appointed within thirty-four days preceding the first Wednesday in December of every fourth year succeeding the last election. On that Wednesday, the electors of the several states meet at such place in their respective states, as is directed by the legislature of each, and vote, by ballot, for president and vice president, one of whom, at least, must not be an inhabitant of the same state with themselves. They name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president ; and they make separate lists of all persons who receive votes for the one office and for the other, and of the number of votes for each.

4. The electors are required to make and sign three certificates of all the votes by them given, each certificate containing two distinct lists, one of the votes given for president, and the other of the votes given for vice president ; and to seal them up, certifying on each, that a list of the votes of such state for president and vice president is contained therein, and directing

them to the president of the senate of the United States. A certified list of the electors of the state is annexed to each of these certificates of the votes. The electors then, by writing, signed by them or a majority of them, appoint some person to take charge of one of the certificates, and convey it to its place of destination; for which service he is allowed twenty-five cents a mile for his travel in going and returning.

5. The certificate intrusted to the messenger, he is bound to deliver at the seat of government, before the first Wednesday in January next ensuing, to the president of the senate, or if he be not present, at the office of the secretary of state. Another of the three certificates the electors forward forthwith, by mail, to the president of the senate, at the seat of government. The remaining certificate they cause to be delivered to the district judge of the district within which the electors assemble. If a list of the votes of any state shall not have been received at the seat of government, on the first Wednesday in January, the secretary of state is required to send a special messenger for the list that was lodged in the custody of the district judge.

6. Congress is required to be in session on the second Wednesday in February succeeding every meeting of the electors, when the certificates are opened in the presence of both houses, assembled in the chamber of the house of representatives, the president of the senate presiding. Arrangements for the occasion are made previously, and *tellers* chosen, one by the senate and two by the house. At the hour appointed, the senate repair to the hall of the house of representatives, their chief clerk bearing the votes of the electors. The president of the senate having announced the purpose of the joint meeting of the two houses, proceeds to break the seals of the envelopes in which the votes of the electors are enclosed, commencing with the state of Maine, and proceeding in the order of the states; and having merely broken the seal of each, he hands the paper to the tellers, that the votes may be counted.

7. The superscription upon the envelope, and the contents of every paper found within it, are read throughout by some one of the tellers. When the tellers have read, counted, and made duplicate lists of the votes, the lists having been compared with each other and found to agree, are delivered to the presiding officer, by whom they are read to the joint meeting. He then announces the result of the vote, and declares the persons, if any, who have a majority of the whole number of votes of the electors, for those offices, respectively, to be duly elected president and vice president of the United States for the ensuing term of four years. The senate now withdraw, the chief clerk bearing the votes of the electors, and one of the lists made by the tellers, to the senate chamber, to be deposited with the archives of that body. A joint committee of the two houses wait on the president elect, to inform him of his election; and the president of the senate notifies the vice president.

8. But if the votes of no person for president be a majority of the whole number of electors appointed, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives immediately, by ballot, choose the president. But for this purpose, the votes are taken by states, the representatives of each state having one vote. A quorum for the choice of president consists of a member or members from two thirds of the states, and a majority of all the states is required for a choice. If no one be chosen vice president, by the electors, the senate choose the vice president from the two highest numbers on the list. A quorum for this purpose consists of two thirds of the whole number of senators, and a majority of the whole number is necessary to a choice.

9. If the house of representatives, when the right of choice falls to them, do not elect a president before the 4th of March next following, as also in case of the removal of the president from office, or his death, resignation, or inability to perform the duties of the

office, those duties devolve upon the vice president. When, on the death of the president, the vice president succeeds to his place, he becomes president in fact and in name. Congress, in pursuance of the authority vested in them by the constitution, have provided that in case of the removal, death, resignation, or inability of both the president and vice president, the president of the senate *pro tempore*, and if there be none, the speaker of the house of representatives for the time being, shall act as president of the United States, until the disability shall be removed, or a president elected.

10. Provision is made by law, that whenever the offices of president and vice president both become vacant, a new election shall be held. To this end, the secretary of state is required forthwith to cause notification to be made to the executive of every state, and published in at least one newspaper in each state, specifying that electors of president and vice president of the United States shall be appointed within thirty-four days preceding the first Wednesday in December next ensuing, provided that day be two months distant from the date of the notification. But if there be not the required space of two months, and if the term for which the president and vice president last in office were elected, shall not expire on the 3d of March next ensuing, the electors are then to be appointed within thirty-four days preceding the first Wednesday in December of the *year* next ensuing; and in either case, the proceedings are to be conducted as in ordinary elections.

11. There have been but two instances in which the election of president has come into the house of representatives. Those were, in 1801, when Thomas Jefferson was elected, on the thirty-sixth ballot, and in 1825, when John Quincy Adams was chosen, having received, on the first ballot, the votes of fourteen out of the twenty-four states. The vice president has been chosen by the senate on one occasion only, which was in 1837. And it has happened but once, that the vice

president has been called to perform the duties of president, namely, upon the death of President Harrison, on the 4th of April, 1841. Of the first eight presidents, five were, and three were not re-elected; and the five who held the office two terms each, all declined being candidates for a third term. There is nothing in the constitution to prevent a man from holding the office of president as often as the people shall choose to elect him; but the usage on the subject has acquired almost the force of a positive law.

12. As the constitution originally stood, the electors voted for two persons, and the person having the greatest number of votes was president, if that number was a majority of the whole number of electors appointed. If more than one had such majority, and they had an equal number of votes, the house of representatives, by ballot, chose one of them for president. If no person had a majority, the house were to choose from the five highest on the list. And in every case, after the choice of the president, the person having the greatest number of votes of the electors was vice president. But if there remained two or more having equal votes, the senate, by ballot, chose from them the vice president. The inconvenience experienced from this method, at the election of president in 1801, induced congress to propose an amendment to the constitution, which was duly ratified before another election, and under the provisions of which all subsequent elections have taken place.

## CHAPTER XXVIII.

## POWERS AND DUTIES OF THE PRESIDENT.

1. THE inauguration of the president takes place on the 4th of March. On that occasion it is customary for him to deliver an *inaugural address*, setting forth the principles on which he proposes to conduct his administration. At the conclusion of this address, the oath of office required by the constitution is tendered by the chief justice of the supreme court, and taken by the president, in the following terms: "I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States." On the day of the inauguration the new senate assemble, by special direction of the president of the United States, to act upon the nomination of public officers, and the like. They choose a president *pro tempore*, by whom the vice president of the United States is sworn into office, and he then takes his place as president of the senate.

2. The president is commander in chief of the army and navy of the United States, and of the militia of the several states when called into the national service. He may grant reprieves and pardons for offences against the United States, except in cases of impeachment. He is the proper person to receive ambassadors and other public ministers, and, as incident to this authority, he is understood to possess the power to refuse to receive them, or to dismiss them after they have been received. He is to see that the laws are faithfully executed. It is his duty, from time to time, to give to congress information of the state of the Union, and to recommend to their consideration such measures as he shall judge necessary and expedient. And in case of disagreement between the two houses,

as to the time of adjournment, he may adjourn them to such time as he shall think proper.

3. The president, with the concurrence of two thirds of the senators present, is invested with the power to make treaties. He nominates, and by and with the advice and consent of the senate, appoints ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not otherwise provided for in the constitution. But congress may by law vest the appointment of *inferior* officers, under which denomination, it is said, ninety-nine out of a hundred of the lucrative offices of the government are included, in the president alone, in the courts of law, or in the heads of departments. The president commissions all officers of the United States, and he is authorized to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of the next session of that body.

4. It was made a question, on the first organization of the government under the constitution, whether, in respect to those officers who are appointed by the president and senate, to hold their offices at pleasure, the power of removal resided in the president alone, or whether the consent of the senate was required for that purpose. By the authors of the *Federalist*, a work of high authority, the latter was understood to be the true construction; but congress adopted the former construction, and at their first session, collaterally, and somewhat gratuitously, declared the power to belong to the president alone. The question was decided, at that time, in the senate, by the casting vote of the vice president, John Adams; and in the house of representatives, by a majority of twelve. The construction thus incidentally given to the constitution, on this point, has been acted upon ever since.

5. The president has a qualified negative or *veto* upon the laws and acts passed by congress. All bills, and all concurrent orders, resolutions and votes of the

two houses, except for adjournment, must be submitted to the president for his approval, and may be defeated by him, unless they be repassed by two thirds of each house. The president is allowed ten days, exclusive of Sundays, to consider a bill, and if he do not return it within that time, it becomes a law in like manner as if he had signed it, unless congress, by their adjournment, prevent its return, in which case it does not become a law.

6. This constitutional provision vests in the president a high and transcendent power, and one which has, in general, been rarely exercised. President Washington defeated two bills; President Madison, four; President Monroe, one; President Jackson, ten; President Tyler, two at the extra session in 1841, and four at the succeeding session; the other Presidents, none. Of these bills fourteen were returned within ten days after their presentation to the executive; the others having been presented near the close of the session, were retained, one by President Madison, six by President Jackson, and two by President Tyler at the session in 1842. In no instance where a bill has been returned with objections has it been repassed by the required majority, so as to become a law.

7. It is provided by the constitution, that the compensation of the president shall neither be increased nor diminished during the period for which he was elected. The salary has, from the first, been fixed by law at twenty-five thousand dollars a year, which, according to the usual practice, is drawn by the president, monthly. He has also the use of a house and grounds, provided at the public expense, at the seat of government. At every new election of president, such articles of furniture in the house as are decayed or unfit for use, are sold, and the proceeds, together with an additional sum of money appropriated by congress, are applied to the purchase of new furniture. The salary of the vice president is five thousand dollars a year. When acting as president of the United States, he is entitled to the salary appertaining to that office.

## CHAPTER XXIX.

## THE EXECUTIVE DEPARTMENTS.

1. To assist the president in the administration of the government, there are several executive departments established by law. These are the department of state, of the treasury, of war, of the navy, and of the post office. At the head of each of the first four departments named, is a *secretary*, of the last, the *postmaster general*. These four secretaries, the postmaster general and the attorney general of the United States, constitute what is called the *cabinet*. These officers are appointed by the president with the advice and consent of the senate, and are removable by the president, at his pleasure. At the commencement of every new administration, there is always a new cabinet organized, as a matter of course.

2. The cabinet serves as a sort of unofficial council of the president. He is expressly authorized by the constitution to require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he, as well as the head officer of any of the departments, where there is occasion for it, may call upon the attorney general for his opinion on questions of law. It has been the general practice for the president to hold meetings of his cabinet officers, from time to time, to deliberate upon matters coming before him, in order that he might have the benefit of their wisdom and experience in forming his own judgment upon them. But he is not bound to follow the opinions of his cabinet, nor are they responsible for his acts.

3. These principal executive departments, for the most part embrace several subordinate branches, or *bureaus*, and the business of them is carried on by the assistance of a great number of inferior officers and

clerks. In general, the more important officers in each department are appointed by the president, with the advice of the senate, and the clerks by the heads of their respective departments. In each department there is a chief clerk, who in the departments of state, of war, and of the navy, in case of a vacancy in the office of secretary, by removal or otherwise, has, during such vacancy, the charge of all records, books and papers appertaining to the department.

4. All the officers appointed in any of the departments, are required, before entering upon the duties of their appointment, to take an oath or affirmation to support the constitution of the United States, and faithfully to execute the trust committed to them. Every day in the year, except Sundays and the 4th of July and 25th of December, all the offices and bureaus of the several departments are required to be open for the transaction of the public business, at least eight hours in a day, from the first of October to the first of April, and at least ten hours in a day, during the rest of the year. The salaries of officers of the United States are usually paid quarterly, with money drawn from the national treasury, in pursuance of appropriations made for the purpose, by congress, in the annual appropriation bills.

5. The several secretaries, and the postmaster general are required to lay before congress, at each annual session, a detailed statement of the expenditures made by them, respectively, from the contingent funds of their departments. It is also their duty, to report to congress, at the beginning of each year, the names of the clerks employed in their own departments, during the preceding year, together with the time each was actually employed, and the amount paid to each. There are various other reports which these officers, or some of them, are required to make to congress, at prescribed times, and they are also obliged to answer to the requisitions made upon them, from time to time, by either branch of the legislature, for facts and information within their possession.

6. At the first organization of the government under the constitution, there were properly but three executive departments, those of state, of the treasury, and of war. The department of the navy was not established upon a separate basis until a later period. The post office department has existed from the first, but it was only at a comparatively recent day, that the postmaster general attained to the dignity of a cabinet officer. The salaries of the secretaries, and other executive officers and clerks, were at first only about one half as great as they now are. From time to time, the compensation has been increased, and the departments have been enlarged, by the establishment of new subordinate branches, and the appointment of additional clerks. The department of state is considered as holding the first place in dignity and importance.

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## CHAPTER XXX.

### THE DEPARTMENT OF STATE.

1. THE department of state, which was originally organized under the name of the department of foreign affairs, is that through which all intercourse between the national government and foreign states is carried on. To the secretary of state it belongs to perform such duties as are assigned to him by the president, and in such manner as he shall direct, agreeably to the constitution, relative to the correspondence with public ministers or consuls sent from the United States, or to commissions or instructions to them; to negotiations with foreign states or princes; to memorials or other applications from foreign public ministers or other foreigners; or to other matters respecting foreign affairs. This department includes, besides the patent office, which is attached to it, three branches called the *diplomatic*, *consular*, and *home* bureaus. There are ten

clerks employed in the department, and as many other persons, in various capacities.

2. The secretary of state keeps the seal of the United States, and it is his duty to make out, record, and affix that seal to all civil commissions of officers of the United States, appointed by the president with the approval of the senate, or by the president alone, except officers employed in collecting the revenue, whose commissions are made out and recorded in the treasury department, and bear its seal. But the secretary may not affix the seal to any commission before it has been signed by the president, nor to any other instrument without his special warrant for the purpose. The secretary of state has also a seal of office, for his department, which he uses in authenticating copies of records and papers in his office, for persons applying for them, and paying the required fees.

3. Every bill, order, resolution or vote of the senate and house of representatives, that has been finally passed, in the prescribed manner, and has become a law accordingly, is sent forthwith to the secretary of state. Formerly, the secretary was required to cause the laws, resolutions, treaties and amendments to the constitution of the United States, to be published, as soon as conveniently might be after they were received by him, in not more than one newspaper in the District of Columbia, and in not more than three in each of the several states and territories. But by the act of 1842, in lieu of this, the publication is to be made in not less than two nor more than four of the principal newspapers published in the city of Washington for country subscribers, giving the preference to such papers as have the greatest number of permanent subscribers and the most extensive circulation.

4. The secretary is required to cause to be published, as soon as practicable after the close of every session of congress, eleven thousand copies of the acts of congress at large, including all resolutions passed by congress, amendments to the constitution adopted, and public treaties ratified since the last preceding pub-

lication of the laws, together with an alphabetical index. These copies are distributed, under the direction of the secretary of state, among such public officers and other persons as are designated by law, and the residue among the several states and territories, according to their respective numbers of representatives and delegates in congress. The proprietor of every newspaper in which the laws, resolutions, treaties and amendments have been seasonably published, by authority, is entitled to a compensation, at the rate of one dollar for each page, as published in the pamphlet form.

5. Once in two years, a register, commonly known by the name of the *blue book*, is compiled and printed under the direction of the secretary of state. It contains correct lists of all the officers and agents, civil, military and naval, in the service of the United States, made up to the last day of September of each year in which a new congress is to assemble. These lists are furnished by the heads of the several departments, and exhibit the names of all such officers and agents, with the compensation allowed to each, the state and county in which he was born, and the place where he is employed. The biennial register also includes certain statistics in reference to the navy, to printers of the laws, and to contracts for carrying the mail. Five hundred copies of this register are printed, part of which are distributed, as provided by law, on the first Monday in January of each year when a new congress is assembled, and the rest are disposed of as congress shall direct.

6. The secretary of state is required to transmit, by mail, free of postage, one copy of the communications, with the accompanying documents, made to congress, or to either house, by the president of the United States, and of reports made to congress or either house, by the several heads of departments, or by any committee, for each of the judges of the supreme court, and of the district and territorial courts of the United States, to such post office within the United

States, as they may designate. In case of vacancy, death, absence from the seat of government, or sickness, in the office of secretary of state, of the treasury, or of war, or of any officer in either of these departments, whose appointment is not in the head of the department, the president may authorize any person, in his discretion, to perform the duties of such office, until a successor shall be appointed, or the vacancy filled. But no one vacancy can be thus supplied for a longer term than six months.

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## CHAPTER XXXI.

### THE TREASURY DEPARTMENT.

1. It is in the treasury department that all claims and demands by or against the United States, and all accounts in which they are interested, either as debtors or creditors, are settled and adjusted. The organization of this department embraces a far greater number of officers than either of the others. It includes the secretary, two comptrollers, five auditors, an auditor for the post office department, a treasurer, a register, and a solicitor of the treasury, all of whom are appointed by the president, with the approbation of the senate. There are upwards of two hundred clerks and other persons employed in the different subdivisions of the department. This statement does not include the officers and clerks, nearly one hundred in number, in the general land office, which is attached to the treasury department.

2. Among the duties required of the *secretary*, he is to prepare and lay before congress, at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue and expenditures, and plans for the support of public credit, and for increasing the revenues, and to annex a statement

of the amount of money in the treasury, which will be subject to the disposition of the government, in the year to which the estimates apply. He is also to superintend the collection of the revenue; to provide for maintaining light-houses, and the like; to grant, under the limitations established by law, warrants for moneys to be issued from the treasury; to furnish information to either branch of the legislature, respecting all matters referred to him, or which relate to his office; and, in general, to perform all services required of him, appertaining to the finances.

3. It is the duty of the *comptrollers* to examine all accounts settled by the auditors, and to certify to the proper officer the balance arising on them; to countersign warrants duly drawn by the secretary of the treasury; to report to the proper secretary the official forms to be issued in the different offices for collecting the public revenue, and for disbursing the public money in the war and navy departments, and the manner and form of keeping and stating the accounts in those offices; and to attend to the preservation of the public accounts subject to their revision. To the first comptroller it belongs also to provide for the regular payment of all moneys that may be collected, to superintend the recovery of debts due to the United States, and to direct legal proceedings and take the proper lawful measures for enforcing prompt payment of such debts.

4. The *first auditor* receives all accounts accruing in the treasury department; the *second* and *third*, all accounts of the war department, and those arising out of Indian affairs, except Indian trade; the *fourth*, all accounts relative to the navy department; and the *fifth*, all accounts of the department of state, and those growing out of Indian trade. The first and fifth auditors examine all accounts submitted to them, respectively, certify the balance, and transmit the accounts, with the vouchers and certificates, to the first comptroller for his decision upon them. The second, third, and fourth auditors examine the accounts submitted to them, certify the balance, and transmit the accounts

with their vouchers to the second comptroller, and when finally adjusted, receive them from him and preserve them. They record all warrants drawn by the secretary of the treasury, upon the requisitions or demands of the secretaries of the war and navy departments, and keep all accounts of the receipts and expenditures of the public money in regard to those departments.

5. The *auditor* of the treasury for the *post office department* receives all accounts relative to that department, audits and settles them, certifies the balances to the postmaster general, and preserves the accounts and their vouchers, after settlement. It is his business to report to the postmaster general the official forms of papers to be used by the officers and agents of the department, and the manner and form of keeping and stating its accounts; to register, charge and countersign all warrants upon the treasury for receipts and payments, issued by the postmaster general, when warranted by law; to report to the postmaster general all delinquencies of postmasters, in paying over the proceeds of their offices; and to perform such other duties relative to the financial concerns of the department as may be assigned to him by the secretary of the treasury. It is his duty also to superintend the collection of all debts due to the department, and all penalties and forfeitures imposed on postmasters, and to direct legal proceedings for that purpose.

6. The *treasurer* is the officer who receives and keeps the public moneys, and disburses them on warrants duly drawn and authenticated, which warrants are required to specify the particular appropriations to which they are to be charged. All moneys except those for the war, navy, and post office departments, are issued on warrants drawn by the secretary of the treasury, countersigned by the first comptroller, and recorded by the register of the treasury. The money appropriated to the use of the war and navy departments is paid out by the treasurer on warrants drawn by the secretary of the treasury, upon the requisitions of the secretaries of

those departments, respectively, countersigned by the second comptroller, and registered by the second, third, or fourth auditor, as the case may require. The funds of the post office department are issued from the treasury on warrants drawn by the postmaster general, and countersigned and registered by the auditor of the treasury for that department.

7. The treasurer takes receipts for all moneys paid by him; and all receipts for moneys received by him into the treasury, to render them valid, must be indorsed upon warrants, signed by the secretary of the treasury, or by the postmaster general where the money is paid in to the credit of his department. He is required to render his accounts, quarterly, to the first comptroller, or in respect to moneys received and paid on account of the post office department, to the auditor for that department; to transmit to both houses of congress, copies of all accounts settled by him, and a true and perfect account of the state of the treasury; and at all times to submit to the inspection of the secretary of the treasury, and of the first comptroller, the moneys in his hands. The treasurer gives bond in the sum of one hundred and fifty thousand dollars, for the faithful performance of his duties, and the fidelity of the persons employed by him.

8. The *register* of the treasury is required to keep all accounts of the receipts and expenditures of the public money, and of all debts due to or from the United States, except such accounts as are kept by the second, third, and fourth auditors; to receive from the first comptroller the accounts that have been finally adjusted by him, and preserve them with their vouchers and certificates; and to record all warrants for the receipt and payment of moneys at the treasury, other than those recorded by the second, third, and fourth auditors, and the auditor for the post office department. It is likewise made the duty of the register of the treasury, under the direction of the secretary, annually to prepare statistical accounts of the commerce of the United States with foreign countries, for the preceding

year, to be laid before congress, by the secretary of the treasury, on the first Monday in December of every year, or as soon after as possible. These accounts, as also the annual accounts of the receipts and expenditures, and the report and estimates required of the secretary, are to be prepared for the *fiscal* year of the treasury, which, as established by act of congress of 1842, commences on the first day of July.

9. The duties of the *solicitor* of the treasury are, to direct all suits and proceedings for the recovery of money, chattels or lands, in the name, and for the use of the United States; and to take charge or dispose of all lands or other property conveyed or assigned to the United States, in payment of debts. He may instruct the district attorneys, marshals, and the clerks of the circuit and district courts, in all matters relating to suits in which the United States are concerned. He is required, with the approbation of the secretary of the treasury, to establish such rules and regulations, consistent with law, for the observance of collectors of the customs, district attorneys, and marshals, respecting suits in which the government is interested, as may be deemed necessary for the proper responsibility of those officers, and for the prompt collection of all revenues and debts due to the United States.

10. The offices of the second comptroller, and of the second, third, fourth, and fifth auditors were established in 1817; that of the solicitor of the treasury in 1830, and that of the auditor of the treasury for the post office department in 1836. To the second comptroller was assigned the portion of the duties of the first, relating to the war and navy departments. The duties of the first auditor, namely, the examining and auditing of accounts, were divided with the second, third, fourth, and fifth auditors, and the auditor for the post office department. The same persons, except the fifth auditor, took also a part of the duties of the register of the treasury; and the auditor of the treasury for the post office department, a part also of the duties of the first comptroller.

## CHAPTER XXXII.

## THE DEPARTMENTS OF WAR, AND OF THE NAVY.

1. THE secretary of the department of war is required to perform such duties as may from time to time be intrusted to him, by the president, agreeably to the constitution, and in such manner as he shall direct, relative to military commissions, or to the land forces or military stores of the United States, or other matters respecting military affairs; or relative to the granting of lands to persons entitled to them for military services rendered to the United States; or relative to Indian affairs. This department includes the offices of the adjutant general, quartermaster general, paymaster general, and surgeon general, the pension and bounty land offices, and the department of Indian affairs. The office of commissary general of purchases was abolished in 1842, and the duties of it assigned to the quartermaster's department.

2. The department of the navy was organized as a distinct department, in 1798, prior to which time, naval affairs were under the direction of the secretary of war. It is the duty of the secretary of the navy to execute such orders as he shall receive from the president, relative to the procurement of naval stores and materials, to the construction, armament, equipment and employment of vessels of war, and to all other matters connected with the naval establishment of the United States. He is authorized, under the direction of the president, to cause a selection to be made of such tracts of vacant and unoccupied lands of the United States, producing live oak and red cedar timbers, as he may judge necessary to furnish for the navy a sufficient supply of those timbers; and the tracts thus selected, if approved by the president, are to be reserved and appropriated to that sole purpose, unless otherwise directed by law.

3. Formerly the president was required to appoint, with the approbation of the senate, three officers of the navy, not below the rank of post captain, to constitute a *board of commissioners* for the navy. This board was attached to the office of the secretary of the navy, and under his superintendence discharged the ministerial duties of that office, relative to the matters above enumerated as appertaining to it; and, upon the requisition of the secretary, it was their duty to furnish all the estimates of expenditures required in the several branches of the service, and other necessary information. The board of commissioners for the navy was established in 1815, and continued in existence till 1842, when it was abolished by act of congress, and the navy department was organized upon a different basis.

4. The act in question provides, that there shall be attached to the navy department five bureaus, each having a chief, who is appointed by the president with the advice and consent of the senate. These bureaus are, a bureau of *navy yards and docks*, and a bureau of *ordnance and hydrography*, the chief of each of which is appointed from among the captains in the navy, and receives a stated annual salary, in lieu of all other compensation whatever in the naval service; a bureau of *construction, equipment and repairs*, the chief of which is required to be a skilful naval constructor; a bureau of *provisions and clothing*; and a bureau of *medicine and surgery*, whose chief is taken from the surgeons of the navy. The secretary of the navy is to assign and distribute among these bureaus, such of the duties of the department as he shall judge expedient and proper, and all these duties are to be performed under his authority.

5. It is the duty of both the secretaries of war and of the navy, to lay before congress, annually, a statement of the appropriations of the preceding year, for their respective departments, and a distinct account of the manner in which the money has been expended and applied by them, together with a statement of the amount that remains under such appropriations, and the

probable outstanding demands upon each; and any balance of money remaining unexpended, after the object for which it was appropriated has been effected, is to be repaid into the treasury, and carried to the surplus fund. The secretaries are required to cause to be collected all flags, standards and colors, taken by the army and navy of the United States, from their enemies, and to deliver them to the president, to be, under his direction, preserved and displayed in such public place as he shall deem proper. \*

6. There is a *commissioner of pensions* appointed by the president, with the advice of the senate, whose office it is, under the direction of the secretaries of war and of the navy, to execute such duties as may be prescribed by the president, in relation to the several pension laws. Various acts have been passed by congress, from time to time, making provision for the surviving officers and soldiers of the revolutionary war, as well as for those who have been wounded or disabled in the military or naval service of the United States, and for the widows and children of such as were killed in the service, or have since died. The office of commissioner of pensions was established in 1835, and has been since continued for the term of two or three years at a time. Formerly, pensions were paid through the agency of the bank of the United States and its branches.

7. Provision was made by congress, soon after the commencement of the revolutionary war, for granting lands, in certain specified proportions, to the officers and soldiers who should engage in the service, and continue in it to the close of the war, or until discharged by congress. After the termination of the war, lands for this purpose were surveyed and assigned, in what is now the state of Ohio. By the several acts passed by congress for recruiting the army in the war of 1812, besides a stated pecuniary bounty, one hundred and sixty acres of land were offered to each effective, able-bodied man, who should enter into the service for five years, or during the war, and should serve out his time, and be regularly discharged; and to the heirs and rep-

representatives of such as might be killed in action, or die in the service. The lands assigned to these persons were taken in the territories now constituting the states of Illinois, Missouri, Michigan and Arkansas.

8. The chief officer in the Indian department is the *commissioner of Indian affairs*, who is appointed by the president and senate. Under the direction of the secretary of war, and agreeably to such regulations as the president may from time to time prescribe, the commissioner has the management of all Indian affairs, and of all matters growing out of Indian relations. The *superintendents* of Indian affairs, within their several districts, exercise a general supervision over the official conduct and accounts of all officers and persons employed by the government in that department; and they may suspend such officers and persons from their employment, for reasons to be communicated forthwith to the secretary of war. No one is allowed to trade with the Indians, in their country, without a license from a superintendent of Indian affairs, or from an Indian agent or sub-agent. No ardent spirits may be introduced into the Indian country, under any pretence.

9. Indian *agents* are appointed by the president, with the approval of the senate, and hold their office for four years, unless sooner removed. Each agent is required to reside and keep his agency within or near the territory of the tribe for which he is agent, and at such place as the president shall designate. These agents and sub-agents manage and superintend the intercourse with the Indians within their respective agencies, according to law; and they are bound to obey all legal instructions given to them by the secretary of war, the commissioner of Indian affairs, or the superintendent of Indian affairs; and to carry into effect such regulations as may be prescribed by the president. Each agency is allowed an interpreter, who is nominated by the proper agent, to the war department for approval.

10. By act of congress of 1830, the president was empowered to cause so much as he might judge necessary of the territory belonging to the United States,

west of the river Mississippi, not included in any state or organized territory, and to which the Indian title had become extinguished, to be divided into districts, for the reception of such tribes of Indians as might choose to exchange their lands within the limits of any of the states or territories, and remove thither. The president was authorized to assure any tribe making such exchange, that the United States would forever guaranty to them and their descendants the country thus assigned to them. Improvements upon the lands originally occupied by the Indians, were to be paid for by the United States; and they were to furnish to the emigrants all necessary aid in removing and settling in their new country, and also for their support during the first year after their removal. The number of Indians removed prior to the commencement of the year 1839 exceeded eighty thousand.

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## CHAPTER XXXIII.

### THE ARMY OF THE UNITED STATES.

1. EVERY officer, non-commissioned officer and private in the army, is required to take and subscribe an oath or affirmation, that he will bear true faith and allegiance to the United States of America, and will serve them honestly and faithfully against their enemies or opposers whomsoever; and that he will observe and obey the orders of the president of the United States, and of the officers appointed over him, according to the rules and articles of war. The army, under the military peace establishment as fixed in 1821, was composed of four regiments of artillery, and seven regiments of infantry, with officers of engineers, of ordnance and of the staff. A regiment of artillery included nine, and one of infantry, ten companies, each compa-

ny having its appropriate officers and non-commissioned officers, and forty-two privates.

2. In 1833 a regiment of dragoons was established, and in 1836 a second regiment, each composed of ten companies. In 1838 the army was further enlarged by the establishment of an eighth regiment of infantry, and the addition of one company to each regiment of artillery; and at the same time, sixteen privates were added to each company of artillery, and thirty-eight to each company of infantry. The army, as thus organized, when full, embraced upwards of twelve thousand men. By the act of 1842 the number of privates was reduced from sixty to fifty for each company of dragoons, and from fifty-eight and eighty, respectively, to forty-two, for the companies of artillery and infantry; making a reduction, in the whole army, of about four thousand. The same act provided that after the 4th of March, 1843, the second regiment of dragoons should be converted into a regiment of riflemen.

3. By the constitution, the president is made the commander in chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the nation. He however, in fact, never commands the forces in person. There is a major general, who is the commander of the army, two brigadier generals, a quartermaster general, who has the rank, pay and emoluments of a brigadier general, several other field officers who rank as colonels of cavalry, and various subordinate field and staff officers. There is also a regular organization of officers of ordnance, of engineers, and of topographical engineers. Each regiment has a colonel, a lieutenant colonel, a major, an adjutant, who is taken from the subalterns of the line, a sergeant major and a quartermaster sergeant. Each company has a captain, two lieutenants, (the artillery companies have three,) four sergeants, four corporals and two musicians.

4. The commissioned officers of the army are appointed by the president, with the advice of the senate; and he may, in like manner, confer *brevet* rank on

officers who distinguish themselves by gallant actions or meritorious conduct. Such officers are entitled to the pay and emoluments of their *brevet* rank when on duty and having a command according to that rank, and at no other time. All enlistments into the army are made, at present, for the term of five years; and those who re-enlist within two months before, or one month after the close of their time of service, are entitled to three months' extra pay. Two dollars a month of the pay of non-commissioned officers and musicians, and one dollar of that of private soldiers, are retained until the expiration of their term of service.

5. Officers and soldiers of the army receive for their compensation a fixed amount of monthly pay. For their subsistence they are allowed rations of provisions, consisting of a stated quantity of enumerated articles. Commissioned officers are entitled to several rations each, according to their rank; or instead of the rations in kind, they may at their option, and they in fact do receive money, estimating each daily ration at twenty cents. Officers commanding in chief a separate army, actually in the field, and those commanding military geographical divisions or departments, or permanent posts garrisoned with troops, are allowed double the number of rations to which they would otherwise be entitled. Commissioned officers, exclusive of general officers, receive one additional daily ration for every five years they may have been in the service. Every officer in the actual command of a company, has ten dollars a month additional pay, for his responsibility in respect to the clothing, arms and accoutrements of the company.

6. The soldiers receive a certain amount of clothing, the quantity and kind of which are prescribed by the president. In practice, they are allowed about thirty dollars' worth, annually. Officers serving on horseback are entitled to forage for their horses. A ration of forage consists of eight quarts of corn, or twelve quarts of oats, and fourteen pounds of hay or fodder a day; and in lieu of it, when not drawn in kind, each officer

is paid an equivalent in money, at the rate of eight dollars a month for each horse to which he is entitled. Officers receive, according to their rank, the pay, clothing and subsistence allowed to a private soldier, for each of as many servants as they actually keep, not exceeding the number allowed by existing regulations.

7. A *ration*, as established in 1802, consists of one pound and a quarter of beef, or three quarters of a pound of pork, eighteen ounces of bread or flour, one gill of rum, whiskey or brandy; and at the rate of two quarts of salt, four quarts of vinegar, four pounds of soap, and one pound and a half of candles, to every hundred rations. The president is authorized to make such alterations in the component parts of the ration, as a due regard to the health and comfort of the army, and economy may require. In 1838 the allowance of sugar and coffee, in lieu of the spirit or whiskey part of the army ration, as already directed by regulation, was fixed at six pounds of coffee and twelve pounds of sugar to every one hundred rations, to be issued weekly, when it can be done with convenience to the public service, and when not so issued, to be paid for in money.

8. The military academy at West Point, in the state of New York, consisting of the corps of engineers, several professors, and the cadets, is conducted and maintained by the national government. The chief officer of engineers has the superintendence of the academy, under the direction of the president of the United States. The number of cadets is not allowed at any time to exceed two hundred and fifty. They are attached as students to the military academy, are arranged into companies, trained and taught all the duties of a private, non-commissioned officer, and officer, and are encamped at least three months in each year, and instructed in all the duties incident to a regular camp. They are required also to go through with a prescribed systematic course of mathematical and other studies, designed especially to qualify them for engineers and officers in the army.

9. Candidates for cadets must not be under fourteen nor over twenty-one years of age, and must be well versed in reading, writing and arithmetic. They are appointed by the president, from the several states, in proportion to their representation in congress; and they are required to sign articles, with the consent of their parents or guardians, engaging to serve eight years, unless sooner discharged. Formerly the term was five years. They each receive from the government what is equivalent to about twenty-eight dollars a month. Those who have received a regular degree at the academy are considered as among candidates for a commission in any corps for which they are deemed to be fitted; and if there is no such vacancy, at the time, they may, at the discretion of the president, be attached to such corps, but not more than one to a company, by *brevet* of the lowest grade, as supernumerary officers, until a vacancy shall happen.

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## CHAPTER XXXIV.

### THE NAVY AND MARINES.

1. THE naval force of the United States consists of eleven ships of the line, carrying seventy-four or more guns each; seventeen frigates, mounting usually forty-four guns; about twenty sloops, carrying from sixteen to twenty guns; and some twenty smaller vessels, brigs, schooners, steamers, store ships and receiving vessels. By act of congress of 1827, the sum of five hundred thousand dollars a year, for six years, was appropriated for the gradual improvement of the navy; and that act was continued for six years longer from the 3d of March, 1833. In 1819 it was established as a rule, that all ships of the navy, then building, or thereafter to be built, should be named, those of the first class, or ships of the line, after the states of the

Union; those of the second class, or frigates, after the rivers; and those of the third class, or sloops, after the principal cities and towns.

2. The president is authorized to keep in actual service, in time of peace, so many of the frigates and other armed vessels of the United States, as in his judgment the nature of the service may require; and to cause the residue to be laid up in ordinary, and in convenient ports. He may also direct any of the armed vessels to be sold, whenever he shall be of opinion they are so much out of repair that it will not be for the interest of the United States to repair them. The public armed vessels in actual service, in time of peace, are to be officered and manned as the president shall direct. Vessels mounting upwards of twenty guns are commanded by captains; smaller vessels by commanders or lieutenants, according to the size of the vessel, to be regulated by the president.

3. The regular complement of officers for a ship of the line consists of a captain, six lieutenants, a captain, first and second lieutenant of marines, a surgeon, chaplain, purser, and three surgeon's mates, appointed, as all commissioned officers in the navy are, by the president, with the approval of the senate; a master, second master, three master's mates, a boatswain, carpenter, sailmaker, and twenty midshipmen, appointed by the president alone, and called *warrant* officers; and about forty petty officers who are appointed by the captain of the ship. The crew of such a ship consists of two hundred able seamen, three hundred ordinary seamen and boys, three sergeants, three corporals, one drummer, one fifer, and sixty marines. A vessel of this kind has also a teacher of languages or a professor of mathematics.

4. The highest grade in the navy of the United States, is that of *captain*. The title, *commodore*, is one of courtesy merely, and is given properly to a captain who is ordered to the command of a squadron; but it is now customary to apply it to captains in the command of navy yards, though they may never have

commanded a squadron. The term *post captain* is said to be improperly used with us, being borrowed from the British service, where it means one that shall *take post* in order of battle, in a ship of the line. Surgeons, surgeons' mates, chaplains and pursers are commissioned officers, but are non-combatants. *Passed midshipmen* are warrant officers merely, being those who, having passed their examination as midshipmen, are candidates for a commission as lieutenants. Professors of mathematics and teachers of languages receive a letter of appointment only.

5. The annual pay of officers of the navy varies, according as they are employed about one or another kind of duties, or are absent on leave, waiting orders, or on furlough. *Leave of absence* is limited to a period not exceeding three months, at one time, and the officer is not authorized, without special permission, to go beyond the limits of the United States. *Furlough* may extend to any period, during which the officer may go where he pleases, and dispose of himself as he sees fit. Officers on furlough receive only one half the pay to which they would be entitled if on leave of absence; and no officer may be put on furlough but at his own request. Officers are entitled to only one ration a day, when attached to vessels for sea service, and no servants are allowed them, nor pay, clothing or rations for servants; nor any thing for expenses, except for travelling expenses when under orders, for which they receive ten cents a mile.

6. It is lawful to enlist, for the navy, boys between the ages of thirteen and eighteen years, with the consent of their parents or guardians, to serve until they arrive at the age of twenty-one. Other persons are enlisted for a period not exceeding five years, and may be sooner discharged by direction of the president. Rations are allowed in the navy in the same manner as in the army. No commissioned officer or midshipman, nor any person under twenty-one years of age, is permitted to draw the *spirit* part of the daily ration; and all other persons may relinquish that part, under

such restrictions as the president shall authorize. Those who do not receive this part of the ration are entitled, in lieu of it, to its value in money, according to the established prices.

7. The navy ration, as established by act of congress, in 1842, consists of the daily allowance, for each person, of a pound of salted pork, with half a pint of peas or beans; or a pound of salted beef, with half a pound of flour, and a quarter of a pound of raisins, dried apples, or other dried fruits; or a pound of salted beef, with half a pound of rice, two ounces of butter, and two ounces of cheese, together with fourteen ounces of biscuit, a quarter of an ounce of tea, or an ounce of coffee or of cocoa, two ounces of sugar, and a gill of spirits: and of a weekly allowance of half a pound of pickles or cranberries, half a pint of molasses, and half a pint of vinegar. In certain cases, other articles may be substituted for some of these; or the articles of butter, cheese, raisins, dried apples, or other dried fruits, pickles and molasses, substituted for each other and for spirits.

8. There are *navy yards* at Portsmouth, N. H., Charlestown, Mass., Brooklyn, N. Y., Philadelphia, Pa., Washington, D. C., Gosport, Va., and Pensacola, Flor., each of which is under the command of a captain of the navy. At these navy yards, the vessels of war are built and repaired, and navy materials, arms and munitions of war are kept in store. There are ten permanent navy *agents*, and about as many naval *storekeepers*, who are stationed at or near the navy yards and other principal naval stations. *Marine hospitals* to the number of twelve or upwards, for the benefit of sick and disabled seamen, have been established near the principal seaports, and on the waters of the western rivers and lakes. These have been erected and supported, in part by general appropriations, and in part with money from the marine hospital fund, which is raised by deducting and retaining twenty cents a month out of the pay of each of the officers,

seamen and marines of the navy, and of the seamen employed in merchant vessels.

9. There is a *marine corps*, consisting of about sixty commissioned officers, upwards of two hundred non-commissioned officers and musicians, and one thousand privates. The members of this corps are on the same footing, as to rank, pay and allowances, as those of similar grades in the infantry. Enlistments are made for the term of four years, and the recruits take the same oath as those who enlist into the army. The marine corps is subject to the regulations established for the navy, except when detached for service with the army. Detachments of the marines may be made, and officers of the corps appointed, to act on board the public vessels of war, as the president shall judge necessary; and when he shall so direct, this corps is liable to do duty in the forts and garrisons on the seashore, or any other duty on shore.

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## CHAPTER XXXV.

### THE POST OFFICE DEPARTMENT.

1. THE general post office is established at Washington, and is under the direction of the postmaster general, who is authorized to appoint three assistants, and the clerks of the department, at present about fifty in number. In case of the death, resignation, or absence of the postmaster general, his powers and duties devolve, for the time being, upon the first assistant postmaster general. Every person employed in the general post office, or in the care, custody, or conveyance of the mail, is required, before entering upon the duties of his office, to take and subscribe, before some magistrate, an oath or affirmation, a certificate of which is to be filed in the general post office, faithfully to

perform all the duties required of him, and to abstain from every thing forbidden by the laws in relation to the establishment of the post office and post roads.

2. The revenue arising in the post office department is paid, under the direction of the postmaster general, into the treasury of the United States; and all receipts of the treasurer for money entered to the credit of that department, must be indorsed upon warrants drawn by the postmaster general. The appropriations for the service of the post office department, are disbursed by the treasurer, out of the moneys thus paid in, upon the warrants of the postmaster general, duly registered and countersigned. When, as has sometimes happened, the income of the department has been insufficient to defray its expenses, congress has made special appropriations for the purpose, out of other moneys in the treasury. The gross annual revenue of the department, is now nearly five millions of dollars; and the expenditures are usually about the same sum.

3. Some of the duties of the postmaster general are, to establish post offices, and appoint postmasters at such places as shall appear to him expedient, on the post roads established by law; to give his assistants, the postmasters, and other persons employed in the department, instructions relative to their duties; and to provide for the carriage of the mail on all post roads established by law, as often as he shall think proper, having regard to all the circumstances. He is to obtain from the postmasters, once in three months, or oftener, their accounts and vouchers, with the balances arising on them; to prescribe the manner in which postmasters shall pay over their balances; and to superintend the business of the department, in all the duties assigned to it.

4. The postmaster general is required to give public notice in one newspaper published at the seat of government of the United States, and in one or more of the newspapers published in the state or territory in which the contract is to be performed, for at least twelve weeks before entering into any contract for carrying the

mail, that such contract is intended to be made, specifying the places from and to which the mail is to be conveyed, the time when it is to be made up, and when to be delivered. Contracts usually commence from the first day of July, which is the beginning of the post office year; and no contract can be entered into for a longer term than four years.

5. Proposals for transporting the mail are required to be delivered to the department sealed, and to be kept sealed until the biddings are closed, when they are opened in the presence of the postmaster general and one of his assistants, or in the presence of two assistants. The contracts, in all cases, are to be awarded to the lowest bidder, except when his bid is not more than five per cent. below that of the last contractor on the route bid for, who shall have faithfully performed his contract. Each bidder whose proposal is accepted, is required to enter into an obligation, with sufficient sureties, for the performance of the service; and every proposal when made, must be accompanied by a written guarantee, signed by one or more responsible persons, to enter into such obligation, if the bid shall be accepted.

6. No stage or other vehicle which regularly performs trips on a post road, or on a road parallel to one, is allowed to carry letters, and the owner of the vehicle is subject to a penalty of fifty dollars for the violation of this provision. Only free white persons can be employed to carry the mail. Any person concerned in conveying the mail, who shall receive or carry any letter or packet, or procure it to be done, contrary to the act of congress, is liable to a fine not exceeding fifty dollars, for every such offence. But it is lawful for any one to send letters by special messenger; and the postmaster general, in entering into a contract with any person for conveying the mail, may authorize him to carry newspapers and pamphlets other than those carried in the mail.

7. Post riders and other carriers of the mail may receive, and if presented more than one mile from a

post office it is their duty to receive any way letters that may be offered to them, and they are bound to deliver them, together with the postage, if paid, at the first post office at which they shall afterwards arrive. Such letters are there to be duly entered by the postmaster in the post bill, marked "way," and put into the mail; and they are to be charged, in addition to the regular postage from the place where received by the carrier, one cent each, which shall be paid by the postmaster to the carrier from whom the letter was received.

8. The master of any vessel arriving at any port in the United States where a post office is established, is required, before being permitted to make entry at the custom house, to deliver to the postmaster all letters directed to any person within the United States, which, under his care or within his power, have been brought in such vessel, except letters directed to the owner or consignee of the vessel. The postmaster to whom the letters are delivered, is bound to pay the master, or other person delivering them, except the commanders of foreign packets, two cents for each letter or packet; and for the amount thus paid, on furnishing the required vouchers, he is credited in his quarterly accounts with the department.

9. The postmaster general is authorized to make provision, where it is necessary, for the receipt of letters and packets intended to be conveyed by any vessel beyond sea, or from one port to another within the United States. The letters so received are formed into a mail, sealed up, and directed to the postmaster of the port to which the vessel is bound. For every such letter or packet there is to be paid, at the time of its reception, a postage of one cent, for the use of the postmaster receiving the letter or packet. When letters are sent by mail to a seaport, to be conveyed thence by ship, the postage must be paid for the distance they are carried in the mail, or they will not be mailed at the port and put on board the ship.

## CHAPTER XXXVI.

## POSTMASTERS.

1. THE postmaster general had formerly the exclusive power of appointing and removing all deputy postmasters, at his pleasure. But since 1836, postmasters for offices at which the annual income exceeds one thousand dollars, are appointed by the president, with the advice of the senate, for the term of four years, unless sooner removed by the president. The number of postmasters is nearly fourteen thousand, and the patronage of the postmaster general, which, before the change just referred to, it was remarked, rivalled if it did not exceed that of the president himself, is still enormous. The commissions of postmasters bear the official seal of the department. Upon the appointment of any person to the office of postmaster, the postmaster general is required to take of him a bond with approved security, in such sum as he shall judge sufficient, conditioned for the faithful performance of the duties of the office.

2. Every postmaster is required to keep an office in which some person shall attend every day on which a mail arrives, as well as on other days, at such hours as the postmaster general may direct, for the performance of the business of the office. It is the duty of the postmaster at all reasonable hours, on every day of the week, to deliver, on demand, any letter, paper or packet, to any person authorized to receive it. And all letters brought to any office half an hour before the time of making up the mail, for the route by which they are to be sent, must be forwarded by that mail, excepting at offices where the postmaster general shall prescribe a longer time, but not to exceed one hour, for making up the mail. Where there is no special regu-

lation on the subject, postmasters are allowed seven minutes for changing the mail, on the route.

3. Letters deposited in any post office to be sent by mail are disposed of in the following manner. Those for each office within the state, and also those for each office without the state, to which they can be conveyed by a route more direct than through a *distributing* post office, are put in a separate parcel, and each parcel with a post bill specifying the number of letters inclosed and the postage chargeable upon them, is wrapped in paper, and tied with twine, and directed to the proper office. All other letters are sorted, according to the direction they are to take, and done up in parcels, which are directed, "northern," "southern," "eastern," and "western," as the case may be, and are forwarded accordingly. These parcels are stopped at the first distributing office at which they arrive, and are there opened, and their contents distributed and despatched in the proper direction. The number of distributing post offices averages about two to each state.

4. Postmasters receive for their compensation such commission as may be allowed them by the postmaster general on the postage collected by them respectively, not to *exceed* the following rates on the amount received in any one quarter, and heretofore it has been fixed *at* these rates, namely; thirty per cent. on any sum not exceeding one hundred dollars; twenty-five per cent. on any sum above the first one hundred dollars, and not exceeding four hundred dollars; twenty per cent. on any sum above the first four hundred dollars, and not exceeding two thousand four hundred dollars; and eight per cent. on any sum above the first two thousand four hundred dollars. A commission of fifty per cent. may be allowed on the postage received for newspapers, magazines and pamphlets; and where the income does not exceed five hundred dollars in one quarter, the postmaster may be allowed two cents for every free letter delivered out of the office, excepting such as are for himself. There is a small additional compensation at offices where the mail is

regularly to arrive in the night time, and also at those where foreign mails are received and despatched, and at distributing offices.

5. Whenever the annual emoluments of any postmaster, after deducting the necessary expenses of his office, amount to more than two thousand dollars, the surplus is to be paid over to the postmaster general, for the use of the department. And the postmasters of the several cities of the Union are now required to render to the postmaster general, under oath, a quarterly account of all emoluments received by them for boxes, or other receptacles for letters or papers, or for the delivery of letters or papers at any other place than the actual post office of the city, or accruing by reason of keeping branch post offices. And if it shall appear that the net amount received by either of such postmasters, from all the sources enumerated, exceeds three thousand dollars in any one year, the excess above that sum is required to be paid over to the post office department; so that now, no postmaster can retain more than five thousand dollars a year, for all services and perquisites whatsoever.

6. Each postmaster is required to publish, at the expiration of every three months, or oftener if the postmaster general shall so direct, in one of the newspapers published at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in his office; or instead of that to make out a number of lists, and post them up in public places in the vicinity. At the expiration of the next three months, such of these letters as then remain on hand, are to be sent as *dead letters* to the general post office, there to be opened and inspected. If any of them are found to contain valuable papers, or matters of consequence, they are returned to the writers of them, or are advertised in the manner prescribed by law, and the letters and their contents are preserved, to be delivered to the persons to whom they are addressed, upon payment of the postage and the expense of publication.

7. Postmasters are bound to render their accounts,

and pay over the balance by them due, at the end of every three months. If any postmaster shall neglect or refuse so to do, it is the duty of the postmaster general to cause a suit to be commenced against him; and any postmaster who fails to render his accounts for one month after the proper time, forfeits double the amount of the postages received at the same office, in any equal portion of time previous or subsequent. The post office department cannot be made responsible for the safe conveyance and delivery of letters, or of money or other articles sent in the mail. Nor are postmasters responsible for losses, if they use due care and diligence in discharging their duties, and exercise a reasonable superintendence over the persons employed by them. But postmasters, clerks and others in the department, are personally liable for losses and injuries occasioned by their negligence or delinquency.

8. If any postmaster shall unlawfully detain in his office any letter or packet, with intent to prevent the arrival and delivery of it in the usual course of the mail; or if, with the same intent, he shall give a preference to any letter or packet over another passing through his office, by forwarding the one and retaining the other, he is liable to be fined not exceeding five hundred dollars, and imprisoned not more than six months. And any person employed in the post office establishment, who shall unlawfully detain or open, or shall secrete, embezzle or destroy any letter or packet intrusted to him, and which is intended to be conveyed by post, is subject to a fine not exceeding three hundred dollars, or to imprisonment not exceeding six months, or to both. But if the letter or packet, so secreted, embezzled or destroyed, contained any of certain specified securities or assurances relating to money, the punishment is imprisonment for not less than ten nor more than twenty-one years.

9. It is provided that any person who shall take from a mail or post office, any letter or packet, whether with or without the consent of the person having charge of it, and shall open, embezzle or destroy it, if it

contain any article of value, or evidence of debt, or the like, shall be imprisoned from two to ten years. And if any one shall take any letter or packet, not containing any article of value, out of a post office, or shall open any letter or packet, which has been in a post office, or in the custody of a mail carrier, before it shall have been delivered to the person to whom it is directed, with a design to obstruct the correspondence, or to pry into another's business or secrets; or shall secrete, embezzle or destroy any such letter or packet, he is subject to a fine not exceeding five hundred dollars, and to imprisonment not exceeding twelve months.

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## CHAPTER XXXVII.

### RATES OF POSTAGE AND FRANKING.

1. THE rates of postage charged on all letters and packets not excepted by law, conveyed in the mail of the United States, are the following: For every letter composed of a single sheet of paper, conveyed not exceeding thirty miles, six cents; over thirty and not exceeding eighty miles, ten cents; over eighty and not exceeding one hundred and fifty miles, twelve and a half cents; over one hundred and fifty and not exceeding four hundred miles, eighteen and three fourths cents; over four hundred miles, twenty-five cents. Every letter composed of two pieces of paper is charged with double, of three pieces, with triple, and of four pieces, with quadruple those rates. For one or more pieces of paper mailed as a letter and weighing one ounce, avoirdupois, and for every packet composed of one or more other articles, and weighing one ounce, quadruple postage is charged, and at the same rate for all greater weights.

2. The postage marked on any letter or packet, and charged in the post bill accompanying it, is conclusive

evidence of the lawful postage on such letter or packet, in favor of the postmaster who delivers it, unless it be opened in the presence of the postmaster or his clerk; and when so opened, such postage is to be paid as, upon examination, shall appear to be lawfully chargeable. No postmaster may receive, to be conveyed by mail, any packet weighing more than three pounds. Every letter lodged at any post office, not to be carried by post, but to be there delivered, is chargeable with a postage of one cent. Every letter or packet brought into the United States, or carried from one port to another in any private vessel, is charged with six cents, if delivered at the post office where it is first received; if sent by post to any other place, two cents are charged in addition to the ordinary rates of postage.

3. Every four folio, or eight quarto, or sixteen octavo, or twenty-four duodecimo, or smaller pages, whatever be the size of the paper, are considered a sheet; and the surplus pages of any pamphlet or magazine are also considered a sheet. Every printed pamphlet or magazine, which contains more than twenty-four pages on a royal sheet, or any sheet of less dimensions, is charged by the sheet, and small pamphlets printed on a half or quarter sheet of royal or less size, are charged with half the postage of a full sheet. It is required that there be printed or written on one of the outer pages of all pamphlets and magazines that are to be sent by mail, the number of sheets they contain; and if that number be not truly stated, double postage is to be charged. The covers of pamphlets and magazines are not reckoned, if used merely as covers, and not containing printed matter.

4. Magazines and pamphlets, if published periodically, may be transported in the mail to subscribers, at a postage of one cent and a half on each sheet, for any distance not exceeding one hundred miles, and two and a half cents for any greater distance. On such as are not periodically published, the postage is four cents a sheet for any distance not over one hundred miles, and six cents if the distance exceed one hundred miles.

Newspapers are charged with a postage of one cent each, if conveyed not more than one hundred miles, and a cent and a half for any greater distance; but the postage of a single newspaper from any one place to any other in the same state, is but one cent. Newspapers which are to be carried by mail are required to be under cover, open at one end.

5. Any memorandum written on a newspaper or printed pamphlet, and sent openly by mail, is chargeable with letter postage. Any person who shall enclose or conceal a letter or other thing, or any memorandum in writing, in a newspaper or pamphlet, or make any writing or memorandum thereon, and shall cause it to be delivered into a post office in order to have it carried by mail, free of letter postage, is liable to a fine of five dollars. And, in such case, the letter, newspaper, package, or other thing, shall not be delivered to the person to whom it is directed, until the amount of single letter postage is paid for every article of which the package is composed.

6. The prohibition in regard to writing upon newspapers and pamphlets, according to the construction now put upon it by the department, extends to any words, however few, other than the name of the person addressed. Postmasters are directed to remove the wrappers of transient newspapers and pamphlets, which have reached their destination, and to examine the papers. Those used as vehicles of communication, by means of underscoring, dotting, or pricking letters or words, or by other devices, are to be charged, on delivery, with letter postage. If refused or not taken out, they are to be returned to the office where first mailed, and the postmaster there is to collect the legal penalty of five dollars, of the person who committed the offence.

7. Certain persons are entitled, by law, to receive and convey letters and packets, and to receive newspapers, by post, free of postage. There are about forty individuals who enjoy the privilege of *franking*, in its full extent, being the incumbents, for the time, of the

principal executive offices of the national government, and such persons as have held the office of president of the United States, and the widows of these last. Each member of congress has this privilege from the period of sixty days before he takes his seat until the meeting of the next congress; provided that each letter or packet, except documents printed by the order of either house, do not exceed two ounces in weight, and in case of excess of weight, that excess alone is to be paid for. The secretary of the senate and clerk of the house of representatives have the same privilege as members of congress, but restricted to the period of sixty days before and after each session.

8. All postmasters are allowed to send and receive, free of postage, letters and packets containing nothing other than paper or money, and not exceeding half an ounce each in weight; and they may receive one daily newspaper or its equivalent. Every printer of newspapers is entitled, under certain regulations, to send one paper to every other printer of newspapers within the United States, free of postage; and the governor and the adjutant general of each state have the privilege of franking, for particular limited purposes. When a letter or packet is to be franked, the individual writes upon it the word "free," to which he signs his name and adds the office that gives him the privilege of franking. No person who has this privilege, except the head officers of the several executive departments in certain cases, can frank letters other than those written by himself, or by his order, on the business of his office, under a penalty of ten dollars.

## CHAPTER XXXVIII.

## PATENTS AND COPYRIGHTS.

1. THE patent office is attached to the department of state, and at the head of it is the *commissioner of patents*, who is appointed by the president, with the advice and consent of the senate. It is his duty, under the direction of the secretary of state, to superintend and perform all required acts in respect to the granting of patents for new and useful discoveries, inventions and improvements, and he has the charge and custody of all books, records, models, and other things belonging to the office. The persons employed in the office, consisting of five clerks, two assistant examiners, a machinist, and a messenger, are appointed by the commissioner of patents, subject to the approval of the secretary of state. The chief clerk, in the necessary absence of the principal officer, or of a vacancy in that office, performs the duties of commissioner, for the time being.

2. Any person wishing to procure a patent for any new and useful art, machine, or manufacture, may for that purpose make application in writing to the commissioner of patents. He must file in the patent office a written description or specification of the invention or discovery, and of the manner of making and using it, expressed in clear and exact terms; and in case of a machine, he must explain the principle on which it operates, and specify the part, improvement, or combination which he claims as his own invention. He must, when the nature of the case will admit of it, accompany the whole with drawings and written references; and if it can be done, furnish a model of his invention, of a convenient size to exhibit its several parts. The applicant is required to make oath or affirmation that

he verily believes he is the original inventor or discoverer of the art, machine, or improvement in question.

3. No application for a patent will be considered by the commissioner, until the applicant has paid into the treasury of the United States, or into the patent office, thirty dollars, commonly, if he be a citizen of the United States, or an alien who has resided in the United States one year and made oath of his intention to become a citizen; five hundred dollars, if a subject of the king of Great Britain; and any other person, three hundred dollars. The money thus received into the treasury constitutes a fund for paying the salaries of the officers and clerks, and other expenses of the patent office, and is called the patent fund. In case the applicant shall voluntarily withdraw his application, relinquishing his claim to the model, he is entitled to receive back two thirds of the duty paid into the treasury, on account of the application.

4. It was enacted by congress in 1842, that any citizen, or any alien having resided one year in the United States, and taken the oath of his intention to become a citizen, who by his own industry, genius and expense, may have invented or produced any new and original design for a manufacture, or for the printing of fabrics, or for a bust, statue, or the like, or any new and original impression or ornament, or new and useful pattern or print, to be worked into or printed or fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture, may obtain a patent therefor, on making application in the usual way. The fee in such cases is one half the sum which, by existing laws, would be required of the particular applicant, and the duration of the patent is seven years.

5. Whenever, upon examination, the commissioner shall be of opinion, that the party applying is not entitled to a patent, upon his existing application, he is required to notify the applicant to that effect; who may then withdraw his application, or modify it, and submit it again to the commissioner, and if his decision is ad-

verse, he may appeal to the chief justice of the district court for the District of Columbia. If a patent be refused by the commissioner, or by the chief justice of the District of Columbia on appeal from the commissioner, the party may have a remedy by a bill in equity, in the circuit court of the United States. When the commissioner shall be of opinion that the applicant is entitled to a patent upon his specification and claim, as well as when his right has been established in either of the modes to which he may resort, a patent is granted accordingly.

6. All patents issue in the name of the United States, under the seal of the patent office, signed by the secretary of state, and countersigned by the commissioner of patents; and they are required to be recorded, together with the specifications and drawings, in the patent office. Every patent contains a general description of the invention or discovery, and it grants to the applicant, his legal representatives and assigns, the exclusive right to make, use and sell the invention or discovery, for a term not exceeding fourteen years. Patents may be extended for a further term of seven years, when, upon a hearing before the secretary of state, the commissioner of patents, and the solicitor of the treasury, it shall appear to that board that the patentee, without fault on his part, has failed to obtain from his invention a reasonable remuneration for the time, ingenuity and expense bestowed upon it, and they shall deem such extension just and proper.

7. It is the duty of the commissioner to cause to be classified and arranged, in rooms and galleries provided for that purpose, in such manner as shall be conducive to a beneficial and favorable display of them, the models, and specimens of compositions, and of fabrics, and other manufactures and works of art, patented and unpatented, which are deposited in the patent office. These rooms are to be kept open during suitable hours, for public inspection. In December, 1836, the patent office was burnt with all its contents, including the models, specifications, and drawings, and the records

and other documents. Congress, in 1837, passed an act requiring the commissioner of patents to procure duplicates to replace such of the models thus destroyed as were most valuable and interesting, provided they could be obtained at a reasonable expense, the whole amount of expenditure for that purpose not to exceed one hundred thousand dollars.

8. The act of 1842 provides, that if any person shall stamp upon anything made or sold by him, for the sole making and selling of which he has not obtained a patent, the name of any other person who has obtained such patent, without the consent of the patentee; or if any person, upon any such thing, without the license of the patentee, shall stamp the word "patent", or words of the like import, with the intent of counterfeiting the mark of the patentee, or shall affix any such word on an unpatented article, for the purpose of deceiving the public, he shall be liable to a penalty of not less than one hundred dollars. All patentees and assignees of patents granted after the passage of the act in question, are required to have the date of the patent stamped or engraved on each article sold, or offered for sale; and the neglect to do so subjects the party to the penalty above specified.

9. As embraced under the same design, to promote the progress of science and useful arts, the subject of copyrights may be treated of in this connection. Any person being a citizen or resident in the United States, who shall be the author of any book, map, chart, or musical composition, or shall invent, design, etch, or engrave any print or engraving, and the executors, administrators, or legal assigns of such person, have the sole right of printing, publishing, and selling the work, for the term of twenty-eight years from the time of recording the title of it. And there is such provision made, that at the expiration of this time the exclusive right may commonly be continued for the further term of fourteen years, upon recording the title of the work anew, and complying with all other regulations required

in regard to original copyrights, and that within six months before the expiration of the first term.

10. In order to entitle any person to the benefit of copyright, he must, before publication, deposit a printed copy of the title of the book, map, or other article, in the clerk's office of the district court for the district in which the author or proprietor resides, to be there recorded. He must also give information of copyright being secured, by inserting in each copy of every edition published during the term secured, on the title page, or the page immediately following, if it be a book, or if a map, or the like, on the face of it, a notice of the entry. The author or proprietor is required also, within three months after the publication of the work, to cause a copy of it to be delivered to the clerk of the district in which he resides. The copies so deposited, the clerk transmits to the secretary of state of the United States, to be preserved in his office.

11. After the title of any work has been duly recorded, no person may print, publish, or import any copy of it, without the consent of the person legally entitled to the copyright, first obtained in writing, signed in the presence of two or more credible witnesses; and a violation of this provision subjects the offender to a forfeiture of all the copies or sheets, and also to a further penalty. There is no prohibition against importing or publishing any work, the author of which is not a citizen of the United States, nor resident within their jurisdiction. It is allowable to make what, under the circumstances, would be considered fair quotation from a book, but one may not, under the pretence of quotation, publish the whole, or any material part of the work. A real and fair abridgment of a book is not a violation of copyright; such an abridgment being regarded as an original work.

12. Any person who shall print or publish any manuscript, without the consent of the author or legal proprietor, first obtained in writing and duly witnessed, if the author or proprietor be a resident of the United

States, is liable to pay to him all damages occasioned thereby; and the courts of the United States are authorized to grant injunctions to restrain such publication of any manuscript, in the same manner as they may to prevent the violation of the rights of authors and inventors. Private letters of the character of literary composition, have been held to be protected as literary property, and the receiver of such letters has no right to publish them. So where the publication of letters would be a breach of confidence, or be injurious to others, it has been restrained by the courts.

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## CHAPTER XXXIX.

### NEW STATES AND TERRITORIES.

1. THE constitution of the United States provides, that new states may be admitted by congress into the Union; but no new state can be formed within the jurisdiction of any other state, nor by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of congress. Under the authority thus granted, thirteen new states have been added to the thirteen which at first composed the Union. Of these states, Vermont was originally claimed by New York, but it withdrew and established a separate government before the close of the revolutionary war; Kentucky was taken from Virginia; Tennessee from North Carolina; and Maine from Massachusetts. The rest of the new states were formed out of the public domain. Previous to their admission, these states, under the authority of congress, had framed for themselves state constitutions.

2. Some of the new states were admitted upon certain fundamental conditions prescribed by the United States. Louisiana was required to provide by its con-

stitution, that the laws passed by the state should be promulgated, its records preserved, and its judicial and legislative proceedings conducted, in the English language. It was also made one of the conditions, on the admission of that state and of Mississippi, that the river Mississippi, and the navigable rivers and waters leading into it, or into the gulf of Mexico, should forever remain common highways, free to the inhabitants of those states, and of the United States. The admission of Missouri was coupled with a condition limiting a certain clause of the constitution of that state; and Michigan was admitted upon the condition of its accepting the boundaries established for the state by congress.

3. To the several states of Ohio, Indiana, Illinois, Alabama, Missouri, Arkansas, and Michigan, on their admission, certain propositions were offered by congress, for their free acceptance or rejection, which having been accepted are binding upon the United States. One of these propositions was, that section numbered sixteen, in every township, and where that section had been sold, or otherwise disposed of, other lands equivalent, and most contiguous to it, should be granted to the state, or the inhabitants of the township, for the use of schools. It was also proposed that a specified quantity of land, usually seventy-two sections, or two townships, in each state, should be reserved for the use of a seminary of learning, and vested in the legislature of the state, to be appropriated by it solely to that use. To some of those states land was granted for the purpose of fixing their seat of government, and erecting public buildings.

4. Another proposition was, that all salt springs, within each of these states, with the land reserved, or which might be designated in the mode prescribed, for the use of them, not exceeding, in the whole, thirty-six entire sections, should be granted to the state for its use, or that of the people, to be used under such terms and regulations as the legislature of the state should direct; provided that they should not be sold nor leased

for a longer period than ten years, at any one time. In Missouri, Arkansas, and Michigan, the number of springs reserved was limited to twelve; and six adjoining or contiguous sections of land were allowed for each. In Ohio the reservation was of the Scioto salt springs, and the township including them, and the salt springs near the Muskingum river and in the military tract, with the sections of land which include them.

5. It was further proposed to these seven states, that five per cent. of the net proceeds of the lands lying within them, respectively, and which should be sold by congress, should be reserved for certain public purposes. A similar reservation was made in regard to Louisiana and Mississippi. Of this money, in Illinois three fifths are to be appropriated for the encouragement of learning, in Indiana, Mississippi, Alabama, and Missouri, three fifths, and in Louisiana, Arkansas, and Michigan, the whole, for making public roads, canals, and the like, in those states, under the direction of the several state legislatures. In Indiana, Illinois, Mississippi, Alabama, and Missouri, two fifths are to be applied to the making of roads leading to those states, and in Ohio the whole to laying out and making roads leading from the navigable waters emptying into the Atlantic, to the Ohio, and to and through the state, under the direction of congress.

6. The propositions above recited were offered upon certain conditions, for the fulfilment of which the conventions of all the states above named were to provide by an ordinance, irrevocable without the consent of the United States. These conditions, some or all of which were prescribed for each of those states, were, that the waste and unappropriated lands within such state should be at the sole disposal of the United States; that no tax should be imposed on lands the property of the United States; that all land sold by congress should be exempt from any tax laid by or under the authority of the state, for five years after its sale, and bounty lands granted for services during the late war, for three years from the date of the patents, provided they continued to be held by the patentees, or their heirs; and that the lands of

non-resident proprietors should in no case be taxed higher than those of residents.

7. The constitution likewise vests in congress power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States. The region lying northwest of the river Ohio, extending to the Mississippi river, which was then the western boundary of the territory of the United States, and including the present states of Ohio, Indiana, Illinois, and Michigan, and the territory of Wisconsin, was first erected into a territorial government under the ordinance of 1787. This ordinance, which was drawn up by Nathan Dane, then a member of congress from Massachusetts, was established by congress, and consisted of certain articles of compact between the original states and the people and states within that territory, which were forever to remain unalterable, unless by common consent.

8. The ordinance of 1787 contained many salutary provisions for the security of civil, religious and political liberty, and good government. Among other things it provided, that there should be neither slavery nor involuntary servitude in the territory, otherwise than in the punishment of crimes, upon due conviction of the party. It declared that there should be formed within the territory in question not less than three nor more than five states; and that whenever any one of those states should contain sixty thousand free inhabitants, it should be admitted into the Union, on an equal footing with the original states, and be at liberty to form a permanent constitution and state government, which however must be republican, and in conformity to the principles contained in the ordinance.

9. All the territory of the United States west of the river Mississippi, extending to the Pacific Ocean, and including the present states of Missouri, Arkansas, and a part of Louisiana, and the territory of Iowa, was originally called the territory of Louisiana. This whole territory was purchased of France, for about fifteen millions of dollars, and was ceded to the United States by treaty

of 1803. In the act of congress authorizing the people of Missouri to form a constitution and state government, it was provided, in consideration of slavery being allowed to exist in that state, that in all the territory ceded by France, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state of Missouri, slavery and involuntary servitude, except in the punishment of crimes, should be, and they were thereby, forever prohibited.

10. The territory of Florida was ceded to the United States by Spain, by treaty made in 1819, but not ratified by the United States till 1821, when it went into effect. In this territory and in Wisconsin and Iowa, there are territorial governments established by congress. In all that portion of the original territory of Louisiana not included in the states that have been established west of the Mississippi river, or in the territory of Iowa, no organized government exists. A part of this territory, west of Missouri and Arkansas, is appropriated to the Indian tribes that have been removed from the states to that region. The remainder of the territory is little inhabited, but is in the possession, so far as it is occupied at all, of various independent tribes of Indians.

11. In the several territorial governments, the executive power is vested in a governor, who is appointed by the president, with the advice of the senate, for the term of three years, unless sooner removed by the president. There is a secretary, appointed in like manner for four years, who, in case of the necessary absence of the governor from the territory, or of a vacancy in that office, performs the duties of governor, for the time being. The legislative assembly in each territory consists of a council or senate, and a house of representatives, all chosen by the qualified voters of the respective territories. The governor has a qualified negative upon laws passed by the assembly, and they are furthermore subject to the revision and disapproval of congress. The District of Columbia is under the immediate superintendence and government of congress.

## CHAPTER XL.

## THE GENERAL AND SUBORDINATE LAND OFFICES.

1. THE executive duties appertaining to the surveying and sale of the public lands of the United States, and also such as relate to private claims of land, and the issuing of patents for all grants of land under the authority of the national government, are subject to the supervision and control of the *commissioner of the general land office*, under the direction of the president. The commissioner has the charge of the records, books and papers relating to the public lands, and it is his duty to furnish, and certify under the seal of the general land office, copies of any documents in his office, when applied for, to be used in evidence in courts of justice. He is also bound, when required by the president, or either house of congress, to give such information as may be directed, relative to the public lands, and concerning the business of his office.

2. There is a *principal clerk* of the public lands, and one of private land claims, who perform such duties as are assigned to them by the commissioner; and in case of vacancy in the office of commissioner, or of the absence of that officer, the principal clerk of the public lands discharges the duties of that station, for the time being. There is also a *principal clerk of the surveys*, whose duty it is to direct and superintend the making of surveys, and all matters relating to them, and to perform such other duties as are assigned to him by the commissioner. The president of the United States is allowed a *secretary*, who, under the direction of the president, signs for him, and in his name, all patents for lands sold or granted under the authority of the United States.

3. The *recorder* of the general land office is required to certify, and affix the seal of that office to all patents

for public lands, in pursuance of instructions from the commissioner, and to countersign such patents, and attend to the correct engrossing, recording and transmission of them. There is a *solicitor* of the general land office, whose business it is to examine, and report to the commissioner, the state of facts in all cases referred to him by the commissioner, which involve questions of law, or where the facts are in controversy between the agents of the government and individuals, or there are conflicting claims of parties before the department, with his opinion on such cases. When required, he is to advise the commissioner on all questions relative to the public lands, and to render other professional services, connected with the business and duties of the department.

4. All *patents* issuing from the general land office, are required to be in the name of the United States, signed for the president by his secretary, countersigned by the recorder of the general land office, and recorded in that office in books kept for the purpose. Warrants issued by the secretary of war, for lands granted by the United States for military services, are recorded in the land office, and patents are afterwards issued. The commissioner of the general land office, the solicitor, each of the three principal clerks, the recorder, and the secretary to sign patents, are all appointed by the president, with the consent of the senate. There are nearly one hundred clerks and other persons, employed in the general land office, who are appointed by the commissioner of that office.

5. There are, at present, established in the several states and territories in which the public lands of the United States are situated, about seventy subordinate land offices, each of which is under the direction of an officer called the *register* of the land office, who is required to reside at the place where such land office is kept. There is also a *receiver of public moneys*, at each of the places where public or private sales of lands of the United States are made, who receives payment for lands sold, and gives receipts for the money.

Whenever the quantity of land, remaining unsold in any land district, is reduced to less than one hundred thousand acres, it is the duty of the secretary of the treasury to discontinue the land office in such district, unless it be at the seat of government of any state.

6. The several registers are required to receive and enter in books kept exclusively for that purpose, the applications of any person for the purchase of any section or legal subdivision of a section of land, who shall produce a receipt from the treasurer of the United States, or the receiver of public moneys, for the amount of the purchase money, and also a written memorandum, describing the tract to be entered; and the register is to file the receipt and memorandum, and give the party a copy of his entry. A patent for the land afterwards issues from the general land office. The registers are bound to inform any person applying for a particular tract of land, whether it has been already entered, and any register who knowingly and falsely informs the applicant that such land has been entered, and refuses to admit him to enter it, is liable to pay him five dollars for each acre which he offered to enter.

7. The registers and receivers are appointed by the president, with the advice of the senate, and give bonds in the sum of ten thousand dollars each. They have an annual salary of five hundred dollars, and a commission of one per cent. on all moneys entered and received by them respectively; but the whole amount which any register or receiver may retain, is not to exceed three thousand dollars in any one year. Receivers are required to make monthly returns of the moneys received in their several offices, to the secretary of the treasury, and to pay over the money pursuant to his instructions. They also make like monthly returns, and transmit quarterly accounts current between their offices and the United States, to the commissioner of the general land office, who audits and settles the accounts relative to the public lands, certifies the balances, and transmits the accounts, with their vouchers, to the first comptroller, for his decision upon them.

## CHAPTER XLI.

## THE PUBLIC LANDS.

1. THE public domain of the United States embraces the territory acquired under the treaty of peace with Great Britain; the territories of Louisiana and Florida, ceded by France and Spain; and the lands ceded by individual states. The cessions made by the several states were generally expressed to be for the common benefit of all the states. Most of the territory lying northwest of the river Ohio belonged to Virginia, and the cession made by that state, in 1786, was declared to be for a common fund for the use and benefit of such of the United States as were or should become members of the federal alliance, according to their usual respective proportions in the general charge and expenditure, and for no other use or purpose whatsoever.

2. A *surveyor general* of the lands northwest of the Ohio river was appointed in 1796. Other surveyors general, to the number of eight in all, have been appointed, from time to time, for different portions of the public territory. They are authorized to engage a sufficient number of skilful surveyors as their deputies; and it is their duty, pursuant to directions of the president, to cause the public lands, within their respective limits, to which the Indian title has been extinguished, to be surveyed and divided in the manner prescribed by law. Surveyors general are appointed by the president, with the approval of the senate, for four years, unless sooner removed. They are required to give bonds in the sum of thirty thousand dollars, conditioned for the faithful performance of their duties.

3. The public lands, when surveyed, are divided, as far as practicable, by north and south lines, run according to the true meridian, and by others crossing them

at right angles, so as to form *townships* of six miles square. The townships are numbered consecutively, and are divided, by parallel lines run through them each way, into *sections* containing six hundred and forty acres, or a mile square, which sections are numbered, beginning at the northeast section, and proceeding west and east, alternately, through the township, with progressive numbers, from one to thirty-six inclusive. The public lands were at first divided into no smaller portions than sections, but by sundry acts of congress their subdivision has been authorized, in 1800 into half sections, in 1805 into quarter sections, in 1820 into half quarter sections, and in 1832 into quarter quarter sections.

4. All public lands of the United States, when exposed to public sale, are required to be offered in half quarter sections, and when offered at private sale, they may be purchased, at the option of the purchaser, in entire sections, or in half, quarter, half quarter, or quarter quarter sections. Since 1820, no credit is allowed for the purchase money, on the sale of public lands, but every purchaser, if at public sale, must make payment on the day of the purchase; if at private sale, before entering the land at the land office. The price at which public lands are offered for sale is one dollar and twenty-five cents an acre, and no public land can be sold, either at public or private sale, for a less price; and at public sales, the highest bidder who shall make payment duly, is the purchaser. Prior to the introduction of the cash system, in 1820, the price was two dollars an acre.

5. The money derived from the sales of lands belonging to the United States, has heretofore been paid into the public treasury, and applied towards defraying the ordinary expenses of the government. By an act passed at the extra session of congress, in 1841, the proceeds of the sales of such lands, after deducting all expenses incurred in the care and management of the public lands, and after certain reservations in favor of the states in which the lands are situated, were to be

distributed, payable half yearly, among the several states of the Union, and the territories, and District of Columbia, according to their respective federal population, as ascertained by the last census, to be applied by the state legislatures to such purposes as they should deem proper. The distribution was to cease in case of war; and also whenever the rate of duties on any articles imported should be raised above twenty per cent. on the value of them. The latter event having occurred, the act in question is rendered inoperative.

6. A law was passed in 1807, prohibiting all persons from taking possession of, or making settlements, without authority, upon lands ceded to the United States, and the president was empowered to direct the proper marshal to remove such intruders, and they were moreover, in certain cases, liable to be punished by fine and imprisonment. It has, however, been the practice, to a great extent, for persons to settle upon the public lands, without right or title, and to cultivate and improve them. Such settlers are known by the name of *squatters*. In order to hold out encouragement for the settlement of the vacant lands, congress has from time to time passed various laws, called *pre-emption* laws, securing to actual settlers certain privileges, and especially the preference in becoming the purchasers, at the government price, of the lands on which they shall have settled.

7. By the act of 1841, it is provided that every person, being the head of a family, or a widow, or single man over the age of twenty-one years, and being a citizen of the United States, or having duly filed a declaration of intention to become such, who, since the first day of June, 1840, may have made a settlement in person, upon public lands to which the Indian title has been extinguished, and which have been surveyed, and who shall inhabit and improve the land and erect a dwelling upon it, may, with certain limitations and exceptions, and upon complying with the required conditions, enter with the register of the land office for the district in which the land lies, by legal subdivisions, any

number of acres not exceeding one hundred and sixty, to include the person's place of residence, by paying to the United States the government price of the land.

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## CHAPTER XLII.

### FOREIGN MINISTERS AND CONSULS.

1. AMBASSADORS, or *ministers*, are diplomatic representatives of their sovereigns or states, resident at foreign courts, for purposes of negotiation and friendly intercourse between their own country and that to which they are deputed. It is through the correspondence of its foreign ministers that a government is kept advised of the policy and movements of the governments at which they are stationed, and of others which are there represented. Ministers act under instructions from their own government, and their authority extends to conducting the ordinary diplomatic intercourse, and such special negotiations as may be intrusted to them. According to the prevailing usage, a minister is not invested with power to bind his sovereign or state conclusively, by treaty; but the government reserves to itself the right to ratify or dissent from the treaty entered into by its minister.

2. The persons of foreign ministers are inviolable; they are exempt from all allegiance to the state to which they are delegated, and are not amenable to its jurisdiction, civil or criminal. By fiction of law, they are considered as out of the territory of the foreign power, and within that of their own country, the government of which has exclusive cognizance of their conduct. The attendants of a minister attached to his person, and the house in which he resides, are equally privileged. But, in case of any gross insult, or open attack upon the laws or government of the nation to which the minister is sent, that nation may refuse to

treat with him, or may apply to his own sovereign for his recall, or he may be dismissed and required to depart within a reasonable time.

3. There are several classes of diplomatic agents. *Ambassadors* are of the highest grade; *envoys extraordinary and ministers plenipotentiary*, of the second; and *chargés d' affaires*, of the third. *Ministers resident* hold a rank and dignity intermediate between the last two classes, being placed sometimes with the one, sometimes with the other. The United States have never deputed any person with the rank of ambassador, but they are usually represented at the courts of foreign powers of the first class, by ministers plenipotentiary; and at those of inferior grade by *chargés d' affaires*, or sometimes by ministers resident. A minister plenipotentiary is regularly accompanied by a *secretary of legation*, who, in the absence of the minister, or while that office is vacant, performs some part of the duties of minister.

4. The president is authorized to allow not exceeding the rates, respectively, of nine thousand dollars a year to a minister plenipotentiary, six thousand to a minister resident, four thousand five hundred to a *chargé d' affaires*, and two thousand to a secretary of legation, as a compensation for all their personal services and expenses. And he may allow to a minister plenipotentiary or resident, or a *chargé d' affaires*, on going from the United States to any foreign country, an outfit not greater than one year's full salary. It has been the practice to allow as salaries the full sums above named, and an outfit, where authorized, equal to one year's salary. All these diplomatic functionaries are required to be appointed by the president, with the advice of the senate; but in the recess of the senate the president may make appointments, which shall be submitted to the senate, for confirmation, at their next succeeding session.

5. *Consuls* are commercial agents, appointed to reside in foreign seaports, to watch over the commercial rights and interests of the nation by which they are

constituted. They are not public ministers in such a sense as to be entitled to the privileges and immunities belonging to that character, nor do they enjoy any peculiar protection of the law of nations, but are subject to the jurisdiction of the country in which they reside. Consuls of the United States are sometimes sent out from this country, and sometimes persons are appointed to that office who are citizens or subjects of the foreign country at the ports of which they are stationed. They are frequently merchants who are engaged in active commercial pursuits. They are appointed by the president, with the approbation of the senate, and are usually paid by fees for their official services. But the consuls at the Barbary States, Muscat, China, the Independent Pacific Islands, and Hayti, have an annual salary of two thousand dollars each, and the consul at Algiers four thousand, instead of fees; and those at London and Paris each receive two thousand dollars a year or upwards, in addition to their fees.

6. By the laws of the United States, consuls are authorized to receive the protests of shipmasters and other persons, relative to the commerce of the United States, or to the personal interest of any of their citizens. It is their duty, where the laws of the country permit, to administer on the personal estate of citizens of the United States, dying within their respective consulates and leaving there no legal representative. They are also required, in the absence of the master, owner or consignee, to take measures for saving vessels of the United States and their cargoes, when stranded on the coasts of their consulates; and to provide subsistence for American seamen, who may be found destitute within their districts, and send them home at the public expense. To secure the faithful performance of their duties, consuls are required to give bonds in a sum not less than two thousand, nor more than ten thousand dollars.

## CHAPTER XLIII.

## INTERNATIONAL RELATIONS.

1. ALL independent nations stand on a basis of equality, with respect to each other, and no nation has a right to control or dictate the internal polity of any other. The laws of any nation have no intrinsic force beyond the limits of its own territory, but by mutual comity nations are in the practice of paying a certain degree of respect and observance to foreign laws and usages. In their intercourse with each other, nations act, in some measure, on principles of reciprocity; as in the case of laying *discriminating duties* on imports, whereby the products of a particular country are made to pay higher duties than those of other countries.

2. The relations and intercourse of nations are commonly established and regulated by *treaties*. Treaties are made by diplomatic agents or ministers, who are invested with authority for the purpose, by their respective governments, and who meet usually at the court of one of the powers, if they are at peace with each other, and deliberate upon the matters which are the subject of consideration. When the terms of the treaty have been digested and settled, they are put in writing, and two exact copies are made, which are signed and sealed by the ministers who conduct the negotiation. One of these copies is sent to the government of each of the contracting powers, and when ratified by them both, and not before, the transaction takes effect as a treaty.

3. In time of peace, friendly intercourse between nations is kept up by means of their diplomatic representatives, stationed at each other's courts. In case of war, these representatives return home, and all intercourse between the two nations is broken off. Sometimes when a serious misunderstanding arises between

nations, threatening war, the ministers are either recalled by their own government, or dismissed by that at which they are resident, and thus the amicable relations subsisting between them are interrupted. There are certain measures occasionally resorted to by one nation to harass the commerce of another, which are not strictly belligerent, but are of a hostile character, and tend to bring on war; such as issuing letters of marque and reprisal, and laying embargoes.

4. *Letters of marque and reprisal*, or commissions from the government to individuals to seize the property of the delinquent state or of its subjects, are designed as a means of obtaining redress. They are granted in cases where one nation, in its public capacity, or by its subjects, has been guilty of some specific and palpable injury to another nation, or its subjects, as by withholding a just debt, or by violence to person, or property, and refuses to make reparation. A letter of *marque* is properly an authority to cross the boundary of the injurious party; one of *reprisal*, to seize his property; but the two are coupled together. The property so taken is brought into port, and detained as a pledge, or sold under the proper judicial authority.

5. An *embargo* is a prohibition laid upon the departure of vessels and their cargoes, from the ports of a state, during a certain specified time, or indefinitely. This is done by means of a proclamation issued by authority of the state, and usually in cases of threatened hostilities. Such a detention of property is an act at first equivocal in its nature. If the controversy between the two nations is amicably adjusted, the seizure becomes a mere civil detention; but if it results in war, the embargo assumes the character of a hostile measure from the first, amounting to an implied declaration of war; and the property detained is liable to condemnation as enemy's property.

6. Previous to the commencement of hostilities, it has been usual to make a public declaration of war, though war may lawfully exist without any formal declaration. But there must be some official act on the

part of the government, to apprise the people at home, as well as foreign nations, of the new state of things. By the strict rule of the law of nations, all property of the enemy found in the country, and their vessels and cargoes in its ports, at the commencement of hostilities, are liable to seizure and confiscation; but the exercise of this right rests in the discretion of the government. The declaration of war operates as an absolute interdiction of all commercial intercourse and dealing between the subjects or citizens of the two countries, and all contracts made with the enemy during the continuance of the war are void.

7. By the laws and usages of war, private property may be captured at sea, though, in general, it is not deemed allowable to take private property upon land, without making compensation for it. In time of war, armed vessels are frequently fitted out by private individuals, to cruise against the commerce of the enemy. Such vessels are called *privateers*, and are commissioned by the government. The *prize money*, or proceeds of the property captured by these vessels, as well as by public vessels, it is the practice for the government to distribute, wholly or in great part, among the captors. When an enemy's vessel has been taken at sea, it must be brought into port for adjudication, and the property in it is not changed, so that a good title can be conveyed, until a regular sentence of condemnation has been passed upon it, by a court of competent authority.

8. *Neutral* nations, or those that take no part in the war, are allowed to carry on their accustomed trade with both the belligerent nations, under certain restrictions. Among these restrictions, neutrals are prohibited from furnishing the belligerents with such goods as come under the denomination of *contraband of war*, including arms, munitions of war, and warlike stores. Contraband articles found on board a neutral vessel by a belligerent are confiscated to the captor, together with all the rest of the cargo belonging to the same owner, and the vessel also, if that be his. Carrying hostile

despatches by a neutral is unlawful, and subjects the vessel to confiscation. And the penalty for a breach of blockade is the confiscation of the vessel, and generally of the cargo.

9. A *blockade* is an interception, by one of the belligerents, of all commercial communication with a place occupied by the other. To constitute a blockade, there must be a competent naval force stationed near enough to the port to render dangerous any attempt to enter. The neutral must also have had due notice of the existence of the blockade, in order to subject him to the penalty for its violation. The blockade may be broken by going in or attempting to enter, or by coming out with a cargo laden after the commencement of the blockade. It is said to be *raised*, when the blockading squadron voluntarily abandons its station or is driven off by a superior force. A vessel that has committed a breach of blockade is subject to capture at any time before the end of the return voyage.

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## CHAPTER XLIV.

### ALIENS AND NATURALIZATION.

1. An *alien*, in this country, is a person born without the jurisdiction of the United States. Such persons cannot, in general, hold any civil office, or have any part in the administration of government; and they are subject to certain incapacities in regard to the possession and transmission of property. *Alien enemies*, or citizens or subjects of any foreign nation with which the United States are at war, if found within their limits, are liable to be apprehended, secured and removed; and the president is authorized, by his proclamation, or other public act, to direct the conduct to be observed towards such persons. But if not chargeable with actual hostility, they are to be allowed a reasonable time

for the recovery, disposal and removal of their effects, and for their departure from the country.

2. An alien may acquire, hold and transmit personal property, in the same manner as a citizen; and in case of his death such property goes as directed in his will, if he left one; otherwise it is distributed according to the law of the place of his residence, at the time of his death. An alien cannot gain a title to real estate by descent, or other mere operation of law. He may purchase land, or take it by devise, but where there is no statute provision to the contrary, the land is liable to be forfeited to the state, upon certain proceedings had, and on the death of the purchaser it cannot descend to his heirs, but *escheats*, as it is termed, and goes to the state. He may make a conveyance of land which will bind himself, but it will not be valid as against the government.

3. The constitution vests in congress the power to establish a uniform rule of *naturalization* throughout the United States, and provision has accordingly been made, by which aliens, being free white persons, may become entitled to the rights and privileges of citizens. For this purpose, the individual is required to declare, on oath, before a court of record of some state, having common law jurisdiction, and a seal and clerk, or a circuit or district court of the United States, or before the clerk of either of these courts, two years at least before his admission to citizenship, his intention to become a citizen of the United States. At the time of his admission, which can be only when his native country is at peace with this, he must declare upon oath, before one of these courts, that he will support the constitution of the United States, and that he renounces and abjures all foreign allegiance.

4. To entitle the applicant to admission, he must prove to the court that he has resided within the United States five years at least, and within the state or territory where the court is held at least one year; and his own oath is never admitted to prove his residence. He must also satisfy the court that he has, during this

time, been of good moral character, and attached to the principles of the constitution. If he has borne any hereditary title, or order of nobility, he is required to renounce it. In case he shall have arrived in this country since the close of the war, in 1815, he must have resided here for the continued term of five years next preceding his admission, without being, at any time during that period, out of the territory of the United States.

5. The declaration of intention to become a citizen is dispensed with, in case the alien resided in this country previous to the 18th of June, 1812, and has since continued to reside here; and such applicant may be admitted on his proving, by the oath of citizens, a residence within the United States, for at least five years immediately preceding the time of his application. So if the party has resided in the United States three years next preceding his arrival at the age of twenty-one years, and thenceforward to the time of his application, he may, after he attains his majority, and has resided here five years, including the three years of his minority, be admitted a citizen without having made the previous declaration. But he is required to make the declaration at the time of his admission, and also to declare upon oath, and prove to the satisfaction of the court, that for three years next preceding, it has been his actual intention to become a citizen.

6. When any alien, who has made the required declaration, dies without being actually naturalized, his widow and children are to be considered as citizens, and entitled to all rights and privileges as such, on taking the oaths prescribed by law. The children of persons duly naturalized, being under twenty-one years of age at the time when their parents were admitted to citizenship, are, if dwelling in the United States, to be deemed citizens; but the right of citizenship does not descend to persons whose fathers have never resided within the United States. The period of residence required before an alien can be admitted a citizen, has varied from time to time. In 1790 it was but two years,

then five, afterwards fourteen, and by the act of 1802 it was fixed at five years, and it has so remained ever since.

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## CHAPTER XLV.

### THE SLAVE TRADE.

1. SLAVERY was introduced into the American colonies soon after their first settlement. The first slaves are said to have been brought to Virginia, in 1619, by a Dutch ship. The demand for slaves, from time to time, was supplied by importations from the coast of Africa. In some of the colonies, efforts were made to put an end to this trade, but all such movements were discountenanced and frustrated by the English government. In the declaration of independence, as drawn up by Mr. Jefferson, it was made one of the grounds of complaint against the reigning sovereign of Great Britain, that he had prostituted his negative for suppressing every legislative attempt to prohibit or restrain that execrable commerce. This clause, however, was struck out, after the declaration was reported to congress. The further importation of negroes was prohibited by Virginia in 1778, and by several of the other states about the same time.

2. The constitution of the United States contains the following provision in respect to the slave trade: The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person. By *migration* was probably intended the removal, or transfer of slaves from one state to another; by *importation*, the introduction of them from abroad. A tax is authorized to be laid on the importation, but not on the migration; which, if the terms be understood in the sense above

explained, may be accounted for on the ground that a *migration* includes an *exportation from a state*, and by another clause of the constitution it is declared that no tax or duty shall be laid on articles exported from any state.

3. It is observable that the restriction upon congress respected only the states *then existing*, leaving that body at liberty, at any time, to prohibit the introduction of slaves into any other portion of the territory of the United States. This power was exercised by congress in 1804, when, by the act for dividing Louisiana into two territories, and providing for the government of the southern portion, it declared that no slaves should be imported from abroad, and none be brought from any port or place within the United States, that had been imported since the 1st of May, 1798, or that should thereafter be imported. And as the restriction was confined to such persons as any state chose to admit, congress could act, immediately, with the coöperation of the states. Accordingly, it was enacted, in 1803, that no person should, under a prescribed penalty, import any person of color, with certain exceptions, into any state which should by law have prohibited such importation.

4. Congress passed an act prohibiting absolutely the importation of slaves from abroad, to take effect at the earliest day permitted by the constitution. That, and subsequent acts on the subject, imposed certain penalties upon offenders, and subjected to forfeiture all vessels employed in the trade. The act of 1818 fixed the penalty for bringing into the United States any person of color from abroad, or holding or selling such person as a slave, at a sum not exceeding ten thousand nor less than one thousand dollars, and imprisonment for not more than seven, nor less than three years. By the act of 1820, any citizen of the United States, or any person whatever employed on board of their vessels, who shall land on a foreign shore and seize any negro or mulatto, not held to service by the laws of either of the United States, or shall decoy, or forcibly bring or detain on board, or shall sell or transfer any

such person, with intent to make him a slave, is adjudged a pirate, and is liable to the punishment of death.

5. At the time of abolishing the foreign slave trade, in 1807, congress established certain regulations respecting the domestic trade. No master of a vessel of less burthen than forty tons is allowed to take on board and transport, except on rivers or inland bays of the sea within the jurisdiction of the United States, any negro, mulatto, or other person of color, to be sold or disposed of as a slave, or held to service, under a penalty of eight hundred dollars, for each person so transported. And any master of a vessel of forty tons or upwards, sailing coastwise from one port to another in the United States, having on board persons of color, for the purpose of transporting them to be sold or held as slaves, is required first to make out and subscribe duplicate *manifests*, or schedules, of all such persons on board, specifying certain enumerated particulars in regard to each, with the name and residence of every owner or shipper.

6. The manifests are delivered to the collector of the port, before whom the master and the owner or shipper must make oath, to the best of their knowledge and belief, that the persons specified in the manifests were not imported into the United States after the 1st of January, 1808, and that under the laws of the state they are held to labor. The collector then certifies the manifests, one of which he returns to the master, with a *permit*, authorizing him to proceed on the voyage. By disregard of these regulations the master incurs a penalty of one thousand dollars for each person transported, and the vessel is forfeited. On arriving at the port of destination, the master must deliver the certified manifest, to the collector of the port, and obtain a permit for unloading. If he shall refuse or neglect to deliver the manifest, as required, or shall land any person of color without a permit, he forfeits ten thousand dollars. Penalties under the laws respecting the slave trade go, one half to the United States, the other half to the prosecutor.

## CHAPTER XLVI.

## SLAVERY IN THE UNITED STATES.

1. At the time of the revolutionary war, slavery existed, to some extent, in all the states; but in several of them it was abolished soon afterwards. The *ordinance*, established by congress in July, 1787, for the government of the territory northwest of the river Ohio, provided that there should be neither slavery nor involuntary servitude in that territory, otherwise than in the punishment of crimes, upon due conviction of the parties. In the convention which framed the constitution of the United States, and which met in the same year, the subject of slavery was one that was attended with most embarrassment. The difficulties that arose in relation to it, were finally adjusted by way of compromise. The constitution nowhere speaks of slavery or slaves, by name, but it contains, besides those relating to the slave trade, important provisions growing out of the subject, in reference to the apportionment of representatives in congress, and to reclaiming fugitive slaves.

2. For the purpose of representation, it was agreed that five slaves should be reckoned equal to three free-men; so that three fifths of the number of slaves are to be added to the whole number of free persons, in each state, to constitute what is called the *federal population*, which is the basis of the apportionments. The effect of this provision has been, to give to the slave-holding states from fifteen to twenty-five representatives more than they would have been entitled to, had the basis been one of free persons only. At present, they have twenty-four representatives for their slave population. Those states have also a corresponding advantage in the election of president and vice president, since, by the constitution, each state is

allowed a number of electors equal to the whole number of senators and representatives to which it is entitled in congress.

3. The provision of the constitution in regard to fugitive slaves is, that no person held to service in one state, under its laws, escaping into another, shall, in consequence of any law or regulation in the latter state, be discharged from such service, but shall be delivered up on claim of the party to whom the service is due. To effectuate this provision, congress, in 1793, passed an act, extending to all the territories as well as the states, authorizing, in such case, the person to whom the service is due, his agent or attorney, to seize such fugitive from labor, and take him before any judge of the circuit or district courts of the United States, who resides or is within the state, or before any magistrate of the county, city, or town, in which the seizure is made.

4. The judge or magistrate, before whom the person so seized is brought, upon proof, to his satisfaction, either by oral testimony, or affidavit taken and certified by a magistrate of the state or territory, that such person does, under the laws of the state or territory from which he fled, owe service to the person claiming him, is bound to give a certificate to that effect to the claimant, which is a sufficient warrant for removing the fugitive to the state or territory from which he escaped. Any person who shall obstruct or hinder such claimant in making the seizure, or shall rescue such fugitive, or harbor or conceal him after notice that he is a fugitive from labor, for either of these offences forfeits five hundred dollars, to be recovered for the benefit of the person claiming the slave.

5. The constitution recognizes no distinctions founded on color. Such distinctions are, however, made by the laws of the United States, in several instances. There is no provision for the naturalization of other than white persons; and none but white persons can be enrolled in the militia, or be employed in carrying the mail. In the District of Columbia, which is under

the exclusive legislation of congress, some of the laws bear peculiarly hard upon persons of color. The legal presumption is said to be, that such persons going at large, without any evidences of their freedom, are absconding slaves. They may be arrested and imprisoned on suspicion of being fugitives, and if unable to prove their freedom within a given time, or to pay the jail fees and expenses allowed by law, they are liable to be sold as slaves. The domestic slave trade prevails to a great extent, at the seat of the national government; and the laws of the city of Washington require the payment of four hundred dollars for a license to trade or traffic in slaves for profit.

6. In the seven most northerly of the original states, in Vermont, and in Maine, which was a part of Massachusetts, slavery was long since abolished by their state constitutions, or by law. In Ohio, Indiana, Illinois, and Michigan, and the territory of Wisconsin, it was prohibited by the ordinance of 1787. At the time the admission of Missouri into the Union was under discussion in congress, an effort was made to exclude slavery from that state. The attempt, however, failed; and the controversy resulted in a compromise by which, in all that territory ceded by France to the United States, under the name of Louisiana, lying north of thirty-six and a half degrees north latitude, not included within the limits of the state of Missouri, slavery and involuntary servitude, otherwise than in the punishment of crimes, were forever prohibited. The line in question is on the same parallel with the boundary line betwixt Virginia and North Carolina. In this case, as well as by the ordinance of 1787, the right of reclaiming fugitives from labor was expressly reserved.

7. The committee appointed, in 1776, to revise the laws of Virginia, had agreed upon the principles of an amendment to the existing laws relative to slavery; the plan being, the freedom of all born after a certain day, and deportation at a proper age. But it was found the public mind would not then bear the proposition. Slavery now exists by law, in all the states south of

Mason and Dixon's line, which is the southern boundary of Pennsylvania, in those south of the river Ohio, in Missouri, Arkansas, and Louisiana, and in the District of Columbia and the territory of Florida. Delaware now contains less than one third the number of slaves it had in 1790; and in Maryland, slavery, for the last thirty years, has been decidedly on the decline. In Virginia and North Carolina it has, of late, been nearly stationary. In the other southern states, and especially in several of the new ones, it has been, and is still, rapidly increasing.

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## CHAPTER XLVII.

### BANKRUPTCY.

1. THE constitution vests in congress the power to establish uniform laws on the subject of *bankruptcies*, throughout the United States. Bankrupt laws are designed to relieve persons who have been unfortunate in business, by discharging them from their debts and engagements, on their surrendering all their property for the benefit of their creditors. The aim of such laws is at once to free the debtor from the discouragement of laboring always under an overwhelming burden of debt, and to secure to all the creditors an equal participation in his actual, present effects. A bankrupt law was passed by congress in 1800, but was repealed in 1803. Since that time, though the subject has been often agitated, this power has never been exercised by congress, until the extra session in 1841, when a law was enacted, establishing a uniform system of bankruptcy throughout the United States, to go into effect on the 2d of February, 1842.

2. In the absence of all legislation on the subject by congress, several of the states have, heretofore, passed *insolvent* laws,—which, properly, are laws exempting

the person from arrest,—but these state laws have frequently been so framed as to have the effect, to some extent, of bankrupt laws. But since the states are prohibited by the constitution from passing any law impairing the obligation of contracts, no state law could ever discharge a person from contracts entered into before the passage of the law, or from those made or to be performed without the state; nor could any discharge under a state law protect the insolvent from arrest, beyond the limits of the state, at the suit of a creditor without the state. Congress having the power to pass *uniform* bankrupt laws, when once such a law has been passed and goes into operation, it is understood that the diverse state insolvent laws are thereby suspended, in respect to persons and cases within the purview of the act of congress.

3. By the act of 1841, any person owing debts, not created by defalcation as a public officer or while acting in a fiduciary capacity, who shall, by petition setting forth, to the best of his knowledge and belief, a list and specification of his creditors, with an accurate inventory and description of his property and effects, verified by oath, apply to the proper court for the benefit of the act, and declare himself unable to meet his debts and engagements, may be declared a bankrupt, by a decree of the court. In this case, the bankruptcy is *voluntary*. It may be *compulsory*; in which case any person, being a merchant, broker or the like, owing debts to the amount of two thousand dollars, may be declared a bankrupt on the petition of one or more of his creditors to whom he owes debts amounting in the whole to five hundred dollars, whenever such person has committed any of certain specified acts, which are deemed indicative of an intention to defraud his creditors.

4. The petition is deposited, or *filed*, in the district court of the district in which the debtor resides, and notice of it is published in one or more newspapers in the district, at least twenty days before the time assigned for the hearing. At the proper time, if no valid objec-

tion is offered, the petitioner is declared a bankrupt. By the decree of bankruptcy, the property of the debtor is, by mere operation of law, divested out of him, and vested in the assignee, when one is appointed. The bankrupt is allowed his necessary household and kitchen furniture, and such other articles and necessaries as the assignee shall designate and set apart, having reference, in the amount, to the family, condition and circumstances of the bankrupt, but altogether not to exceed three hundred dollars in any case; and also the wearing apparel of the bankrupt, and that of his wife and children: and the determination of the assignee is, on exception taken, subject to the final decision of the court.

5. The *assignee* is appointed by the court, soon after the decree of bankruptcy. He may be required to give bond, with sureties, conditioned for the due and faithful discharge of all his duties; and he is removable at the discretion of the court. He is authorized to sell, manage and dispose of the bankrupt's effects, and to prosecute and defend suits, subject to the orders and directions of the court. All sales and conveyances of property are made under the direction of the court; and all proceeds of the estate, received by the assignee in money, must be paid into court within sixty days. It is the duty of the court to direct the effects to be reduced to money as early as is consistent with a due regard to the interests of the creditors; and as often as once in six months from the decree of bankruptcy, a dividend out of the money collected, is to be made among the creditors who have proved their debts.

6. After the decree of bankruptcy, the bankrupt may present to the court a petition for a discharge from all his debts, and a certificate of it; which, however, cannot be granted until after ninety days from the decree of bankruptcy, nor until after seventy days' notice, in some public newspaper, of the petition, and of the time and place of hearing. The bankrupt is at all times subject to examination, upon oath, on all matters relating to his bankruptcy, to his acts and doings, and

to his property, when the court shall deem it necessary and proper, for the purposes of justice. If, upon the hearing for that purpose, a discharge shall not be decreed to the bankrupt, he may demand a trial by jury, in the district court, or may appeal to the circuit court, where the appeal may be determined by the court, or by a jury, at the option of the bankrupt.

7. The bankrupt is not entitled to a discharge if he has been guilty of any fraud, or wilful concealment of his property; or has preferred any of his creditors contrary to the provisions of the act; or has wilfully omitted or refused to comply with the orders of the court and the requisites of the act; or has admitted a false or fictitious debt against his estate. Neither is he, if being a merchant, broker or the like, he has not kept proper books of account since the passing of the act; nor is any person who, since the passing of the act, has applied trust funds to his own use. Payments or conveyances made by a person, in contemplation of bankruptcy, for the purpose of giving any creditor a priority over others, or to any person other than an actual creditor, or a purchaser for a valuable consideration, without notice of the contemplated bankruptcy, are void; and the assignee under the bankruptcy may recover back such money or property.

8. *Commissioners* in bankruptcy are appointed by the court, to receive the proof of debts, to examine and certify papers and take depositions, and to perform various other duties. Proof of debts or other claims is made by the oath of the creditor, and may be before the court decreeing the bankruptcy, or a commissioner of the court, or before any disinterested state judge of the state where the creditor lives. The written proofs are filed in the district court, which has full power to set aside or disallow any debt, upon evidence that it is founded in fraud, illegality or mistake; and as well the assignee as the creditor may have a trial by jury, to ascertain the validity and amount of any claim. Where there are mutual accounts between the parties, the balance is deemed the true debt.

9. All creditors who have proved their claims, share equally in the bankrupt's effects; except that debts due by the bankrupt to the United States, or to persons who, by the laws of the United States, are entitled to a preference, by reason of having paid money as his sureties, are to be first paid; and any person who has performed labor as an operative in the service of the bankrupt, within six months next before his bankruptcy, receives the full amount of his wages, not exceeding twenty-five dollars. The bankrupt, when he has obtained a regular discharge, is absolved from all debts and contracts provable under the act, whether they have been actually proved or not. But no discharge of a bankrupt releases any person who was liable for the same debt, as a partner, joint contractor, or otherwise, with the bankrupt. Neither does the act impair any lawful rights of married women or minors, or any mortgages or other valid securities on property.

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## CHAPTER XLVIII.

### NAVIGATION.

1. VESSELS of the United States have certain privileges in regard to duties on their tonnage, and on goods imported in them. Vessels registered according to law, and wholly owned and commanded by citizens of the United States, are alone entitled to the privileges of vessels of the United States; except that vessels of twenty tons and upwards, enrolled and having a license in force, and those of less than twenty tons, not enrolled, but having a license in force, enjoy the privileges of vessels of the United States, employed in the coasting trade and fisheries. To entitle vessels to be registered, or enrolled and licensed, they must, with certain exceptions, have been built in this country, and they must belong wholly to citizens of the United States.

2. Vessels are *registered* by the collector of the district in which the port is where they belong, at the time they are registered. Previous to the registry of a vessel, the necessary facts relative to its character, and the citizenship of the owners and master, must be established in the mode designated. The vessel is then measured, and its tonnage ascertained; and a bond is required, conditioned that the certificate of registry shall be used solely for that vessel, and that, upon the happening of certain contingencies, it shall be delivered up to the collector. When all the conditions have been complied with, the collector makes, and keeps in a book, a record of the transaction and proofs, and grants an abstract or certificate of this record.

3. The like requisites are necessary for the *enrolment*, as for the registry of a vessel, and the same proceedings are had. A record of the enrolment is made, and an abstract or copy of it granted, in the form directed by law. In order to the licensing of any vessel for carrying on the coasting trade or fisheries, certain prescribed securities are required that the vessel shall not be employed in any trade to defraud the revenue of the United States, or the license be used for any other vessel or employment than that for which it was granted. Every registered or licensed vessel is required to have its name and the port to which it belongs painted on the stern, on a black ground, in white letters, of a specified size.

4. No vessel arriving in the United States from any foreign port, or the cargo on board, can be entered elsewhere than at one of the authorized ports of *entry*; and the cargo can be unladen only at one of the ports of *delivery*. No goods can be brought into the United States in any vessel owned wholly or in part in this country, unless the master shall have on board a *manifest*, in writing, signed by himself, specifying the places where the goods mentioned in it were taken on board, and the places for which they are consigned; the description of the vessel, and the name of each owner, according to the register, and of the master; and contain-

ing a particular account of all the goods on board, the names of the persons to whom they are consigned, as by the bills of lading, the names of the passengers, with their baggage, and an account of the remaining sea stores.

5. Every master of such a vessel, on his arrival within four leagues of the coast, or within any of its bays, harbors, or inlets, is bound, upon demand, to produce the required manifests to such officer of the customs as shall first come on board for inspection, and to deliver him true copies of them. The officer having duly certified the original manifests, and the copies, transmits the latter to the collectors of the several districts to which the goods purport to be consigned. And upon his arrival within the limits of any collection district, in which any part of the cargo is to be discharged, the master is required, in like manner, to exhibit his manifests, and to furnish copies to the officer of the customs who shall then first come on board, who certifies the original manifests, and transmits the copies to the collector of that district. The original manifests, thus certified, are afterwards delivered to the collector, by the master.

6. Within twenty-four hours after the arrival of a vessel from any foreign place, at any established port of the United States at which an officer of the customs resides, or as soon after that time as the hours of business at the custom house will permit, it is the duty of the master to make report to the chief officer of the customs, of the arrival of his vessel; and within forty-eight hours after, to make a further report in writing to the collector of the district. This latter report is to be in the form and to contain all the particulars required to be inserted in a manifest, and the truth of it must be sworn to by the master, before the collector.

7. Any vessel bringing into the United States from any foreign place, goods specified in the manifests to be for different collection districts, may proceed from district to district for the delivery of them. The master, in such case, must obtain from the collector of the

district within which he first arrives, a certified copy of the report and manifests, and also from him and from each successive collector, a certificate of the quantity and particulars of the goods that have been landed in his district; which copy and certificates he is bound to produce to the collector of any other district, on making report and entry. And he is required to give bond in the district where he first arrives, conditioned for the due entry and delivery of the residue of the goods conformably to his report of their destination.

8. In the case of a foreign vessel, the register, or corresponding document, together with the clearance and other papers granted by the officers of the customs to the vessel, at her departure from the port from which she may have arrived, must, in general, previously to entry in any port of the United States, be produced to the collector of the port where the entry is to be made. And the master is required, within forty-eight hours after the entry, to deposit these papers with the consul of the nation to which the vessel belongs, and to deliver to the collector a certificate from the consul, that they have been so deposited. The papers in question the consul is forbidden to return to the master, until he shall produce a clearance, in due form, from the collector of the port where the vessel was entered.

9. Before *clearance* can be granted for any vessel bound to a foreign place, the owner, shippers, or consignors of the cargo are obliged to deliver to the collector, on oath, a manifest, in writing, subscribed by them respectively, specifying the kinds and quantities of articles, and the actual total value of each kind, at the port and time of exportation; and the master and shippers must state, upon oath, to the collector, the foreign place at which the cargo is intended to be landed. Every vessel of the United States going on a foreign voyage, is required to be furnished by the collector of the district where the vessel is, with a *passport*, the form of which is prescribed by the secretary of state, with the approbation of the president. The master must give bond with sureties, conditioned that the

passport shall not be used for any other vessel, and that, in case of the loss or sale of the vessel, the passport shall be returned to the collector.

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## CHAPTER XLIX.

### THE SHIPMENT AND LANDING OF GOODS.

1. WHEN goods are received on board of a vessel they are in the keeping of the master, who is responsible for them. The first mate of the vessel has however, usually, in fact, the principal superintendence of the cargo. Sometimes a *supercargo* is specially employed by the owner of the cargo, and sent out to take charge of it on the voyage, to sell it at the foreign port, and purchase a return cargo. But goods are more commonly shipped on *consignment* to some person who has ordered them, or who is to sell or dispose of them as directed. In such cases the person who sends the goods is called the *consignor*, or shipper, the person to whom they are directed at the foreign port, the *consignee*. The consignor makes and sends to the consignee an invoice of the goods, and also causes three or four bills of lading to be made out.

2. An *invoice* is an account, or schedule of the goods shipped, with the marks and descriptions of each package particularly set forth. A *bill of lading* is a paper signed by the master of the vessel, whereby he acknowledges that he has received in good order, on board of his vessel, stating the place of shipment, and the names of the shipper, vessel, and master, certain specified goods, which he promises to deliver, in like good order, dangers of the seas excepted, at the place and to the person therein named, or his assigns, he or they paying a stated freight. Of these bills of lading, one at least is sent to the consignee, one is retained by the master, and one by the shipper. One of the

bills being presented by the consignee, or the person to whom he may have assigned it, is authority to the master to deliver the goods, which he is bound to do on payment of the freight.

3. On a considerable part of the goods imported into the United States, certain *duties* are imposed. Formerly, when the amount of duties on merchandise imported in any vessel, on account of one person, or of several persons jointly interested, did not exceed two hundred dollars, it was required to be paid in cash, without discount; if it exceeded that sum, it might, at the option of the importer, except in the case of certain goods, be paid in cash, with a discount, or be, by bond, secured to be paid, one half in three, and one half in six calendar months. But of late all duties are required to be paid in cash; and in case the duties are not paid on completion of the entry, the collector is to cause the goods to be deposited in the public stores, and after a certain time, if the duties remain unpaid, such part of the goods is sold as may be necessary to discharge the duties, with interest, and pay the charges and expenses.

4. Certain goods imported into the United States may be exported with the benefit of *drawback*, or a repayment of duties. For all goods entitled to drawback, which shall be exported from the district into which they were originally imported, or from another district, under specified regulations, the exporter, on complying with the required conditions, may receive from the collector of the district in which the duties have been paid, a *debenture* for the amount of the drawback. The debenture is made payable in fifteen days, or at any time thereafter when the goods shall be exported from the United States. But no drawback is allowed unless they shall be exported within three years from the date of their importation. Two and a half per cent. on the amount of all drawbacks allowed, and ten per cent. in the case of foreign refined sugars, are to be retained for the use of the United States, by the collectors paying the drawbacks.

5. The owner or consignee of goods on board of any vessel, or his authorized agent, in his name, is required, within fifteen days after the report of the master of the vessel to the collector of the district for which such goods are destined, to make *entry* of them, in writing, with the collector, specifying certain enumerated particulars, relative to the quantity, value and description of the goods. He must also produce to the collector the original invoices of the goods, in the same state in which they were received, and the bills of lading. The entry of goods must be signed by the person who makes it, and verified by his oath. In case the entry is imperfect, or cannot be made, for want of invoices, or bills of lading, or for any other cause, the goods are deposited in a public storehouse, there to remain, at the expense and risk of the owner, until the requisite particulars can be ascertained, or the proper documents produced.

6. Duties are either *ad valorem* or *specific*; the former being estimated according to the *value*, the latter according to the *quantity* of the articles. For the purpose of obtaining accurate statements of the foreign commerce of the United States, the collectors are required to keep separate accounts of the kinds, quantities and values of such parts of the imports subject to duties *ad valorem*, as may be directed by the secretary of the treasury. The kinds and quantities of all imported articles free from duty, are ascertained by the entry, or by actual examination when deemed necessary; and the values of all such articles, as well as of all imported articles subject to specific duties, are required to be ascertained in the manner in which the values of imports subject to duties *ad valorem* are ascertained.

7. The act of 1842 provides, that in all cases where there is imposed any *ad valorem* rate of duty on goods imported into the United States, and in all cases where the duty imposed is directed to be estimated upon the value of the square yard, or of any specified quantity or parcel of the goods, the collector of the district shall

cause the actual market value or wholesale price of them, at the time when purchased, in the principal markets of the country from which they were imported into the United States, or of the yards or quantities, as the case may be, to be appraised, estimated and ascertained. To the value or price so ascertained, all costs and charges are to be added, except insurance, and including the usual charges for commissions, as the true value at the port where the goods may be entered, upon which value duties are to be assessed.

8. The appraisers of the United States, and every person acting as appraiser, or the collector and naval officer, as the case may be, are required, by all reasonable ways and means in their power, to ascertain the actual market value and wholesale price of the goods, at the time when purchased, and in the principal markets of the country whence they were imported into the United States, and the quantities of them. But when imported from a country in which they were not manufactured or produced, the foreign value of the goods is to be estimated according to the current market value of similar articles at the principal markets of the country of production or manufacture, at the time of the exportation to the United States. The secretary of the treasury is required from time to time to establish rules and regulations, not inconsistent with law, to secure a just, faithful and impartial appraisal, and just and proper entries of goods imported.

9. Upon the entry of goods, it is the duty of the collector, jointly with the naval officer, if there is one, otherwise of the collector alone, to make a gross estimate, as accurate as may be, of the duties, when not estimated and ascertained by appraisers, on the goods to which the entry of any owner, consignee or agent relates. The amount of the estimated duties is to be indorsed on the entry, and when this amount has been paid, and not before, the collector, with the naval officer, if any, grants a *permit* to land the goods. This permit must specify, as particularly as possible, the goods to be delivered; and no goods can be delivered

by any officer of the customs, which do not fully agree with the description of them in the permit.

10. The cargo is discharged under the superintendence of an *inspector* of the customs, who is required to remain constantly on board, for that purpose, at all times when the delivery of goods is lawful. No goods may be unladen but between the rising and setting of the sun, except by special license, nor at any time, without the proper permit. If at the expiration of fifteen working days after the report of arrival, except in certain cases where a longer time is allowed, any goods other than those reported for another district or foreign place, remain on board, the inspector takes possession of them. Such goods are kept in the public storehouses, at the charge and risk of the owner, for nine months, if not sooner claimed, and are then sold at public auction, and the proceeds, after paying the duties and charges, are paid into the treasury of the United States, for the owner, when he shall appear.

11. Violations of the provisions respecting the importation of goods, are punished sometimes by a fine upon the party offending; sometimes the goods, in reference to which the offence was committed, are forfeited. Of such fines, penalties, and forfeitures, in general, after deducting costs and charges, one half is paid into the national treasury, and the other half distributed, in equal proportions, to the collector and naval officer of the district, and the surveyor of the port where the penalty or forfeiture was incurred, or to such of those officers as there may be in the district. The act of 1842 provides, that any person who shall, with intent to defraud the revenue, smuggle into the United States, goods subject to duty, without paying or accounting for the duty, or shall attempt to pass through the custom house any false or fraudulent invoice, shall, on conviction, be fined not more than five thousand dollars, or imprisoned not exceeding two years, or both, at the discretion of the court.

## CHAPTER L.

## OFFICERS OF THE REVENUE.

1. FOR the collection of duties, the United States are divided into collection *districts*, of which there is one at least in each state, except several of the inland western states, and some of the states contain as many as twelve districts. The principal officers of the revenue are the *collectors*, *naval officers*, and *surveyors*, who are appointed by the president, with the approval of the senate, for the term of four years, but are removable at the pleasure of the president. The principal commercial districts have a collector, naval officer, and surveyor; some of the others, a collector and surveyor, but most of them, only a collector. There are also two *appraisers* in the several ports of Boston, Philadelphia, Baltimore, Savannah, Charleston, and New Orleans, and three in New York, appointed by the president and senate; and the secretary of the treasury is empowered to appoint *assistant appraisers* in New York, Philadelphia, and Boston.

2. It is the duty of the *collector* to receive all reports, manifests and documents presented on the entry of any vessel; to record all manifests in books kept for the purpose; to receive the entries of all vessels and their cargoes; to estimate, jointly with the naval officer, if any, the amount of duties payable on goods entered; to grant permits for the unloading and delivery of goods; to receive moneys paid for duties; and to perform other offices. The collectors are required, with the approbation of the secretary of the treasury, to employ proper persons as weighers, gaugers, measurers and inspectors, at the several ports within their districts and to provide, at the public expense, storehouses for the safe keeping of goods; and they may, with the like approbation, employ all necessary deputy collectors.

3. It is the business of the *naval officer* to receive copies of all manifests and entries; together with the collector, to estimate the duties on all goods subject to duty, and to keep a separate record of them; to countersign all permits, clearances, debentures, and other documents, granted by the collector; and to examine the collector's abstracts of duties and other accounts of receipts and expenditures, and if found correct, to certify them. At ports where there is no naval officer, the collector is authorized solely to execute all the duties in which, at ports where a naval officer is appointed, the coöperation of that officer is required.

4. The *surveyor* is required to superintend and direct all inspectors, weighers, measurers, and gaugers, within his port. It is his duty also to visit and inspect the vessels which arrive at the port; to make a written return every morning to the collector, of all vessels from foreign places that have arrived during the preceding day, with a specification of sundry particulars in regard to them; and to put one or more inspectors on board each of such vessels immediately on its arrival. He is required, from time to time, and particularly twice in each year, to examine and try the weights, measures, and other instruments used in ascertaining the duties on imports; and to perform various other acts, subject always to the direction of the collector. At ports where there is no naval officer or surveyor, the collector executes, so far as may be, all the duties appropriate to the three offices.

5. Collectors are entitled to certain fees, and a specified rate, varying from one sixth of one to three per cent. on all duties received by them, respectively, and where the amount of duties is not large, some additional compensation in the form of salary. Naval officers and surveyors are paid by fees, with the addition, usually, of a small annual salary. Every collector, naval officer and surveyor is required to render to the secretary of the treasury, under oath, a quarterly account of all moneys received; and whenever the aggregate amount of receipts, including all commissions,

fees, emoluments and salaries, shall exceed six thousand dollars for a collector, or five thousand for a naval officer, or four thousand five hundred for a surveyor, in any one year, after deducting the necessary expenses of his office for the same time, the excess is to be paid into the public treasury. Inspectors receive three dollars a day for the time they are employed; measurers, weighers and gaugers are paid in proportion to the labor they perform.

6. The appraisers of the United States are required, before entering upon the duties of their office, to make oath diligently and faithfully to examine and inspect such goods as the collector may direct, and truly to report, to the best of their knowledge and belief, the true value of them, according to law. When an importer, owner, consignee or agent is dissatisfied with the appraisement, if he has complied with all the established requisitions, he may give notice of his dissatisfaction to the collector, who is then required to select two discreet and experienced merchants, citizens of the United States, familiar with the character and value of the goods in question, to examine and appraise them; and if they shall disagree, the collector is to decide between them; and the appraisement so made is final. Each of the regular appraisers receives an annual salary of fifteen hundred dollars; those at New York, two thousand dollars. Merchants acting as appraisers, have five dollars a day.

7. The better to secure the collection of duties, the president is authorized to employ a number of *revenue cutters*, the officers of which are deemed officers of the customs, and are subject to the direction of the principal revenue officers. The collectors may also with the approbation of the secretary of the treasury, employ as many small, open, row or sail boats, as may be necessary for the use of the surveyors and inspectors, in going on board of vessels, and otherwise for the better detection of frauds. The cutters and boats used in the revenue service are to be distinguished from other vessels by an ensign and pennant, bearing certain

prescribed marks. And any vessel liable to examination, which shall refuse to bring to, when required by a revenue cutter or boat having the proper pennant and ensign displayed, may lawfully be fired into, after a gun has been fired as a signal.

8. All collectors, naval officers, surveyors, inspectors, and officers of revenue cutters, may go on board of vessels, in any port of the United States, or within four leagues of the coast, if bound for the United States, for the purpose of demanding and certifying the manifests that are required to be on board, and of examining and searching the vessels, to every part of which they are entitled to free access. The collector of any district, or the surveyor of any port at which a vessel may arrive, may put and keep on board while the vessel remains within the district, and the collector also while it is going from one district to another, one or more inspectors, to examine the contents of the vessel, to superintend the delivery of the cargo, and to perform other required acts, for better securing the collection of the duties.

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## CHAPTER LI.

### REVENUE OF THE UNITED STATES.

1. THE revenue furnishing the means for carrying on the government, is derived, at present, almost wholly from *customs*, or duties on imports, and from *sales of the public lands*. These have always been the ordinary and principal sources of the public revenue. But, in certain cases, when the necessities of the government have demanded it, as in times of threatened or actual war, and the like, *internal duties* have been imposed upon certain articles, and *direct taxes* laid. To meet existing exigencies, resort has frequently been had to the issuing of *treasury notes*, and to *loans*. The

debts and liabilities thus incurred, have been subsequently discharged with money derived from the ordinary sources of revenue, and from internal and direct taxes.

2. In the administration of Washington, *duties* were laid on spirits distilled within the United States, and on stills; on licenses for retailing wine and foreign spirits; on sales at auction; and on carriages, and some other articles. To these was added, in the administration of John Adams, a duty on stamped vellum, parchment and paper. All these duties were repealed soon after the accession of Mr. Jefferson to the presidency. During the war of 1812, similar duties, and upon a much greater number of articles, were again imposed, which were abolished from the close of the year 1817, or earlier. *Direct taxes*, when imposed, have been assessed upon dwelling houses, lands and slaves. A tax of this kind, of two millions of dollars, was laid in 1798. In 1813 there was another of three millions of dollars. In 1815 an act was passed laying an annual tax of six millions of dollars; but the act was repealed the next year, and a tax of half the amount was imposed for that year only.

3. The terms and manner of issuing *treasury notes* have been regulated, in each case, by the particular act of congress authorizing the emission of them. Those that have been issued recently, are signed, on behalf of the United States, by the treasurer, and countersigned by the register of the treasury, and are made redeemable at the treasury of the United States after the expiration of one year from their dates; from which dates, for the term of one year only, they bear such interest as is expressed upon the face of the notes. For their reimbursement at the time specified, the faith of the United States is pledged. These notes are transferable by delivery and indorsement. They are used for paying the public debts, or money is borrowed on the credit of them. They are receivable in payment of public lands sold, of duties and taxes laid by the United States, and of debts due to them.

4. When *loans* have been made, the secretary of the treasury has been authorized to cause to be prepared certificates of stock, signed in the manner prescribed, and to procure them to be sold. The certificates bear interest, for the punctual payment of which, and redemption of the stock, the faith of the United States is pledged. In July, 1841, congress authorized the borrowing of a sum not exceeding twelve millions of dollars, within one year from that time. The stock not being readily taken, an act was passed in April, 1842, extending the time for obtaining the loan for one year from the passage of the act, and authorizing an addition of five millions of dollars to the amount. It was provided, that so much of the loan as should be obtained after the passage of the act in question, should be reimbursable as agreed upon at the time of issuing the stock, either at the will of the secretary of the treasury, after six months' notice, or at any time not exceeding twenty years from the 1st of January then next.

5. The proceeds of *sales of the public lands* have constituted an important item of the revenue of the United States. The whole amount received into the national treasury from this source, from the earliest period of sales to the year 1842, exceeded one hundred millions of dollars. In 1833, a bill to appropriate the proceeds of the public lands among the states, for the term of five years, passed both houses of congress, but it was retained by the president, at the close of the session, and did not become a law. The receipts from the public lands during the two years 1835 and 1836, amounted to nearly forty millions of dollars; thus producing a large surplus of money in the treasury, for which, as the public debt was then all paid, the government had no immediate use.

6. In 1836 it was enacted by congress, that the money which should be in the treasury on the 1st of January, 1837, reserving five millions of dollars, should be deposited, in proportion to their respective representation in the senate and house of representatives, with the several states which should authorize the reception

of it in the mode prescribed. The faith of the state was to be pledged for the safe keeping and payment of the money, which, when wanted, was to be called for in ratable proportions from the different states, and in sums not exceeding ten thousand dollars from any state, in a month, without thirty days' previous notice for every additional sum of twenty thousand dollars. The deposits were to be made in four quarterly instalments. The first three instalments, amounting to upwards of twenty-eight millions of dollars, were deposited; but owing to an impending or actual deficiency in the treasury, the transfer of the fourth instalment was postponed, and has never been made.

7. At the extra session of congress, in 1841, an act was passed providing for the distribution of the net proceeds of the public lands, after paying ten per cent. to the several states in which the lands sold were situated, among the several states and territories, and the District of Columbia, in proportion to their respective federal population. There was ingrafted upon this act a proviso, that the distribution should be suspended whenever the rate of duties on any imports should be raised above twenty per cent. As the tariff has since been remodelled, and duties imposed on some articles exceeding twenty per cent., the act is rendered wholly nugatory. A bill was passed by congress, in 1842, to repeal the proviso in question, but it failed of becoming a law, having been retained by the president, at the close of the session.

8. By far the greatest part of the revenue of the United States is, and always has been, derived from *customs*. Ever since the government went into operation under the constitution, duties have been levied upon imports, for the purpose of defraying the expenses of government, paying the public debts, and the like. Changes have been made, from time to time, in regard to the rates of duties, and the articles on which they have been imposed, according to the ends that were designed to be answered. The leading object, in the imposition of these duties, has always been, the raising

of revenue to meet the wants of the government. A secondary, but very important object, at least for the last twenty-five years, has been, to protect and encourage domestic industry and manufactures; and the several tariffs that have been adopted within the period named, have been constructed with reference to this object.

9. A tariff of duties was settled in 1816. The system was revised and rearranged in 1824, and again in 1828; and, at each of these times, the duties were somewhat increased. In 1832, the whole scheme was adjusted anew. The public debt being then nearly extinguished, the duties were considerably reduced, and a much larger proportion of the importations than before, to the amount of about one half, was made free. Owing to the disaffection which prevailed in the southern states, and particularly in South Carolina, towards this tariff, on account of its protective character, an act was passed at the next session of congress, in 1833, which was designed to settle differences by way of mutual concession, and which has commonly been known as the *compromise act*.

10. By this act it was provided, that after the 31st of December, 1833, in all cases where, by any act of congress, duties were imposed on foreign imports, exceeding twenty per cent. on the value of them, one tenth part of such excess should be deducted; that another tenth part should be deducted after the 31st of December of every second year thereafter, until the year 1841, when one half the residue of such excess should be deducted, and the remaining half after the 30th of June, 1842. The act further declared, that after the same 30th of June, all duties on imports should be collected in ready money; that duties should be laid for the purpose of raising such revenue as might be necessary to an economical administration of the government; and that the duties upon goods should be assessed upon the value of them at the port where entered, under such regulations as might be prescribed by

law. The time specified expired without any regulations having been prescribed.

11. Subsequently, an act was passed, which was approved on the 30th of August, 1842, by which the whole system of duties was revised and readjusted, and a new tariff established. The duties imposed by this act are partly *ad valorem* and partly specific. The *ad valorem* duties range from one to fifty per cent. There is a list of articles, but considerably less numerous than under the act of 1832, which are exempt from duty. This act provides, as has usually been the case, that, where there is no special regulation, an addition of ten per cent. shall be made to the established rates of duties, in respect to goods imported in vessels not of the United States; and a further addition of ten per cent. on those imported from places east of the Cape of Good Hope, in foreign vessels; unless such goods be entitled, by treaty or act of congress, to be entered upon the payment of the same duties which are imposed on goods imported in vessels of the United States.

12. The *expenditures* of the United States, exclusive of the payment of the public debt, and the redemption of treasury notes, are commonly classed under three general heads. The first of these comprises the civil list, foreign intercourse, and miscellaneous; the second, the military service, including fortifications, Indian affairs, pensions, arming the militia, internal improvements, and building armories and arsenals; the third, the naval service, including the gradual improvement of the navy. The funds of the post office department pass through the treasury of the United States, but the accounts of that department are kept distinct and separate from the others. There are also certain trust funds, such as money received from foreign nations, for indemnities, or in compensation for spoliations and injuries done to the property of citizens of the United States, which are paid into the national treasury and disbursed from it.

## CHAPTER LII.

## THE MINT, AND MONEY.

1. THE power to coin money and regulate the value of it and of foreign coin, is vested in congress, by the constitution; and by the same instrument the states are prohibited from coining money or making anything but gold and silver coin a tender in payment of debts. A *mint*, for the purpose of a national coinage, was established at Philadelphia, and went into operation in 1793. Recently, *branches* have been established, one at New Orleans, for coining gold and silver; and one at Charlotte, in North Carolina, and another at Dahlonega, in Georgia, both exclusively for the coinage of gold. These branches all commenced operations in 1838. The avowed object of their establishment was, to increase the metallic currency of the country. But there has been little occasion for them.

2. The mint at Philadelphia, in each of the years 1834 and 1836, coined upwards of seven millions of dollars; and it is stated by the director to be capable of a coinage of twelve millions a year. Since the establishment of the branches, the entire coinage of the mint and branches, in one year, a little exceeded four millions of dollars; in every other year, it has fallen short of that sum. The whole expense attending the three branch mints, to the end of the year 1841, exceeded eight hundred thousand dollars. The total amount of coinage at them all, to the same time, was a little less than three millions of dollars; which, as estimated by the director, might have been coined at the principal mint at an additional expense to that establishment of about four thousand dollars.

3. The principal officers of the mint at Philadelphia are, a *director*, who has the control and regulation of the mint and its branches; a *treasurer*, who keeps the accounts of the mint, and pays all moneys due by it, on

warrants from the director, and on like warrants delivers to the proper persons all coins struck at the mint; an *assayer*, whose duty it is carefully to assay, or *try* all metals used in coinage, when required, and also to make assays of coins; a *melter and refiner*, who executes all the operations necessary in order to form ingots of standard silver or gold; a *chief coiner*, who executes all the operations required in order to form coins from the standard silver and gold ingots, and copper planchets; and an *engraver*, who prepares and engraves, with the legal devices and inscriptions, all the dies used in the coinage. These officers, as well as the principal officers of the branch mints, are appointed by the president with the approval of the senate.

4. The present standard for gold and silver coins of the United States is such, that of ten parts by weight, nine are of pure metal and one of alloy. The alloy of the silver coins is of copper, that of the gold coins, of copper and silver, the silver not to exceed one half of the whole alloy. All the gold coins of the United States, consisting of the eagle, half eagle, and quarter eagle; and the silver coins, consisting of the dollar, half dollar, quarter dollar, dime and half dime, are legal tenders of payment, according to their nominal value, respectively. Cents and half cents pass current as money, and no other copper pieces may be paid, or offered to be paid, or received in payment, under a penalty of ten dollars.

5. All coins are required to be of a specified weight, and to be stamped with the prescribed devices and legends. To secure due conformity in the gold and silver coins to their respective standard fineness and weight, an annual trial is made of a certain number of pieces of each variety, before commissioners appointed for the purpose. Gold is coined most into half eagles; and from 1804 to 1838 no eagles were coined. Of the silver coinage, by far the greatest part in value is in half dollars. No dollars were coined from 1805 to 1836. The whole coinage from the commencement of operations to the end of the year 1841, amounted,

in value, to about eighty-six millions of dollars, making in all nearly two hundred and sixty millions of pieces. Some portion of this money, however, has been recoined, particularly of the gold coins, the standard weight of which, since the 31st of July, 1834, has been somewhat reduced.

6. Gold and silver bullion brought to the mint, is received and coined for the depositor, at a low rate of charges. The greater part of the metal used for coinage consists of foreign coins. A portion of the gold is furnished by some of the southern states, chiefly North Carolina, Georgia, Virginia, and South Carolina. Gold, in small quantities, was sent to the mint from North Carolina as early as 1804; and from that state only, till 1829, when deposits began to be made from other states. By the end of the year 1841, gold of the United States had been received at the mint and its branches, amounting to nearly seven millions of dollars. It has been estimated, that little more than half of the gold produced from the mines of the United States is brought to the mint.

7. Certain foreign coins have been made legal tender of payment, by acts of congress. Such are Spanish milled dollars of a specified weight, at the rate of one hundred cents for each, and in proportion for the parts of a dollar. So also, if they be of the required weight and fineness, dollars of Mexico, Peru, Chili, and Central America, and those restamped in Brazil, pass current as money, by tale, at the rate of one hundred cents to the dollar: and the five franc pieces of France, at the rate of ninety-three cents each. The gold coins of Great Britain, Portugal, Brazil, France, Spain, Mexico, and Colombia, of the prescribed fineness, are receivable in all payments, by weight, at certain fixed rates. The pound sterling of Great Britain, (which is not a coin, but a sum,) in all payments by or to the treasury of the United States, and in appraising merchandise imported, is estimated at four dollars and eighty-four cents.

## CHAPTER LIII.

## CORPORATIONS.

1. A CORPORATION is composed usually of several individuals, who subsist as a body politic, under a particular name, and are vested with the capacity of perpetual succession, and of acting, for many purposes, as a single individual. The design of these associations is, to enable the members to act with concentrated effort and will, and to continue their joint powers and property in the same body, without the inconvenience arising from constant changes and conveyances. The will of the corporation is collected from the sense of the majority of the members. And whatever changes in its constituent parts may be occasioned by the death or change of any of the individual members, the corporation itself remains the same, all the members from first to last being considered in law as one person, and that person, so long as the succession is kept up, never dies.

2. Corporations are of various kinds. There are some which are established by the government for particular specified objects of a *public* or *political* nature. Such are counties, towns, cities, parishes, school districts and the like, wherever they exist. Corporations of this kind may be authorized to hold private property for municipal uses. Being created for local and political purposes connected with the public good, they may be altered or abolished at the will of the legislature, saving always to the rightful owners, the property, if any, belonging to the corporation. No civil action lies against such communities, unless it be given by statute; and then, as they have in general no corporate fund, each inhabitant is said to be liable to satisfy the judgment that may be obtained, and whoever pays it has a right to contribution from the others.

3. Civil corporations of a *private* nature include banks, the stock of which is owned wholly or in part by private persons, insurance, manufacturing, turnpike and rail road companies, and others of a similar description. Such companies are created by acts of incorporation, granted by the legislature. These charters of incorporation are in the nature of contracts between the government and the company, and as such they are not ordinarily subject to legislative interference, during the term for which they were granted. The members of incorporated companies are not in general personally responsible for the debts of the company, though in particular cases, and to a certain extent, they are made so by special provisions of law.

4. The manner in which incorporated companies, in this country, are established, is substantially as follows. A number of persons associate themselves together and obtain from the legislature an act of incorporation, granting them the requisite powers, and conferring upon them a certain corporate name. The capital stock, or money to be paid in as the fund with which the particular business is to be carried on, is divided into a given number of shares, which are taken up by such individuals as choose to become stockholders, and which may be sold and transferred in the mode prescribed. The stockholders choose a board of directors, who appoint one of their number president; and also choose such other officers as are necessary.

5. *Banks* are properly of three kinds, or they perform three distinct offices. Banks of *deposit* are such as receive money to keep for the depositor until he demands it, either personally or by his order. Banks of *discount* loan money upon promissory notes, bills of exchange, and other securities. Notes and bills, for this purpose, are not upon interest, but are made payable at a future day, and the interest from the time when the money is advanced to the time when it falls due, is deducted from the sum advanced, which is called *discounting*. Banks of *circulation*, in discounting paper, as it is termed, or loaning money upon promis-

sory notes and the like, issue bills or notes of their own, instead of advancing the amount in specie. In this country, these three different offices are combined, and are all performed by the same institution.

6. The stockholders in banks are compensated for the use of their money by the interest received for money loaned by the bank, out of which a *dividend* is declared and paid, usually half yearly, of so much per cent. on the stock. Each bank issues its bills, which are in fact promissory notes, made in the name of the president, directors, and company of the bank, signed by the president and cashier, and payable to a specified individual, or the bearer of them, on demand. These bills the bank uses and pays out as money, and the holders of them may at any time present them at the bank and demand the amount in specie; and so long as a bank can redeem its bills, they are good and pass current as cash.

7. When money is deposited in a bank, it is entered in the books of the bank to the credit of the depositor, and usually also in a small memorandum book, to be kept by the depositor, called his *bank book*. When he wishes to draw out any part of his money, he addresses to the cashier a written order, denominated a *check*, to pay such a sum to the bearer. The checks, when paid, are usually perforated in a particular manner, so that they would be detected by the officers of the bank, if again presented for payment. At the end of every month, commonly, the account between the bank and the depositor is settled, and the balance carried to the next month; and the checks that have been drawn by the depositor and paid during the month, are given up to him.

8. *Insurance* is a contract by which one party, in consideration of a stipulated *premium*, engages to indemnify another from loss or damage arising upon the happening of an uncertain event, provided for in the policy. The instrument by which the contract is effected is called a *policy*. The party who undertakes for the indemnity is called the *insurer* or *underwriter*,

the other, the *insured*. In this country, the business of insurance is conducted chiefly or wholly by incorporated companies. *Mutual fire insurance companies* are common, consisting of associations of individuals. Each member of the company, on paying into the treasury a certain per cent. upon the amount of his property insured, and giving a note for an additional sum, receives a policy from the association, running a stated number of years. Losses are paid from the money in the treasury, and when needed, assessments are made upon the premium notes.

9. *Marine* insurance is an agreement to indemnify the owners of vessels and other property at sea, against certain sea risks and perils. *Fire* insurance is a contract of indemnity against losses which a person may sustain in his buildings, furniture and goods, mentioned in the policy, by means of fire happening during the term of the insurance. In either of these cases the party insured must have an interest in the property lost, at the time of insuring and of the loss, to entitle him to recover on his policy. Accordingly, if the property be sold during the term, the insurance is at an end. But there is generally provision by which, with the consent of the insurer, or in some other prescribed mode, the policy may be assigned to the purchaser of the property, and be good to him for the residue of the term.

10. *Life* insurance is a contract whereby the insurer, in consideration of a sum in gross, or of certain periodical payments, engages to pay the person for whose benefit the insurance is made, a specified sum or an annuity, upon the death of the person whose life is insured, within the term of the insurance; which term may be for the whole life of the party, or for a limited time. The object of such insurance is usually to provide a fund for creditors or for family connections, in case of the death of the person insured. The party insuring must have an interest in the life insured. A creditor may insure the life of his debtor to the extent of his debt; and a person may insure his own life for the benefit of his creditors or relatives.

The first part of the document discusses the importance of maintaining accurate records. It emphasizes that every detail matters and that consistency is key to success. The author notes that while the process may seem tedious, the long-term benefits are significant.

In the second section, the author provides a detailed breakdown of the various components involved. Each step is carefully outlined, ensuring that the reader can follow along easily. The text is clear and concise, avoiding unnecessary jargon.

The third part of the document focuses on the practical application of the concepts discussed. It offers several examples and scenarios to illustrate how the principles can be put into practice. The author encourages the reader to be proactive and to seek out opportunities for growth.

Finally, the document concludes with a strong message of encouragement. The author reminds the reader that success is not an overnight affair and that persistence is essential. The reader is urged to stay focused and to continue to learn and improve.

## STATISTICAL TABLES.

### I. *Times when the State Constitutions were formed, and when revised; and qualifications required for Electors.*

States.	Constitutions.		Qualifications of Electors.†			
	Formed.	Revised*	Color.	Residence in the		Payment of Taxes, &c.
				State.	Town, &c.	
Maine,	1819			3 mos.	resid't	
N. Hampshire,	1784	1792		6 mos.	3 mos.	
Vermont,	1793	1836		1 year	resid't	
Massachusetts,	1780	1821		1 year	6 mos.	Taxes.
Rhode Island,†	1663				3 mos.	Freehold.
Connecticut,	1818	1836	White		6 mos.	Taxes.
New York,	1777	1821		1 year	6 mos.	
New Jersey,	1776		White		1 year	Taxes.
Pennsylvania,	1790	1838	White	1 year	10 d's.	Taxes.
Delaware,	1792	1831	White	1 year	1 mo.	Taxes.
Maryland,	1776	1837	White	1 year	6 mos.	
Virginia,	1776	1830	White		1 year	Taxes.
N. Carolina,	1776	1835	White		1 year	Freehold.
S. Carolina,	1790	1808	White	2 y'rs.	6 mos.	
Georgia,	1777	1798			6 mos.	Taxes.
Alabama,	1819		White	1 year	3 mos.	
Mississippi,	1817	1832	White	1 year	4 mos.	
Tennessee,	1796	1834	White		6 mos.	
Kentucky,	1790	1799	White	2 y. or	1 year	
Ohio,	1802		White	1 year	resid't	Taxes.
Michigan,	1835		White	6 mos.	resid't	
Indiana,	1816		White	1 year	resid't	
Illinois,	1818		White	6 mos.	resid't	
Missouri,	1820		White	1 year	3 mos.	
Arkansas,	1836		White	6 mos.	resid't	
Louisiana,	1812		White		1 year	Taxes.

\* At these dates, most of these Constitutions underwent a general revision, by conventions. Some of these, and of the others, have been amended, in regard to particular provisions, at other times.

† This State has continued under the *Charter* of Charles II.

‡ In all the States, electors are required to be *male citizens*, or in New Jersey and Illinois, *inhabitants*, 21 years of age, or upwards.

II. *Statement of the required age and period of residence, and the terms of office, in years, with the numbers and daily pay of Senators and Representatives.*

States and Territories.	Senators.					Representatives.					Pay. \$
	Age.	Res. in State.	Res. in District.	Term.	Number.	Age.	Res. in State.	Res. in District.	Term.	Number.	
United States,	30			6	52	25			2	223	8.00
Maine,	25	1	$\frac{1}{4}$	1	31	21	1	$\frac{1}{4}$	1	200	2.00
N. Hampshire,*	30	7		1	12		2		1	250	2.00
Vermont,	30	2	1	1	30	21	2	1	1	233	1.50
Massachusetts,		5		1	40			1	1	356	2.00
Rhode Island,*			$\frac{1}{2}$	1	10			$\frac{1}{2}$	$\frac{1}{2}$	72	1.50
Connecticut,†	21		$\frac{1}{2}$	1	21	21		$\frac{1}{2}$	1	208	1.50
New York,*				4	32				1	128	3.00
New Jersey,*			1	1	14			1	1	50	3.00
Pennsylvania,	25	4	1	3	33	21	3	1	1	100	3.00
Delaware,*	27	3	1	4	9	24	3	1	2	21	3.00
Maryland,	25		3	6	21	21		1	1	78	4.00
Virginia,*	30			4	32	25			1	134	4.00
N. Carolina,*			1	2	50			1	2	120	3.00
S. Carolina,*	30	5		4	45	21	3		2	124	4.00
Georgia,*	25	3	1	1	93	21	3	1	1	207	4.00
Alabama,	27	2	1	3	33	21	2	1	1	100	4.00
Mississippi,	30	4	1	4	30	21	2	1	2	91	3.00
Tennessee,	30	3	1	2	25	21	3	1	2	75	4.00
Kentucky,	35	6	1	3	38	24	2	1	1	100	3.00
Ohio,†	30			2	36	25		1	1	72	3.00
Michigan,	21	$\frac{1}{2}$		2	18	21	$\frac{1}{2}$		1	53	3.00
Indiana,†	25	2	1	3	50	21		1	1	100	2.00
Illinois,†	25		1	4	40	21		1	2	91	3.00
Missouri,†	30	4	1	4	18	24	2	1	2	49	3.00
Arkansas,	30	1		4	17	25			2	54	3.00
Louisiana,*	27	4	1	4	17	21	2	1	2	60	6.00
Florida,		1		2	11				1	29	4.00
Wisconsin,				4	13				2	26	3.00
Iowa,				2	13				1	26	3.00

\* *Senators*, in New York and Delaware, and *Senators and Representatives* in the rest of these States, must possess a specified amount of property, usually a part or the whole of it to be *freehold*.

† In these States, *Senators and Representatives* are required to have paid a State or County tax.

‡ *Senators*, in Connecticut, receive \$2 a day; *Representatives*, \$1.50.

III. *Statement of the times of holding the General Elections, and the times of meeting of the Legislatures.*

States and Territories.	Times of Elections.	Meetings of Legislatures.	
		Times.	Periods.
United States,*		1st Mond. Dec.	Annually.
Maine,	2d Mond. Sept.	1st Wedn. Jan.	Annually.
New Hampshire,	2d Tues. Mar.	1st Wedn. June.	Annually.
Vermont,	1st Tues. Sept.	2d Thurs. Oct.	Annually.
Massachusetts,	2d Mond. Nov.	1st Wedn. Jan.	Annually.
Rhode Island,	3d Wedn. Apr.†	1st Wedn. May†	Semi-ann.
Connecticut,	1st Mond. Apr.	1st Wedn. May.	Annually.
New York,	1st Mond. Nov.	1st Tues. Jan.	Annually.
New Jersey,	2d Tues. Oct.	4th Tues. Oct.	Annually.
Pennsylvania,	2d Tues. Oct.	1st Tues. Jan.	Annually.
Delaware,	2d Tues. Nov.	1st Tues. Jan.	Biennially.
Maryland,	1st Wedn. Oct.	1st Mond. Dec.	Annually.
Virginia,	4th Thurs. Apr.	1st Mond. Dec.	Annually.
North Carolina,	1st Thurs. Aug.	2d Mond. Nov.	Biennially.
South Carolina,	2d Mond. Oct.	4th Mond. Nov.	Annually.
Georgia,	1st Mond. Oct.	1st Mond. Nov.	Annually.
Alabama,	1st Mond. Aug.	1st Mond. Nov.	Annually.
Mississippi,	1st Mond. Nov.	1st Mond. Jan.	Biennially.
Tennessee,	1st Thurs. Aug.	1st Mond. Oct.	Biennially.
Kentucky,	1st Mond. Aug.	1st Mond. Dec.	Annually.
Ohio,	2d Tues. Oct.	1st Mond. Dec.	Annually.
Michigan,	1st Mond. Nov.	1st Mond. Jan.	Annually.
Indiana,	1st Mond. Aug.	1st Mond. Dec.	Annually.
Illinois,	1st Mond. Aug.	1st Mond. Dec.	Biennially.
Missouri,	1st Mond. Aug.	1st Mond. Nov.	Biennially.
Arkansas,	1st Mond. Oct.	1st Mond. Nov.	Biennially.
Louisiana,	1st Mond. July.	1st Mond. Jan.	Annually.
Florida,	2d Mond. Oct.	1st Mond. Jan.	Annually.
Wisconsin,		1st Mond. Dec.	Annually.
Iowa,		1st Mond. Dec.	Annually.

\* *Representatives* in Congress are usually chosen at the State General Elections, and *Senators* at the meetings of the State Legislatures, respectively, which are held next preceding the time when their term of office is to commence.

† The *Representatives* in Rhode Island, for one half the year, are chosen on the last Tuesday in August; and there is another regular session of the Legislature on the last Wednesday in October.

IV. *Statement of the qualifications, terms of office, and salaries of the Chief Magistrates; showing also where they have a qualified negative, and who performs the duties in case of vacancy.*

States and Territories.	Years.			Term ends.	Salary. \$	Successor.
	Age.	Resi- dence.	Term.			
United States,*	35	14	4	Mar.	25,000	Vice President.
Maine,*	30	5	1	Jan.	1,500	Pres. of Senate.
N. Hampshire,* †	30	7	1	June.	1,000	Pres. of Senate.
Vermont, †		4	1	Oct.	750	Lieut. Governor.
Massachusetts,* †		7	1	Jan.	3,666 $\frac{2}{3}$	Lieut. Governor.
Rhode Island, †		$\frac{1}{2}$	1	May.	400	Lieut. Governor.
Connecticut, †	30	$\frac{1}{2}$	1	May.	1,100	Lieut. Governor.
New York,* †	30	5	2	Jan.	4,000	Lieut. Governor.
New Jersey,			1	Oct.	2,000	V. P. of Leg. Coun.
Pennsylvania,*	30	7	3	Jan.	4,000	Speaker of Senate.
Delaware,	30	6	4	Jan.	1,333 $\frac{1}{3}$	Speaker of Senate.
Maryland,	30	5	3	Jan.	4,200	Secretary of State.
Virginia,	30	5	3	Mar.	3,333 $\frac{1}{3}$	Lieut. Governor.
N. Carolina, †	30	5	2	Jan.	2,000	Speaker of Senate.
S. Carolina, †	30	10	2	Dec.	3,500	Lieut. Governor.
Georgia,* †	30	6	2	Nov.	4,000	Pres. of Senate.
Alabama, †	30	4	2	Dec.	3,500	Pres. of Senate.
Mississippi,*	30	5	2	Jan.	3,000	Pres. of Senate.
Tennessee,	30	7	2	Oct.	2,000	Speaker of Senate.
Kentucky, †	35	6	4	Sept.	2,500	Speaker of Senate.
Ohio,	30	4	2	Dec.	1,500	Speaker of Senate.
Michigan,*		2	2	Jan.	2,000	Lieut. Governor.
Indiana, †	30	5	3	Dec.	1,500	Lieut. Governor.
Illinois, †	30	2	4	Dec.	1,500	Lieut. Governor.
Missouri, †	35	4	4	Nov.	2,000	Lieut. Governor.
Arkansas, †	30	4	4	Nov.	2,000	Pres. of Senate.
Louisiana,* †	35	6	4	Jan.	7,500	Pres. of Senate.
Florida,*			3	Dec.	2,500	Sec. of Territory.
Wisconsin,*			3	Mar.	2,500	Sec. of Territory.
Iowa,*			3	July.	2,500	Sec. of Territory.

\* The Executive has a qualified negative; and a bill, to become a law, must be repassed by a vote of *two thirds* of the members present in each house.

† The Executive has a negative, but a bill becomes a law if repassed by a *majority of all the members elected to each house*, or, in Vermont and Connecticut, by a majority of those present.

‡ The Governor, in these States, must be a *freeholder*.

|| Chosen by the *Legislature*; in all the other States, by the *people*.

V. *Statement of the number of Judges of the highest Courts, the mode of their appointment, their terms of office and compensation, and how removable.*

States and Territories.	Number.	Appointed by the	Term of office.	Salary of	
				C. J.	Assoc.
United States,*	9	Pres. and Sen.	Good behavior.	5,000	4,500
Maine,†	3	Gov. and Coun.	Seven years.	1,800	1,800
N. Hampshire,†	4	Gov. and Coun.	Good be. till 70.	1,400	1,200
Vermont,*	5	Legislature.	One year.	1,375	1,375
Massachusetts,†	4	Gov. and Coun.	Good behavior.	3,500	3,000
Rhode Island,	3	Legislature.	One year.	650	550
Connecticut,†	5	Legislature.	Good be. till 70.	1,100	1,050
New York,*	3	Gov. and Sen.	Good be. till 60.	3,000	3,000
New Jersey,*	5	Legislature.	Seven years.	1,500	1,400
Pennsylvania,†	5	Gov. and Sen.	Fifteen years.	2,666 <sup>2</sup> / <sub>3</sub>	2,000
Delaware,†	4	Governor.	Good behavior.	1,200	1,200
Maryland,†	6	Gov. and Sen.	Good behavior.	2,500	2,200
Virginia,‡	5	Legislature.	Good behavior.	2,750	2,500
N. Carolina,‡	3	Legislature.	Good behavior.	2,500	2,500
S. Carolina,*	6	Legislature.	Good behavior.		3,000
Georgia,†	11	Legislature.	Three years.		2,100
Alabama,†	3	Legislature.	Six years.	2,250	2,250
Mississippi,†	3	People.	Six years.	2,000	2,000
Tennessee,‡	3	Legislature.	Twelve years.		1,800
Kentucky,†	3	Gov. and Sen.	Good behavior.	2,000	2,000
Ohio,*	4	Legislature.	Seven years.	1,500	1,500
Michigan,†	4	Gov. and Sen.	Seven years.	1,600	1,500
Indiana,*	3	Gov. and Sen.	Seven years.	1,500	1,500
Illinois,†	9	Legislature.	Good behavior.	1,500	1,500
Missouri,†	3	Gov. and Sen.	Good be. till 65.	1,100	1,100
Arkansas,*	3	Legislature.	Eight years.		1,800
Louisiana,†	5	Gov. and Sen.	Good behavior.		5,000
Florida,*	5	Pres. and Sen.	Four years.		1,800
Wisconsin,*	3	Pres. and Sen.	Good behavior.		1,800
Iowa,*	3	Pres. and Sen.	Four years.		1,800
Dist. Columbia,*	3	Pres. and Sen.	Good behavior.	2,700	2,500

\* Removable from office by *impeachment*.

† Removable by impeachment, (or in Maryland, on conviction in a court of law); or by the Executive, *on the address of both branches of the Legislature*. For this latter, in all the States except Maine, New Hampshire, and Massachusetts, two thirds of the members of each house, and in Louisiana, three fourths must concur.

‡ Removable by impeachment, or by a *concurrent vote* of two thirds of the members of both branches of the Legislature.

VI. *Statement of the times when the respective States adopted the Constitution of the United States, or were admitted into the Union; and of the whole number of Representatives in Congress, and the number for its slave population, to which each State has been entitled under the several apportionments.*

States.	Adoption of the Constitution, or admission into the Union.	1789	1793		1803		1813		1823		1833		1843	
		Number.	Whole No.	For Slaves.										
Me.	Mar. 15, 1820								7		8		7	
N. H.	June 21, 1788	3	4		5		6		6		5		4	
Vt.	Feb. 18, 1791		2		4		6		5		5		4	
Mass.	Feb. 7, 1788	8	14		17		20		13		12		10	
R. I.	May 29, 1790	1	2		2		2		2		2		2	
Conn.	Jan. 9, 1788	5	7		7		7		6		6		4	
N. Y.	July 26, 1788	6	10	1	17		27	1	34		40		34	
N. J.	Dec. 18, 1787	4	5		6		6		6		6		5	
Penn.	Dec. 12, 1787	8	13		18		23		26		28		24	
Del.	Dec. 7, 1787	1	1		1		2	1	1		1		1	
Md.	Apr. 28, 1788	6	8	2	9	2	9	2	9	2	8	1	6	1
Va.	June 27, 1788	10	19	6	22	6	23	7	22	6	21	6	15	4
N. C.	Nov. 21, 1789	5	10	2	12	2	13	2	13	3	13	3	9	2
S. C.	May 23, 1788	5	6	2	8	2	9	3	9	3	9	4	7	3
Ga.	Jan. 2, 1788	3	2	1	4	1	6	2	7	3	9	3	8	3
Ala.	Dec. 14, 1819								3	1	5	1	7	2
Miss.	Dec. 10, 1817								1		2	1	4	2
Tenn.	June 1, 1796				3	1	6	1	9	1	13	2	11	2
Ken.	June 1, 1792		2	1	6	1	10	1	12	2	13	3	10	2
Ohio,	Apr. 30, 1802				1		6		14		19		21	
Mich.	June 15, 1836												3	
Ind.	Dec. 11, 1816								3		7		10	
Ill.	Dec. 3, 1818								1		3		7	
Mo.	Mar. 2, 1821								1		2		5	1
Ark.	June 15, 1836												1	
La.	Apr. 8, 1812						1		3	1	3	1	4	2
<i>Total,</i>		65	105	15	142	15	182	20	213	22	240	25	223	24

VII. *Statement of the Ratios upon which the several Apportionments have proceeded, and the unrepresented fractions of the federal population, in the respective States, under each of those Apportionments.*

	1793	1803	1813	1823	1833	1843
Ratios, . . .	33,000	33,000	35,000	40,000	47,700	70,680
States.	Fractions.	Fractions.	Fractions.	Fractions.	Fractions.	Fractions.
Maine,				18,335	18,355	7,033
N. Hampshire,	9,746	18,760	4,360	4,161	30,828	1,854
Vermont,	19,410	22,465	7,713	35,764	42,152	9,228
Massachusetts,	13,257	13,964	745	3,287	38,003	30,899
Rhode Island,	2,730	2,970	6,991	3,040	1,792	38,148*
Connecticut,	6,040	19,622	16,918	35,163	11,465	27,251
New York,	1,591	17,619	8,938	8,778	10,578	25,800
New Jersey,	14,571	8,981	35,215	34,513	33,721	19,636
Pennsylvania,	3,879	7,683	4,873	9,374	12,472	27,687
Delaware,	22,544	23,813	1,004	30,940	27,731	6,363
Maryland,	14,514	2,294	20,946	7,392	24,242	9,354
Virginia,	3,938	15,882	12,615	15,118	21,802	2
N. Carolina,	23,523	28,785	32,970	36,822	19,647	18,972
S. Carolina,	8,236	23,131	21,569	39,341	25,725	39,503*
Georgia,	4,839	6,340	346	1,125	510	13,574
Alabama,				5,175	24,007	65,264*
Mississippi,				22,322	14,957	14,847
Tennessee,		1,168	33,913	30,771	5,163	49,187*
Kentucky,	2,345	6,818	24,287	33,625	1,732	125
Ohio,		12,365	20,760	21,434	31,603	35,186
Michigan,						227
Indiana,				27,102	9,131	49,745*
Illinois,				14,845	14,056	51,971*
Missouri,				22,493	35,012	7,006
Arkansas,						18,920
Louisiana,			27,692	5,731	28,804	2,311
<i>Total,</i>	151,163	238,660	281,855	466,706	483,493	276,275†

\* These fractions are allowed one Representative each.

† Not including the fractions that are represented

VIII. Table showing the commencement, close, and duration of each session of Congress, the number of Acts and Resolutions passed, and of Bills vetoed or retained by the Executive, and the Speakers of the House of Representatives.

Congress.	Session.	Session		Days' duration.	Acts passed.	Bills defeated.	Speakers.
		Commenced.	Terminated.				
1	1	Mar. 4, 1789	Sept. 29, 1789	210	29	}	F. A. Muhlenberg, Penn.
	2	Jan. 4, 1790	Aug. 12, 1790	221	49		
	3	Dec. 6, 1790	Mar. 3, 1791	88	29		
2	1	Oct. 24, 1791	May 8, 1792	198	45	}	Jon. Trumbull, Conn.
	2	Nov. 5, 1792	Mar. 2, 1793	118	32		
3	1	Dec. 2, 1793	June 9, 1794	190	66	}	F. A. Muhlenberg.
	2	Nov. 3, 1794	Mar. 3, 1795	121	53		
4	1	Dec. 7, 1795	June 1, 1796	178	55	}	Jona. Dayton, N. J.
	2	Dec. 5, 1796	Mar. 3, 1797	89	30		
5	1	May 15, 1797	July 10, 1797	57	17	}	Jona. Dayton.
	2	Nov. 13, 1797	July 16, 1798	246	90		
	3	Dec. 3, 1798	Mar. 3, 1799	91	49		
6	1	Dec. 2, 1799	May 14, 1800	165	76	}	T. Sedgwick, Mass.
	2	Nov. 17, 1800	Mar. 3, 1801	107	36		
7	1	Dec. 7, 1801	May 3, 1802	148	55	}	Nath. Macon, N. C.
	2	Dec. 6, 1802	Mar. 3, 1803	88	40		
8	1	Oct. 17, 1803	Mar. 27, 1804	163	62	}	Nath. Macon.
	2	Nov. 5, 1804	Mar. 3, 1805	119	46		
9	1	Dec. 2, 1805	Apr. 21, 1806	141	46	}	Nath. Macon.
	2	Dec. 1, 1806	Mar. 3, 1807	93	49		
10	1	Oct. 26, 1807	Apr. 25, 1808	183	68	}	J. B. Varnum, Mass.
	2	Nov. 7, 1808	Mar. 3, 1809	117	37		
11	1	May 22, 1809	June 28, 1809	38	17	}	J. B. Varnum.
	2	Nov. 27, 1809	May 1, 1810	156	51		
	3	Dec. 3, 1810	Mar. 3, 1811	91	45		
12	1	Nov. 4, 1811	July 6, 1812	246	142	}	Henry Clay, Ken.
	2	Nov. 2, 1812	Mar. 3, 1813	122	66		
13	1	May 24, 1813	Aug. 2, 1813	71	59	}	Henry Clay. Lang. Cheves, S. C.
	2	Dec. 6, 1813	Apr. 18, 1814	134	99		
	3	Sept. 19, 1814	Mar. 3, 1815	166	113		

(Continued.)

Congress.	Session.	Session		Days' duration.	Acts passed.	Bills defeated.	Speakers.
		Commenced.	Terminated.				
14	1	Dec. 4, 1815	Apr. 30, 1816	149	181		Henry Clay.
	2	Dec. 2, 1816	Mar. 3, 1817	92	117		
15	1	Dec. 1, 1817	Apr. 20, 1818	151	142		Henry Clay.
	2	Nov. 16, 1818	Mar. 3, 1819	108	114		
16	1	Dec. 6, 1819	May 15, 1820	162	143		Henry Clay. J. W. Taylor, N. Y.
	2	Nov. 13, 1820	Mar. 3, 1821	111	65		
17	1	Dec. 3, 1821	May 8, 1822	157	133	1	P. P. Barbour, Va.
	2	Dec. 2, 1822	Mar. 3, 1823	92	106		
18	1	Dec. 1, 1823	May 27, 1824	179	212		Henry Clay.
	2	Dec. 6, 1824	Mar. 3, 1825	88	124		
19	1	Dec. 5, 1825	May 22, 1826	169	162		John W. Taylor.
	2	Dec. 4, 1826	Mar. 3, 1827	90	103		
20	1	Dec. 3, 1827	May 26, 1828	176	158		A. Stevenson, Va.
	2	Dec. 1, 1828	Mar. 3, 1829	93	67		
21	1	Dec. 7, 1829	May 31, 1830	176	243	4	A. Stevenson.
	2	Dec. 6, 1830	Mar. 3, 1831	88	126		
22	1	Dec. 5, 1831	July 14, 1832	223	311	3	A. Stevenson.
	2	Dec. 3, 1832	Mar. 3, 1833	91	147	1	
23	1	Dec. 2, 1833	June 30, 1834	211	277	1	A. Stevenson. John Bell, Tenn.
	2	Dec. 1, 1834	Mar. 3, 1835	93	113		
24	1	Dec. 7, 1835	July 4, 1836	211	377	1	James K. Polk, Tenn.
	2	Dec. 5, 1836	Mar. 3, 1837	89	81		
25	1	Sept. 4, 1837	Oct. 16, 1837	43	11		James K. Polk.
	2	Dec. 4, 1837	July 9, 1838	218	277		
	3	Dec. 3, 1838	Mar. 3, 1839	91	249		
26	1	Dec. 2, 1839	July 21, 1840	233	106		R. M. T. Hunter, Va.
	2	Dec. 7, 1840	Mar. 3, 1841	87	41		
27	1	May 31, 1841	Sept. 13, 1841	106	30	2	John White, Ken.
	2	Dec. 6, 1841	Aug. 31, 1842	269	299	4	
	3	Dec. 5, 1842	Mar. 3, 1843				

IX. *Compensation of the principal Executive officers of the Government of the United States.*

President,	Salary. \$25,000	Vice President,	Salary. \$5,000
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## CABINET.

Secretary of State,	Salary. \$6,000	Secretary of the Navy,	Salary. \$6,000
Secretary of Treasury,	6,000	Postmaster General,	6,000
Secretary of War,	6,000	Attorney General,	4,000

## DEPARTMENT OF STATE.

Chief Clerk,	Salary. \$2,000	<i>Patent Office.</i>	Salary.
Translator, Clerks,*	1,600	Commissioner, Chief Clerk.	\$3,000 1,700

## TREASURY DEPARTMENT.

Chief Clerk,	Salary. \$2,000	<i>Treasurer's Office.</i>	Salary.
<i>Comptrollers.</i>		Treasurer, Chief Clerk,	\$3,000 1,700
First Comptroller, Chief Clerk,	3,500 1,700	<i>Register's Office.</i>	
Second Comptroller, Chief Clerk,	3,000 1,700	Register, Chief Clerk,	3,000 1,700
<i>Auditors.</i>		<i>Solicitor's Office.</i>	
First Auditor, Chief Clerk,	3,000 1,700	Solicitor, Clerk,	3,500 1,150
Second Auditor, Chief Clerk,	3,000 1,700	<i>General Land Office.</i>	
Third Auditor, Chief Clerk,	3,000 1,700	Commissioner,	3,000
Fourth Auditor, Chief Clerk,	3,000 1,700	Principal Clerks, (three)	1,800
Fifth Auditor, Chief Clerk,	3,000 1,700	Recorder,	1,500
Auditor for P. O. Dep. Chief Clerk,	3,000 2,000	Solicitor, Secretary to sign Patents,	2,000 1,500

\* *Clerks* in the Departments, other than the *Chief Clerks*, receive usually from \$1,000 to \$1,400 a year; *Messengers*, commonly \$700.

## WAR DEPARTMENT.

	Salary.		Salary.
Chief Clerk,	\$2,000	Chief Clerk,	\$1,760
<i>Indian Affairs.</i>		<i>Bounty Lands.</i>	
Commissioner,	3,000	Principal,	1,600
Chief Clerk,	1,600	Clerk,	1,150
Superintendents,	1,500	<i>Paymaster General's Office.</i>	
Agents,	1,500	Paymaster General,	2,500
Sub-Agents,	750	Chief Clerk,	1,700
Interpreters,	300	<i>Surgeon General's Office.</i>	
<i>Pension Office.</i>		Surgeon General,	2,500
Commissioner,	2,500	Clerk,	1,150

## NAVY DEPARTMENT.

	Salary.		Salary.
Chief Clerk,	\$2,000	<i>Construc. Equip't &amp; Repairs.</i>	
<i>Navy Yards &amp; Docks.</i>		Chief of Bureau,	\$3,000
Chief of Bureau,	3,500	Assistant Constructor and	
Civil Engineer,	2,000	Draughtsman,	1,600
Draughtsman,	1,000	<i>Provisions &amp; Clothing.</i>	
<i>Ordnance &amp; Hydrography,</i>		Chief of Bureau,	3,000
		<i>Medicine &amp; Surgery.</i>	
Chief of the Bureau,	3,500	Chief of Bureau,	2,500

## POST OFFICE DEPARTMENT.

	Salary.		Salary.
Ass't P. M. Gens. (three)	\$2,500	Chief Clerk,	\$2,000

## OFFICERS OF THE MINT.

	Salary.		Salary.
Director,	\$3,500	Assayer,	\$2,000
Treasurer,	2,000	Melter and Refiner,	2,000
Chief Coiner,	2,000	Engraver,	1,500

## SURVEYORS GENERAL.

Of	Stationed at	Salary.
Ohio, Indiana and Michigan,	Cincinnati,	\$2,000
Illinois and Missouri,	St. Louis,	2,000
Mississippi,	Jackson,	2,000
Louisiana,	Donaldsonville,	2,000
Alabama,	Florence,	2,000
Florida,	Tallahassee,	2,000
Arkansas,	Little Rock,	1,500
Wisconsin and Iowa,	Du Buque,	*1,500

\* And \$350 a year for office rent, fuel, and incidental expenses.

X. *Pay and Allowances of the Army.*

Grade.	Number.	Pay by Month.	Rations daily.	Horses allowed.	Servants allowed.
Major General,	1	\$200	15	7	4
Brigadiers General,	2	104	12	5	3
Adjutant General, (Col.)	1	90	6	5	2
Assistant Adjutants General, (Majors)	2	60	4	4	2
Assistant Adjutants General, (Captains)	4	50	4	3	1
Inspector General, (Col.)	1	90	6	5	2
Quartermaster General, (Brigadier Gen.)	1	104	12	5	3
Assistant Quartermasters General, (Col.)	2	90	6	5	2
Deputy Quartermasters General, (Lt.Col.)	2	75	5	4	2
Quartermasters, (Majors)	4	60	4	4	2
Assistant Quartermasters, (Captains)	28	50	4	3	1
Commissary Gen. of Subsistence, (Col.)	1	90	6	5	2
Assist. Commiss'y. Gen. of Subsist. (Lt.Col.)	1	75	5	4	2
Commissaries, (Majors)	2	60	4	4	2
Commissaries, (Captains)	4	50	4	3	1
Surgeons, (Majors)*	20	60	4	4	2
Assistant Surgeons, (Captains)*	52	50	4	3	1
Paymasters, (Majors)	15	60	4	4	2
Colonels, †	17	75	6	4	2
Lieutenant Colonels, †	18	60	5	3	2
Majors, †	26	50	4	3	2
Captains, †	172	40	4		1
First Lieutenants, †	208	30	4		1
Second Lieutenants, †	168	25	4		1
Sergeant Majors,	14	17	1		
Quartermaster Sergeants,	14	17	1		
First Sergeants,	140	16	1		
Other Sergeants,	420	13	1		
Corporals,	560	9	1		
Principal Musicians,	22	17	1		
Musicians,	280	8	1		
Farriers and Blacksmiths,	20	11	1		
Artificers,	80	11	1		
Privates,	6040	7	1		
Cadets,	250	16	2		
Chaplains,	20	40	4		

\* Surgeons and Assistant Surgeons, after ten years' faithful service in those grades, are entitled to double rations. In regard to additional pay, rations and allowances, see page 126 of the text.

† The pay here stated is that allowed in the *Artillery and Infantry*. The pay of officers of *Dragoons, of Ordnance, Engineers, and Topographical Engineers*, is the same as that of Officers of corresponding grade in the *Staff*; which term embraces all in the above table, to *Commissaries* inclusive.

XI. *Annual Pay of Officers of the Navy.*

Grade and Number.	Pay.	Grade and Number.	Pay.
<b>CAPTAINS. — 67.</b>		<b>PURSEERS. — 63.</b>	
Senior Captain, in service,	\$4,500	Of ships of the line,	\$3,500
On leave, or waiting orders,	3,500	Frigates and razees,	3,000
Others, com'ding squadrons,	4,000	Sloops and steamers, 1st class,	2,000
On other duty,	3,500	Brigs, schooners, &c.,	1,500
Off duty,	2,500	At four of the navy yards,	2,500
		At Portsm. Phila. and Wash.,	2,000
		At naval stations,	1,500
		In receiving ships, elsewhere,	1,500
		At Boston, N. Y. and Norfolk,	2,500
		On leave, &c., pay of surgeons.	
<b>COMMANDERS. — 96.</b>		<b>PASSED MIDSHIPMEN. — 103.</b>	
In sea service,	2,500	On duty,	750
At navy yards, &c.,	2,100	Waiting orders,	600
On leave, or waiting orders,	1,800		
		<b>MIDSHIPMEN. — 450.</b>	
		In sea service,	400
		On other duty,	350
		On leave, or waiting orders,	300
		<b>MASTERS. — 15.</b>	
		Of ships of the line,	1,100
		On other duty,	1,000
		On leave, or waiting orders,	750
		<b>SECOND MASTERS. — 15.</b>	
		In sea service,	750
		On other duty,	500
		On leave, or waiting orders,	400
		<b>MASTERS' MATES. — 4.</b>	
		In sea service, &c.	450
		On leave, or waiting orders,	300
		BOATSWAINS, 32 } Ships of line, 800	
		GUNNERS, 41 } Other duty, 700	
		CARPENTERS, 36 } On leave, &c. 500	
		SAILMAKERS, 33 } Same, af. 10 y. 600	
<b>LIEUTENANTS. — 320.</b>			
Commanding,	1,800		
On other duty,	1,500		
Waiting orders,	1,200		
<b>SURGEONS. *— 70.</b>			
First five years,	1,000		
Second five years,	1,200		
Third five years,	1,400		
Fourth five years,	1,600		
After twenty years,	1,800		
<b>PASSED ASSIST. SURGEONS. — 9.</b>			
Waiting orders,	850		
At navy yards, &c.,	1,150		
At sea,	1,200		
<b>ASSISTANT SURGEONS. — 57.</b>			
Waiting orders,	650		
At sea, navy yards, &c.,	950		
<b>CHAPLAINS. — 24.</b>			
In sea service,	1,200		
On leave, or waiting orders,	800		
<b>PROFS. OF MATHEMATICS. — 17.</b>			
At sea, or navy yards,	1,200		

The *Marine Corps* consists of 1 colonel, 1 lieut. col., 4 majors, 13 captains, 20 1st lieuts., 20 2d lieuts., 1 adj't and inspector, 1 paymaster, 1 quartermaster, 1 assistant quartermaster, 1 sergeant major, 1 quartermaster sergeant, 1 drum major, 1 fife major, 80 sergeants, 80 corporals, 30 drummers, 30 fifers, and 1000 privates. They receive the same pay and emoluments as the *Infantry* and *Artillery*.

\*Surgeons at navy yards are entitled to an increase of one fourth, in sea service, of one third, and as fleet surgeons, of one half the amount of their respective annual pay.

XII. *Judicial Circuits and Districts, number of stated annual sessions of the Courts, places where they are held, and salaries of the District Judges.*

Circuits.	Districts.	Sessions of		Places where the Courts are held.	Salaries of District Judges.
		Circuit Court.	Dist. Court.		
1	Maine,	2	4	Portland, Wiscasset.	\$1,800
	N. Hampshire,	2	4	Portsmouth, Concord.	1,000
	Massachusetts,	2	4	Boston.	2,500
	Rhode Island,	2	4	Providence, Newport.	1,500
	Vermont,	2	2	Rutland, Windsor.	1,200
2	Connecticut,	2	4	Hartford, New Haven.	1,500
	N.Y. { S. Dist.	4	12	New York. [Canandai.†	3,500
3	{ N. Dist.	2	5	Albany, Utic.* Buff.* Roch.*	2,000
	New Jersey,	2	4	Trent., † N. Bruns., * Burling.*	1,500
4	Pa. { E. Dist.	2	4	Philadelphia.	2,500
	{ W. Dist.	2	4	Pittsburg, Williamsport.*	1,800
5	Delaware,	2	4	Newcastle, Dover.	1,500
	Maryland,	2	4	Baltimore.	2,000
6	Va. { E. Dist.	2	4	Richmond, Norfolk.*	1,800
	{ W. Dist.	1	8	Lewisburg, Staunt., * Clarks-	1,600
7	Ala. { S. Dist.	2	2	Mobile. [burg,* Wythe C.H.*	2,500
	{ M. Dist.	2	2	Tuscaloosa.*	
8	La. { N. Dist.	2	2	Huntsville.*	3,000
	{ E. Dist.	2	3	New Orleans.	
9	{ W. Dist.	1	1	Opelousas Court House.*	2,000
	N.C. { S. Dist.	2	2	Wilmington.*	
10	{ M. Dist.	2	2	Raleigh, † Newbern.*	2,000
	{ N. Dist.	2	2	Edenton.*	
11	S. C. { E. Dist.	2	4	Charleston, Columbia.†	2,500
	{ W. Dist.	1	1	Laurens Court House.*	
12	Georgia,	2	4	Savannah, Milledgeville.†	2,500
	Ohio,	2	2	Columbus.	1,000
13	Michigan,	1	2	Detroit.	1,500
	Indiana,	1	2	Indianapolis.	1,000
14	Illinois,	1	2	Springfield.	1,000
	Kentucky,	2	2	Frankfort.	1,500
15	{ E. Dist.	1	2	Knoxville.	1,500
	Ten. { M. Dist.	1	2	Jackson.*	
16	{ W. Dist.	1	2	Nashville.	1,200
	Missouri,	1	2	St. Louis.	
17	{ S. Dist.	2	2	Jackson.	2,000
	Mis. { N. Dist.	2	2	Pontococ.*	
18	Arkansas,	1	2	Little Rock.	2,000

\* † In the places marked (\*), only *District Courts* are held; at those marked (†), only *Circuit Courts*; at the others, both *Circuit and District Courts*.

XIII. *Number of Post Offices, Extent of Post Roads, and Revenue and Expenditures of the Post Office Department; with the amount paid to Postmasters, and for Transportation of the Mail.\**

Years.	Number of Post Offices.	Extent of Post Roads.	Revenue of the Department.	Expenditures of the Department.	Amount paid for	
					Compensation of Postmasters.	Transportation of the Mail.
1790	75	1,875	\$37,935	\$32,140	\$8,198	\$22,031
1795	453	13,207	160,620	117,893	30,272	75,359
1800	903	20,817	280,804	213,994	69,243	128,644
1805	1,558	31,076	421,373	377,367	111,552	239,635
1810	2,300	36,406	551,684	495,969	149,438	327,966
1815	3,000	43,748	1,043,065	748,121	241,901	487,779
1816	3,260	48,673	961,782	804,422	265,944	521,970
1817	3,459	52,039	1,002,973	916,515	303,916	589,189
1818	3,618	59,473	1,130,235	1,035,832	346,429	664,611
1819	4,000	67,586	1,204,737	1,117,861	375,828	717,881
1820	4,500	72,492	1,111,927	1,160,926	352,295	782,425
1821	4,650	78,808	1,059,087	1,184,283	337,599	815,631
1822	4,799	82,763	1,117,490	1,167,572	355,299	788,618
1823	4,043	84,860	1,130,115	1,156,995	360,462	767,464
1824	5,182	84,860	1,197,758	1,188,019	383,804	768,939
1825	5,677	94,052	1,306,525	1,229,043	411,183	785,646
1826	6,150	94,052	1,447,703	1,366,712	447,727	885,100
1827	7,003	105,336	1,524,633	1,468,959	486,411	942,345
1828	7,530	105,336	1,659,915	1,689,945	548,049	1,086,313
1829	8,001	115,000	1,707,418	1,782,132	559,237	1,153,646
1830	8,450	115,176	1,850,583	1,932,708	595,234	1,274,009
1831	8,636	115,486	1,997,811	1,936,122	635,028	1,252,226
1832	9,205	104,466	2,258,570	2,266,171	715,481	1,482,507
1833	10,127	119,916	2,617,011	2,930,414	826,283	1,894,638
1834	10,693	119,916	2,823,749	2,910,605	897,317	1,925,544
1835	10,770	112,774	2,993,356	2,757,350	945,418	1,719,007
1836	11,091	118,264	3,408,323	2,841,766	812,803	1,638,032
1837	11,767	141,242	4,100,605	3,303,428	891,352	1,996,727
1838	12,519	134,818	4,235,078	4,621,837	933,948	3,131,308
1839	12,780	133,999	4,477,614	4,654,718	980,000	3,285,622
1840	13,468	155,739	4,539,265	4,759,110	1,028,925	3,296,876
1841	13,778	155,026	4,379,296	4,443,768	1,018,645	2,934,389

\* The *Revenue* of the Post Office Department is derived chiefly from *postage*; a trifling amount from *finer* and *penalties* for violations of the post office laws. The *Expenditures* of the department, consist of the items for compensation of postmasters, and transportation of the mail, and certain other *miscellaneous* expenses.

XIV. *Statement of the Receipts into the National Treasury, from Customs, Internal Revenue and Direct Taxes, and Sales of Public Lands.*

Years.	Customs.	Internal and direct Taxes.	Sales of lands.	Aggregate of Receipts	
				In each year.	In each period of four years.
1789-91	\$4,399,473			\$4,399,473	
1792	3,443,071	\$208,943		3,652,014	\$8,051,487
1793	4,255,306	337,706		4,593,012	
1794	4,801,065	274,090		5,075,155	
1795	5,588,461	337,755		5,926,216	
1796	6,567,988	475,290	\$4,836	7,043,114	22,642,497
1797	7,549,650	575,491	83,541	8,208,682	
1798	7,106,062	644,358	11,963	7,762,383	
1799	6,610,449	779,136		7,389,585	
1800	9,080,933	1,543,620	444	10,624,997	33,985,647
1801	10,750,779	1,582,377	167,726	12,500,882	
1802	12,438,236	828,464	188,628	13,455,328	
1803	10,479,418	287,059	165,676	10,932,153	
1804	11,098,565	101,139	487,527	11,687,231	48,575,594
1805	12,936,487	43,631	540,194	13,520,312	
1806	14,667,698	75,865	765,246	15,508,809	
1807	15,845,522	47,784	466,163	16,359,469	
1808	16,363,550	27,370	647,939	17,038,859	62,427,449
1809	7,296,021	11,562	442,252	7,749,835	
1810	8,583,309	19,879	696,549	9,299,737	
1811	13,313,223	9,962	1,040,238	14,363,423	
1812	8,958,778	5,762	710,428	9,674,968	41,087,963
1813	13,224,623	8,561	835,655	14,068,839	
1814	5,998,772	3,882,482	1,135,971	11,017,225	
1815	7,282,942	6,840,733	1,287,959	15,411,634	
1816	36,306,875	9,378,344	1,717,985	47,403,204	87,900,902
1817	26,283,348	4,512,288	1,991,226	32,786,862	
1818	17,176,385	1,219,613	2,606,565	21,002,563	
1819	20,283,609	313,244	3,274,423	23,871,276	
1820	15,005,612	137,847	1,635,872	16,779,331	94,440,032
1821	13,004,447	98,377	1,212,966	14,315,790	
1822	17,589,762	88,617	1,803,582	19,481,961	
1823	19,088,433	44,580	916,523	20,049,536	
1824	17,878,326	40,865	984,418	18,903,609	72,750,896
1825	20,098,714	28,102	1,216,090	21,342,906	
1826	23,341,332	28,228	1,393,785	24,763,345	
1827	19,712,283	22,513	1,495,845	21,230,641	
1828	23,205,524	19,671	1,018,309	24,243,504	91,580,396

1829	\$22,681,966	\$25,838	\$1,517,175	\$24,224,979	
1830	21,922,391	29,141	2,329,356	24,280,888	
1831	24,224,442	17,440	3,210,815	27,452,697	
1832	28,465,237	18,422	2,623,381	31,107,040	\$107,065,604
1833	29,032,509	3,153	3,967,682	33,003,344	
1834	16,214,957	4,216	4,857,601	21,076,774	
1835	19,391,311	14,723	14,757,601	34,163,635	
1836	23,409,940	1,099	24,877,180	48,288,219	136,531,972
1837	11,169,290		6,776,237	17,945,527	
1838	16,158,800		3,051,939	19,240,739	
1839	23,000,000		6,141,330	29,141,330	
1840	13,499,502		3,292,286	16,791,788	83,129,384
<i>Total</i>	746,785,376	34,995,340	103,379,107		890,169,823

*Loans negotiated, and Treasury Notes issued.*

Years.	Amount		Years.	Amount	
	In each year.	In each period of four years.		In each year.	In each period of four years.
1789-91	\$5,791,113		1817	\$734,543	
1792	5,070,806	\$10,861,919	1818	8,765	
1793	1,067,701		1819	2,291	
1794	4,609,197		1820	3,040,824	\$3,786,423
1795	3,305,268		1821	5,000,324	
1796	362,800	9,344,966	1822		
1797	70,136		1823		
1798	308,574		1824	5,000,000	10,000,324
1799	5,074,646		1825	5,000,000	
1800	1,602,435	7,055,791	1826		
1801	10,125		1827		
1802	5,597		1828		5,000,000
1803			1829		
1804	9,533	25,255	1830		
1805	128,815		1831		
1806	48,898		1832		
1807			1833		
1808	1,822	179,535	1834		
1809			1835		
1810	2,759,992		1836		
1811	8,309		1837	2,992,989	
1812	12,837,900	15,606,201	1838	12,716,821	
1813	26,184,435		1839	3,857,276	
1814	23,377,912		1840	5,539,548	25,156,634
1815	35,264,321				
1816	9,494,436	94,321,104		<i>Total</i>	181,338,152

XV. *Statement of the Expenditures of the United States, exclusive of payments on account of the Public Debt, and from Trust Funds.*

Years.	Civil list, foreign intercourse, and miscellaneous.	Military establishment.*	Naval establishment.	Aggregate of Expenditures	
				In each year.	In each period of four years.
1789-91	\$1,083,401	\$835,618	\$570	\$1,919,589	
1792	654,257	1,223,594	53	1,877,904	\$3,797,493
1793	472,450	1,237,620		1,710,070	
1794	705,598	2,733,540	61,409	3,500,547	
1795	1,367,037	2,573,059	410,562	4,350,658	
1796	772,485	1,474,661	274,784	2,521,930	12,083,205
1797	1,246,904	1,194,055	382,632	2,823,591	
1798	1,111,038	2,130,837	1,381,348	4,623,223	
1799	1,039,392	2,582,693	2,858,082	6,480,167	
1800	1,337,613	2,625,041	3,448,716	7,411,370	21,338,351
1801	1,114,768	1,755,477	2,111,424	4,981,669	
1802	1,462,929	1,358,589	915,562	3,737,080	
1803	1,842,636	944,958	1,215,231	4,002,825	
1804	2,191,009	1,072,017	1,189,833	4,452,859	17,174,433
1805	3,768,538	991,136	1,597,500	6,357,224	
1806	2,891,037	1,540,431	1,649,641	6,081,109	
1807	1,697,897	1,564,611	1,722,064	4,984,572	
1808	1,423,286	3,196,985	1,884,068	6,504,339	23,927,244
1809	1,215,804	3,771,109	2,427,759	7,414,672	
1810	1,101,145	2,555,693	1,654,244	5,311,082	
1811	1,367,291	2,259,747	1,965,566	5,592,604	
1812	1,683,088	12,187,046	3,959,365	17,829,499	36,147,857
1813	1,729,435	19,906,362	6,446,600	28,082,397	
1814	2,208,029	20,608,366	7,311,291	30,127,686	
1815	2,898,871	15,394,700	8,660,000	26,953,571	
1816	2,989,742	16,475,412	3,908,278	23,373,432	108,537,086
1817	3,518,937	8,621,075	3,314,598	15,454,610	
1818	3,835,839	7,019,140	2,953,695	13,808,674	
1819	3,067,212	9,385,421	3,847,640	16,300,273	
1820	2,592,022	6,154,518	4,387,990	13,134,530	58,698,087
1821	2,223,122	5,181,114	3,319,243	10,723,479	
1822	1,967,996	5,635,187	2,224,459	9,827,642	
1823	2,022,094	5,258,295	2,503,766	9,784,155	
1824	7,155,308	5,270,255	2,904,582	15,330,145	45,665,421
1825	2,748,544	5,692,831	3,049,084	11,490,459	
1826	2,600,178	6,243,236	4,218,902	13,062,316	
1827	2,314,777	5,675,742	4,263,878	12,254,397	
1828	2,886,052	5,701,203	3,918,786	12,506,041	49,313,213

\* For the items included under this head, see page 196 of the text.

## EXPENDITURES.

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1829	\$3,092,214	\$6,250,530	\$3,308,745	\$12,651,489	
1830	3,228,416	6,752,689	3,239,429	13,220,534	
1831	3,064,346	6,943,239	3,356,183	13,863,768	
1832	4,574,841	7,982,877	3,956,370	16,514,088	\$56,249,879
1833	5,051,789	13,096,152	3,901,357	22,049,298	
1834	4,399,779	10,064,428	3,956,260	18,420,467	
1835	3,720,167	9,420,313	3,864,939	17,005,419	
1836	5,388,371	18,466,110	5,800,763	29,655,244	87,130,428
1837	5,524,253	19,417,274	6,852,060	31,793,587	
1838	5,666,702	19,936,312	5,941,381	31,544,395	
1839	5,026,644	13,546,071	6,182,294	24,755,009	
1840	5,492,031	10,866,236	6,031,089	22,389,356	110,482,347
<i>Total,</i>	132,537,364	342,773,605	155,234,075		630,545,044

*Payments of the Public Debt, and to redeem Treasury Notes.*

Years.	In each year.	In each period of four years.	Years.	In each year.	In each period of four years.
1789-91	\$ 5,287,950		1817	\$25,423,036	
1792	7,263,666	\$12,551,616	1818	21,296,202	
1793	5,819,505		1819	7,703,926	
1794	5,801,578		1820	8,628,494	\$63,051,658
1795	6,084,412		1821	8,367,094	
1796	5,835,846	23,541,341	1822	7,848,949	
1797	5,792,422		1823	5,530,016	
1798	3,990,294		1824	16,568,394	38,314,453
1799	4,596,877		1825	12,095,345	
1800	4,578,370	18,957,963	1826	11,041,082	
1801	7,291,707		1827	10,003,668	
1802	9,539,005		1828	12,163,438	45,303,533
1803	7,256,159		1829	12,383,868	
1804	8,171,787	32,258,658	1830	11,355,748	
1805	7,369,890		1831	16,174,378	
1806	8,989,885		1832	17,840,309	57,754,303
1807	6,307,720		1833	1,543,543	
1808	10,260,245	32,927,740	1834	6,179,565	
1809	6,452,554		1835	58,191	
1810	8,008,904		1836		7,781,299
1811	8,009,204		1837	21,823	
1812	4,449,622	26,920,284	1838	5,605,720	
1813	11,108,123		1839	10,906,418	
1814	7,900,544		1840	5,474,119	22,008,080
1815	12,628,922				
1816	24,871,063	56,508,652		<i>Total,</i>	437,879,580

XVI. *Statement of the Coinage at the Mint of the United States.*

Years.	Number of Pieces.	Value.	Years.	Number of Pieces.	Value.
1793-5	1,834,420	\$453,542	1819	5,074,723	\$1,425,325
1796	1,219,370	192,130	1820	6,492,509	1,864,786
1797	1,095,165	125,524	1821	3,139,249	1,013,977
1798	1,368,241	545,598	1822	3,813,788	915,510
1799	1,365,681	645,907	1823	2,166,485	967,975
1800	3,337,972	571,335	1824	4,786,894	1,858,297
1801	1,571,390	510,956	1825	5,178,760	1,735,894
1802	3,615,869	516,076	1826	5,774,434	2,110,679
1803	2,780,830	370,698	1827	9,097,845	3,024,243
1804	2,046,839	371,828	1828	6,196,853	1,741,381
1805	2,260,361	333,240	1829	6,684,501	2,306,875
1806	1,815,409	801,084	1830	8,357,191	3,155,020
1807	2,731,345	1,044,596	1831	11,792,284	3,923,474
1808	2,935,888	982,055	1832	9,128,387	3,401,055
1809	2,861,834	884,753	1833	10,307,790	3,765,710
1810	3,056,418	1,155,868	1834	11,637,643	7,388,423
1811	1,649,570	1,108,741	1835	15,996,342	5,668,667
1812	2,761,646	1,115,220	1836	13,719,333	7,764,900
1813	1,755,331	1,102,271	1837	13,010,721	3,299,898
1814	1,833,859	642,536	1838*	15,780,311	4,206,540
1815	68,867	20,453	1839*	11,811,594	3,576,467
1816	2,888,135	56,786	1840*	10,558,240	3,426,632
1817	5,163,967	647,267	1841*	8,811,968	2,240,322
1818	5,537,084	1,345,065	<i>Total,</i>	256,873,336	86,331,209

*Gold of the United States deposited for Coinage.*

Years.	Amount Deposited					At the Branch Mints.	Aggregate in each year.
	At the Mint, at Philadelphia, from						
	Virginia.	North Carolina.	South Carolina.	Georgia.	Other States.		
1829	\$2,500	\$134,000	\$3,500				\$140,000
1830	24,000	204,000	26,000	\$212,000			466,000
1831	26,000	294,000	22,000	176,000	\$2,000		520,000
1832	34,000	458,000	45,000	140,000	1,000		678,000
1833	104,000	475,000	66,000	216,000	7,000		868,000
1834	62,000	380,000	38,000	415,000	3,000		898,000
1835	60,400	263,500	42,400	319,900	12,300		698,500
1836	62,000	148,100	55,200	201,400	300		467,000
1837	52,100	116,900	29,400	83,600			222,000
1838	55,000	66,000	13,000	36,000	1,700	\$263,400	435,100
1839	57,600	53,500	6,300	20,300	800	246,740	385,240
1840	38,995	36,804	5,319	91,113	4,535	249,419	426,185
1841	25,736	76,431	3,440	139,796	3,075	293,639	542,117
<i>Total,</i>	604,331	2,815,235	355,559	2,051,109	35,710	1,053,198	6,806,142

\* Including the coinage of the Branch Mints.

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