

The Open Court

A MONTHLY MAGAZINE

Devoted to the Science of Religion, the Religion of Science, and the
Extension of the Religious Parliament Idea

Editor: DR. PAUL CARUS,
Assistant Editor: T. J. MCCORMACK.

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VOL. XIV. (NO. 2) FEBRUARY, 1900.

NO. 525

CONTENTS:

<i>Frontispiece.</i> EROS AND PSYCHE.	
<i>Eros and Psyche.</i> Retold after Apuleius. With Illustrations by PAUL THUMANN	65
<i>Expansion, but Not Imperialism.</i> EDITOR.	87
<i>The Constitution and the "Open Door."</i> ROSCOE C. E. BROWN	95
<i>China and the Philippines.</i> EDITOR	108
<i>American War Songs.</i> C. CROZAT CONVERSE, LL. D.	111
<i>Gospel Parallels from Pali Texts.</i> Translated from the Originals by ALBERT J. EDMUNDS	114
<i>Comment on Eros and Psyche</i>	119
<i>The International Congresses of the World's Exposition at Paris, in 1900.</i>	120
<i>Popular Music.</i>	122
<i>Life After Death.</i> A Comment on Hoffmann's Story of Tante Fritzchen. The REV. J. CLEVELAND HALL	123
<i>The Cross in Japanese Heraldry.</i> N. W. J. HAYDEN	124
<i>Book Notices and Notes</i>	125

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EXPANSION, BUT NOT IMPERIALISM.

BY THE EDITOR.

[The speeches of Senators Beveridge and Hoar have attracted much attention all over the country, but neither the one nor the other has, in our opinion, presented the right solution of the question. In a debate which took place on Jan. 17, 1900, before the Sunset Club of Chicago, the editor of *The Open Court* made some comments along the lines in which he has treated the subject from time to time in incidental notes in these pages. The following article is an expansion of his remarks.]

ON the question of the Philippines, our nation is divided into two parties: (1) the expansionists, and (2) the anti-imperialists. They are represented in the Senate by Beveridge, and by Hoar, and here in the Sunset Club by Col. J. H. Davidson and the Rev. Jenkin Lloyd Jones.¹

The expansionists declare that we should not let slip the opportunity of growing in power and expanding into an empire that the world must reckon with and that in the future will make its influence felt all over the globe. The anti-imperialists take their stand upon high moral ground and urge us, not without some display of sentiment, to remain faithful to the ideal of liberty as outlined in our Declaration of Independence.

There is much that is right and good on either side. Both parties emphasise a truth, and I fail to see that the two views should not be reconcilable. In fact, I claim that on the main points, omitting all incidentals, they do not clash at all, and may be combined in the proposition *Expansion, but not imperialism*, which, I trust, will finally be accepted by the nation at large.

Let our new acquisitions, which *de facto*, by right of conquest

¹The present article is a résumé of the editorial views on expansion, and we hope that our readers will forgive us for repeating some of the arguments presented in former numbers of *The Open Court*. See "Cuba as an Allied Republic of the United States," November 1898, pp. 690-993; "Americanism and Expansion," April 1899, pp. 215-223; "The Filipino Question," June 1899, pp. 375-6; and "The Philippine Imbroglio," August 1899, pp. 504-5.

and treaty of peace, are now our dependencies, be established as federal republics enjoying home rule in agreement with their own wishes and according to the character of their nationalities.¹ When dealing with them, let us avoid the very terms "dependency" and "subject"; let us call them, and in every respect treat them as, independent allies and let us allow them sovereignty in their own sphere of political life. But while we should give independence to Cuba, Porto Rico, and the Philippines, we need not abandon the strongholds and harbor defences of these islands. We might hold them as federal fortifications, but we must hold them under all circumstances, and I go so far as to claim that it is the *duty* of the United States government to retain them, for they are indispensable to the maintenance of our interests in the world's politics; and they have fallen into our hands, not by chance, but through the necessity of our historical development, which led to a conflict with Spain and pitted the representatives of two opposed principles against one another upon the very spots where their interests collided.

As to the Philippines² the best plan may prove to be a division of the territory into various states with different constitutions according to local requirements, ethnological as well as religious. The Mussulmans, the various mountain tribes, the Filipinos, the European colonists of the city of Manila, etc., are too disparate elements to enter as homogeneous ingredients into the plan of a comprehensive Philippine Republic.³ But the various districts might be independent and might form a loose confederacy under the presidency of the United States; and a federal supreme court should be instituted as a court of last appeal in all affairs, civil litigations and criminal proceedings. It would be the duty of the

¹ The question of the constitutionality of the Open Door policy which in the present number is so ably handled by Mr. Roscoe C. E. Brown is a legitimate problem if our new acquisitions are to be treated as dependencies the laws governing which must be manufactured at Washington. But the question could not be raised at all if the proposition were accepted which we advocate as the only practicable solution. It is obvious that whatever relations may be covered by the name of this alliance, our Constitution can have no direct bearing on the administration or methods of taxation in the islands. For further details see the article "China and the Philippines," on p. 333 of the present number.

² We say "the Philippines," not the Filipinos, for the Filipinos are only a part of the inhabitants of the Philippines. We must not forget that the European residents in Manila have a right, too, to make their wishes respected. In addition there are other tribes and residents. Aguinaldo represents only a fraction of the Filipinos.

³ If we attempt to govern the Philippine Islands, we would be responsible for the laws that prevail there, and the criticism of the anti-imperialists that we sanction slavery and polygamy would be just. But if we make of the Sulu Mohammedans a federal state, we could not be blamed for their institutions, and all that can be expected of us would be that we exercise a moral influence upon our allies which will finally lead to the abolition of institutions which are not compatible with our own ideals of civilised life.

latter so to construe the laws of the different states that they would not lead to collisions and would be interpreted in the spirit of modern civilisation and humaneness.

There are imperialists who claim that the Filipinos are not fit to govern themselves. It may be. But have we not large classes in the United States that in this respect are no whit better?

If the inhabitants of our conquered territories are not yet fit to govern themselves (as is so frequently claimed), let us teach them the principles of self-government; and I feel sure that according to the old maxim, *docendo discimus*, we ourselves shall be able to profit by these lessons as much as, perhaps more than, the Filipinos.

The acquisition of the new territories will prove a test of our own worth. Even if we make of them federal republics, our responsibility does not cease entirely; and we shall naturally watch their development with parental pride. As the education of children exercises an educational influence on the parents themselves, so the United States may derive unexpected blessings from a faithful discharge of their duties toward their new wards.

There are many reasons for granting unreserved home rule to the Philippines, but I will here mention only the one that appeals most strongly to the advocates of imperialism. It is this: that our hold on the islands will be strongest if we grant to the inhabitants perfect independence. If we subdue them they will be our enemies. *Quot servi tot hostes*. Let the natives of the Philippines and of all the other new territories elect their own magistrates and attend to the policing of the country by men of their own choice, of their own language, of their own nationality, and according to principles which they deem best. The easiest way of governing people, be they colonists or a conquered race, is by giving them local self-government. The more independent they feel the more satisfied they will be.

If we guarantee the inhabitants of the Philippines their liberty, they will prove themselves to be sincere allies, and in critical times we may rely upon their friendship.

But why should we not abandon the islands entirely? Why should we not with the anti-imperialists say that we have no business in Havana and Manila?

Did you ever consider that from the harbors of Cuba and Porto Rico a bold though weak enemy could destroy within a week our entire coast trade and harrass our maritime cities with impunity? Havana, Cienfuegos, Santiago de Cuba, San Juan of Porto Rico, command the seas that wash our shores, and without them the

canal that is to unite the two greatest oceans of the world cannot be controlled. The possession of these strongholds is of vital interest to us and should not be left to the accidents of the home politics of the islands.

The same (in a modified form) is true of the fortifications of Manila Bay, of Apia, and Honolulu. To surrender any one of these fortifications would be treason toward the mission of the United States. Cavité in hostile hands would, in the emergency of war, be a formidable weapon against us, but Manila Bay in our possession will serve our navy for a basis of operation and will offer our merchantmen in the far East a convenient place of refuge.

The idea that the business of the United States is at home, and that the Illinois farmer has no interest beyond the territory which he plows, is a grave mistake. The world is one great organism, and if we cannot, or dare not, take a strong stand in the Gulf and in the Pacific we shall soon see our national life crippled in our own country. If we want to stand up for American principles in contrast to European principles, we must look out for the future and strengthen our position which is much weaker than our national vanity would admit. It is not enough to talk about ideals, we must work for them and, if need be, fight for them.

Aye, to fight for them! There is the rub. Our friends, the anti-imperialists, as a rule, denounce war and speak of the dangers of standing armies and militarism. But this world is a world of struggle; and he who does not struggle will be trampled under foot.

War is terrible, but we cannot change the constitution of the universe, the plan of which is to bring out nobler qualities by combat and competition. We can replace the crude modes of battle with more refined methods, the club with the gun and the gun with legal argument; but even a lawsuit remains a struggle, and the stronger one conquers.

Strength is an indispensable quality, but there is this comfort that brute force prevails only for the moment, and strength not allied with justice cannot stand. It is right that gives to power endurance, in which sense the saying is true that right is might.

Arbitration will become a more and more acceptable way of settling international disputes; but we shall see that arbitration will be decided in favor of that side which in case of war would win. The United States are a peaceful nation, but they will remain at peace only so long as they are strong enough to defend themselves against foreign infringement.

As to militarism I claim, first, that it is dangerous only when

the life of the nation is rotten. Secondly, if we grant the newly acquired territories home rule, we shall have as little need of a standing army in the Philippines as we have here among us to-day for the sake of keeping the United States loyal to the Union. And, thirdly, what we need to maintain ourselves in the struggle for existence among the nations of the world is not a strong army but a strong navy, and no one has as yet claimed that the navy might become dangerous to the liberties of the nation.¹

We wrong no one in retaining these harbor defences of the islands ceded to us by Spain; for certainly neither Aguinaldo nor any of his followers has a better title to the possession of Cavité. The Filipinos are not the only inhabitants of the Philippines; the colonists of European extraction have no less a right to life and liberty in the islands; and *we* have the same right as they to go there. Let our navy, whom destiny and duty brought thither, in the name of our government have and hold what through an inevitable course of events fell into their hands.

By granting independence and home rule, nay, even sovereignty, to the inhabitants of the islands, but retaining the strongholds of the country, we can be good expansionists and at the same time thorough anti-imperialists.

Allow me here to make an incidental comment as to the nature of sovereignty, what it involves and what it does not involve. Sovereignty means independence and involves the right of administering one's own affairs without the intrusion of outsiders. But the sovereignty of a state or a monarchy does not necessarily involve

¹ Militarism is dangerous in France, because there is something rotten in the Republic, but it is not dangerous in Germany. Most of the Germans who denounce the German army as an unbearable burden or an imperialistic institution are deserters or people who left the fatherland merely to shirk their military duty. They know not whereof they speak. The army is a two-edged sword, which the government is very fearful of using for selfish ends, for they know very well that they could not use it twice with success. The author of this article served in the Prussian field artillery, regiment No. 17, and was attached as a lieutenant of the reserves to the Saxon artillery, regiment No. 12, until he became naturalised as a citizen of the United States, and he challenges anybody to deny that the regulations of the German army have a good deal of democratic principle in them. There is no respect of person but duty rules supreme and the practical application of this rule is one, perhaps the main, reason of its strength.

So long as they were warlike, so long as they were ready to fight for their ideals and the expansion of their kind of civilisation with sword in hand, the Roman Republic stood unshaken, but when they became refined by the luxuries of peace and left the glory of dying for their country to mercenary soldiers, Rome degenerated and the establishment of Cæsarism became necessary as the best thing that could be had under the circumstances. Militarism in itself does not endanger liberty; but lack of strength and flabby love of peace at home and abroad do.

One of the speakers at the Sunset Club praised Mr. Gladstone's love of peace; but please bear in mind that by his principles of avoiding war he encouraged England's enemies, and the whig ministry had to wage more wars than its Tory predecessor Lord Palmerston.

Far from being a noble and moral principle, the ideal of peace at any price is mere sentimentalism, and is as immoral as the ovine morality of those who admire the sheep for its good nature in allowing itself to be devoured by the wolf.

the regulation of import duties, and a series of rights which are exercised by the representatives of a confederation of two or several allied sovereign states. Thus, the states of our Union are sovereign states, and so in Germany are the kingdoms of Bavaria, Württemberg, and Saxony; but they, as such, have no representatives at foreign courts; they have under their control no standing armies, nor do they possess the right of levying duties or any other indirect taxes. There is no need of entering into details, as it will be sufficient to indicate that the sphere of regulating international relations is a province of its own which does not necessarily belong to the institution of home rule.

It is in the interests of the islands themselves that we should reserve to ourselves, at least at present, the regulation of their international relations, for thus alone can they be protected against foreign encroachments which, for instance, Hayti has suffered repeatedly at the hands of European powers; and the mode in which we should in the course of time change this condition may fairly be left to future developments.

Let us look out for advantages that are real, which consist in the expansion of our industries and our commerce, including the possession of a few important strongholds of strategic importance for the protection of our interests in cases of war, but not in the acquisition of territorial possessions with the right to interfere with the home politics of other nations, which only increases our responsibilities, leads to complications of incalculable intricacy, and renders our position precarious.

Under all circumstances the policy of changing our dependencies into federal republics as independent as possible in their home politics seems to be the most promising, the easiest, and the best method of dealing with the intricate questions that arise from our territorial expansion. We should have in that case all the advantages which other nations have through actual possession, and should be relieved of the responsibility of detailed management, which, after all, is a risk and a danger, bringing no returns whatever, except perhaps to a few office-hunters, to keep out whom would be a great blessing and would save our nation the unpleasant experience of making itself obnoxious to its new allies.

Genuine expansion carries the principles of our own history with it and extends the blessings as well as the responsibilities of home rule to those who come under our influence. Imperialism however is a mere external show of expansion without any actual benefit. Imperialism would weaken our position in the world.

But because we should not allow our country to drift into imperialism, we must not set our face against expansion. Why should we? If the feet of our boys are growing shall we not allow them to wear boots of a larger size?

The anti-imperialists claim that expansion is a new departure in the history of the United States, but this is an error. We have been expanding since the very day that the thirteen colonies constituted themselves as states, and an irony of fate which is so often visible in history placed Thomas Jefferson, the leader of the anti-imperialists, then called Whigs or anti-federalists, in power at the very moment when the first opportunity offered itself of a most important expansion. James Monroe, the Whig ambassador of the United States, reached Paris in 1803 at the time when France was preparing for war with Great Britain; and the French government offered to the United States for \$15,000,000 that large tract of territory then called Louisiana, covering the entire Mississippi valley including the whole state of Illinois with our good city of Chicago and extending northward to Canada. The Whig ambassador did not hesitate to conclude the bargain, and the Whig president endorsed it, although it was fundamentally and directly opposed to his anti-imperialistic interpretation of the constitution. He felt urged to excuse his conduct by saying that he "acted like a guardian who makes an unauthorised purchase for the benefit of his ward, trusting that the latter will afterwards ratify it;" but he forgot to ask the consent of both parties concerned, the people of the United States and the inhabitants of Louisiana, and perhaps with good reasons; for the latter, then consisting mainly of French colonists, would undoubtedly have as vigorously protested against the ratification of the bargain as the present inhabitants are satisfied with it. Think what would have become of the United States if England had taken the Mississippi valley which at this critical moment was prevented only by an anti-imperialist acting according to the principles of imperialism!

We grant that the present administration made mistakes, but we ought to be charitable; for it is likely that the anti-expansionists, if they had been in power, would have done no better. The situation was difficult, and criticism is easy. They will always be "antis"; some people are born so. It is probable that if the "antis" had been in power, they would be expansionists now; and if not, if they had withdrawn from the islands, the situation there would be worse than it is at present.

If the purchase of Louisiana had been made by a federalist

president, would not Mr. Jefferson have censured him severely for the unwarranted trespass of his power? Since the silver issue has worn out, the "antis" need a new campaign cry, and it seems that anti-expansion is the best obtainable.

One more word. Cuba seemed to be a witches' cauldron of restlessness and yet our relation to the island is so far quite satisfactory. On the other hand, the Filipinos were regarded as a peaceful nation who would be easily managed and might quickly be Americanised. Yet we have trouble upon trouble with them and in spite of many official announcements that the end of the revolution is near on hand, their pacification is still unaccomplished. And why? because the United States government was careful enough to treat Cuba according to the principle here sketched out, but did not deem the same consideration necessary for the Filipinos.

Let us heed the lesson which these facts teach.

THE CONSTITUTION AND THE "OPEN DOOR."

BY ROSCOE C. E. BROWN.

IS THE "open door" in the Philippines a "political myth"? Has the Government of the United States exceeded its powers and promised what it cannot perform in announcing to the nations through its Peace Commissioners at Paris its policy "to maintain in the Philippines an open door to the world's commerce"? With the near prospect of the restoration of normal conditions in the islands these become practical questions. On the answer to them will depend our power to make our Asiatic possessions an aid to the liberal trade policy which we in common with Great Britain are trying to uphold in China, instead of having our presence in the Orient a stumbling-block in our own commercial path and an irritation to the rest of the world.

Those who hold that no separate tariff for the Philippines is possible base their opinion on the Constitutional provision :

"The congress shall have power :

"To lay and collect taxes, duties, imposts and excises ; to pay the debts, and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises shall be uniform throughout the United States."

The interpretation of this rule as applying to our new possessions requires the assumption, first, that all territories of the United States under all conditions are within the United States in the meaning of the Constitution, and, secondly, that in the view of the organic law the Philippines cannot possibly be differentiated from continental territory. Two cases in the Supreme Court are relied upon to uphold the first contention. One is the dictum of Chief Justice Marshall¹ in 1820. Arguing that Congress had power to extend a general direct tax to the District of Columbia, the Chief Justice remarked :

¹Loughborough vs. Blake, 5 Wheaton 319.

"The power, then, to lay and collect duties, imposts and excises may be exercised, and must be exercised, throughout the United States. Does this term designate the whole or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great Republic which is composed of States and Territories."

More directly touching the Philippine tariff question is the decision of the Supreme Court¹ upholding the collection of duties under the United States tariff, without action of Congress or the establishment of a collection district, in California in 1849. Justice Wayne in his opinion said:

"By the ratifications of the treaty California became a part of the United States. And as there is nothing differently stipulated in the treaty with respect to commerce, it became instantly bound and privileged by the laws which Congress had passed to raise a revenue from duties on imports and tonnage. . . .

"The right claimed to land foreign goods within the United States at any place out of a collection district, if allowed, would be a violation of that provision in the Constitution which enjoins that all duties, imposts and excises shall be uniform throughout the United States."

Change "California" to "the Philippines," it is said, and the open door is closed. True, it might be, if the Supreme Court, on the case being presented to it, were to decide that with the transposition that decision was still good law. There are many reasons to believe, however, that on review the Court might hold that even our continental territories were outside the United States of the Constitution, and that its tariff applied to them from convenience and not from necessity. And, even if it did not, it is still a far cry from American California to the Asiatic Philippines.

From the first organisation of the Government Congress has been treating territory as in one way or another outside the Constitution, governing it in violation of general provisions of the Constitution which are more fundamental and less limited as to time and place than the tariff rule, and the Supreme Court itself has repeatedly upheld such practices.

The original charter of the United States Bank, approved on February 25, 1791, authorised the directors to establish offices of discount and deposit "wheresoever they shall think fit within the United States." On the annexation of Louisiana they desired to establish a branch in New Orleans, but nobody considered that they had the power to do so. By order of the House of Representatives the Committee of Ways and Means of that body drafted a bill extending the bank's privileges, and on March 23, 1804, the President signed the law authorising the directors to establish branches

¹ Cross vs. Harrison, 16 Howard 164.

on the terms of the original act "in any part of the territories or dependencies of the United States." Possibly that was an unnecessary law, but it clearly reveals the views of the men who had a hand in making the Constitution about its territorial application. It shows, too, that the idea of "dependencies" could not have been so foreign to "the Fathers" as their descendants sometimes suppose, since they, who were always splitting constitutional hairs and living in daily fear of opening the door to tyranny, were willing to contemplate "dependencies" in their laws.

The internal revenue laws under the Constitution are as universal and uniform in their application as the tariff laws, but it was not until 1868 that they were by act of Congress¹ extended to apply to all places "within the exterior boundaries of the United States." A curious phrase that, suggesting an interior boundary beyond which the enforcement of the revenue law is a matter of discretion. The territories thus embraced by that act were the Indian reservations and the lands of the Civilised Tribes which the revenue collector had not before invaded. But long before that an internal boundary had been marked out for him. The first internal tax on spirits distilled in the United States was levied by the act of March 3, 1791, which, for the purpose of collection, ordered "that the United States shall be divided into fourteen districts, each consisting of one State." The Territories of the United States were entirely neglected, though they had growing towns, and it was not until 1798 that "The Annals of Congress" showed the existence of a supervisor of internal revenue in Ohio.

The constitutional rule for direct taxes, instead of requiring uniformity, orders that they shall be "apportioned among the several States which may be included within this Union according to their respective numbers." This provision is apparently co-extensive with that concerning duties. If the makers of the Constitution were so deeply concerned that the burden of indirect taxes should be laid fairly on all, they must have been equally anxious that the direct tax burden should be borne by all, after the method of apportionment, which was considered equitable in that case. The two clauses must be taken together, and the fact that the one in providing uniformity mentions the United States as a whole, and the other in prescribing rules of proportion among the parts refers to the area of taxation distributively, cannot be taken to mean that the tax limits in the two cases are different. In the first quarter century of the Government's operation several direct taxes were

¹ Section 3, 448.

laid, and solely in the States. Finally one was extended to territory, and in upholding it Chief Justice Marshall delivered his dictum, already referred to, defining "the American Empire." He himself felt embarrassed by his own rule, and confessed difficulty in reconciling a tariff necessarily operative in the Territories with a direct tax operative there or not, at the discretion of Congress. He contented himself with deciding that at any rate, even if Congress was not obliged to tax the Territories, it had the power to do so, and that was the point at issue before the Court. It would seem a good deal more natural to suppose that if Congress had discretion in the one case it had in the other.

The original law for the collection of customs, passed July 31, 1789, divided the States into collection districts, but entirely neglected the Territories. The only collector in the Western country was at Louisville, then in the State of Virginia, and his jurisdiction extended from the Falls of the Ohio to the mouth on the Southern side. The territorial bank of that river was free for the landing of goods without duty. Vermont was left without a custom house until its admission as a State, and so was Tennessee, but as soon as either was admitted a port was established in it, evidently out of scrupulous regard for the Constitution, which forbade preference to ports of one State over those of another. It was not until 1799 that the customs laws were put in force in any part of the Northwest Territory.

When the Louisiana treaty came up for debate the preference for French and Spanish vessels was attacked as unconstitutional. Of course it was defensible as a reservation or "burden upon the fee." But having doubts of the power of the Government, even as a condition of acquirement, to give a privilege which did not harmonise with the Constitution, the supporters of the treaty preferred to defend the grant as concerning things outside the Constitution. Congressman Nicholson, one of the leaders of the House whose word carried weight, thus stated the Administration's position :¹

"Whatever may be the future destiny of Louisiana, it is certain that it is not now a State. It is a territory purchased by the United States in their confederate capacity, and may be disposed of by them at pleasure. It is in the nature of a colony whose commerce may be regulated without reference to the Constitution. Had it been the Island of Cuba, which was ceded to us under a similar condition of admitting French and Spanish vessels for a limited time into the Havannah, could it possibly have been contended that this would be giving a preference to the ports of one State over those of another, or that the uniformity of duties, imposts and excises throughout the United States would have been destroyed ? . . .

¹Annals of Congress, 1803-'04, p. 471.

"The restrictions in the Constitution are to be strictly construed, and I doubt whether under a strict construction the very same indulgence might not be granted to the port of Natchez, which does not lie within any State, but in the territory of the United States."

The judicial power of the United States is explicitly defined by the Constitution, yet the courts in the Territories are and for nearly a century have been organised without regard to the Constitution and clearly in violation of it—if they are under its control. All the judicial power of the United States of the Constitution is vested in courts whose judges hold office during good behavior, and to them are committed certain functions which are exclusively their own. They cannot be alienated by Congress. Wherever the Constitution runs no other courts are capable of receiving those judicial powers which are reserved to the Federal courts, and which they are commanded to assume. As early as 1816 Justice Story declared, with the concurrence of the whole Court¹: "No part of the criminal jurisdiction of the United States can consistently with the Constitution be delegated to State tribunals. The admiralty and maritime jurisdiction is of the same exclusive cognisance; and it can only be in those cases where previous to the Constitution State tribunals possessed jurisdiction independent of National authority that they can now constitutionally exercise a concurrent jurisdiction." Nevertheless in the Territories courts which were not Federal courts, which were incapable of receiving Federal jurisdiction, exercised jurisdiction of that "exclusive cognisance." In 1828 the exercise of maritime jurisdiction by a Territorial court of Florida was questioned, and in his argument to the Supreme Court in defence of Territorial authority Daniel Webster said:

"What is Florida? It is no part of the United States. How can it be? How is it represented? Do the laws of the United States reach Florida? Not unless by particular provisions. The Territory and all within it are to be governed by the acquiring power, except where there are reservations by the treaty. . . . Florida was to be governed by Congress as she thought proper. What has Congress done? She might have done anything—she might have refused trial by jury and refused a Legislature."

Mr. Webster won his case. Chief Justice Marshall, writing the opinion, said²:

"It has been contended that, by the Constitution, the judicial power of the United States extends to all cases of admiralty and maritime jurisdiction, and that the whole of this judicial power must be vested in 'one Supreme Court, and in such inferior courts as Congress shall from time to time ordain and establish.

¹ *Martin vs. Hunter's Lessee*, 1 Wheaton 304.

² *American Insurance Company vs. Canter*, 1 Peters 542.

Hence it has been argued that Congress cannot vest admiralty jurisdiction in courts created by the Territorial Legislature.

"We have only to pursue this subject one step further to perceive that this provision of the Constitution does not apply to it. The next sentence declares that 'the judges both of the Supreme and inferior courts shall hold their offices during good behavior.' The judges of the superior courts of Florida hold their offices for four years. These courts then are not constitutional courts, in which the judicial power conferred by the Constitution on the general government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general right of sovereignty, which exists in the Government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States. The jurisdiction with which they are invested is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress in the execution of those general powers which that body possesses over the Territories of the United States. Although admiralty jurisdiction can be exercised in the States in those courts only which are established in pursuance of the third article of the Constitution, the same limitation does not extend to the Territories. In legislating for them Congress exercises the combined powers of the general and of a State government."

In 1849 the Supreme Court reaffirmed this doctrine even more explicitly, and Justice Nelson made this broad statement about Territories¹:

"They are not organised under the Constitution, nor subject to its complex distribution of the powers of government, as the organic law; but are the creations exclusively of the legislative department and subject to its supervision and control. Whether or not there are provisions in that instrument which extend to and act upon these Territorial governments it is not now material to examine."

This last suggestion of an open question as to some shadowy constitutional authority over the Territories is particularly interesting in view of Chief Justice Taney's persistent tendency to subject the government of the Territories to the checks of the Constitution for the protection of slavery. The California tariff opinion, which was almost contemporary with Justice Nelson's, was written by Justice Wayne, of Georgia. He was the man who persuaded the court in the *Dred Scott* case of the expediency of declaring that Congress had no power to interfere with slavery in the Territories, and he was the only member of it who fully concurred with Chief Justice Taney's opinion. His pleading of the Constitution to justify the California tariff, when it might equally well have been justified as a general exercise of sovereignty, and probably would have been by some other judge, is to be considered in the light of the pro-slavery policy of restricting the powers of the general government. This culminated in the *Dred Scott* decision, denying that the power "to make all needful rules and regulations" for the Territories ap-

¹ *Benner vs. Porter*, 9 Howard 235.

plied to more than the old Northwest Territory, and holding that other territory was impressed with a trust for Statehood and already in anticipation subject to the constitutional checks on administrative discretion. Such a contention makes the Government's whole course in dealing with the Louisiana Purchase, and even the Louisiana treaty itself, unconstitutional. A theory of the Constitution which inevitably reaches the conclusion that ever since 1804 the country has treated that document as "blank paper," to recall the strict constructionist Justice Campbell's sneer at Jefferson, is certainly open to question and suspicion.

In many details of government the Constitution as a fundamental law for a United States larger than the States composing it has been made blank paper by events. It is well settled that the constitutional guarantee of jury trial does not extend to actions in the State courts. It is equally well settled that it does extend to all exercise of judicial power by the Federal Government of the Constitution. The first bill for the government of the Territory of Orleans, however, which was drawn by Madison in co-operation with Jefferson and passed in 1804, restricted trial by jury to capital cases in criminal prosecutions, entirely in violation of the Constitution—if it applied. It also vested the appointment of the Legislative Council in the President, without confirmation by the Senate, though the Constitution requires the advice and consent of the Senate to the appointment of specified functionaries "and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law." No pretence was made in the debates that these legislators were "inferior officers" such as Congress could authorise the President or heads of departments to appoint.

The establishment of this despotism did not pass unchallenged. The bill was denounced as conferring "royal" powers. It was said it did "not evince a single trait of liberty." In the House of Representatives G. W. Campbell, of Tennessee, made an earnest contest for the jury trials and the courts of the Constitution, arguing that "in legislating for the people of Louisiana" Congress was "bound by the Constitution of the United States." A similar attempt at amendment was made in the Senate, but was voted down. Among the majority were such men as John Breckenridge, of Kentucky, a champion of strict construction and the supposed author of the famous Kentucky Resolutions; Timothy Pickering, of Massachusetts; Jonathan Dayton, of New Jersey; Uriah Tracy, of Connecticut, and that stanch Jeffersonian, Wilson Carey Nicholas, of

Virginia—a strange medley of Federalists and State Rights men, who seemed to agree on nothing about the Constitution except that it did not apply to the Territories. Indeed, the prevailing opinion through the whole course of Louisiana legislation was strongly in that direction.

Many more scruples were entertained about the right of Congress to bring new peoples within the operation of the Constitution, and not rule them as colonists, than about any obligation arising from the Constitution itself to govern territory, regardless of expediency, according to its specific provisions. Much was said in both houses of the treaty guarantees of constitutional privileges, and the Louisiana bill was attacked as not keeping the promise to France to incorporate the Territory into the Union as soon as might be consistent with the principles of the Constitution. The Jeffersonian philosophers of liberty anxiously debated among themselves the duty of the United States to live up to its own ideals of freedom. But the suggestion that it must live up to them by a rule of thumb application of a compact made for a union of States found little credit even among those who construed that instrument most strictly in its relation to States. Cæsar A. Rodney's declaration¹ that the Constitution "does not limit or restrain the authority of Congress with respect to Territories, but vests them with full and complete power to exercise a sound discretion generally on the subject," was echoed by many other debaters.

This same question came up with reference to Florida in 1822. The bill was modelled on that of Orleans in its administrative features, and contained a section forbidding the Territorial government to transgress the personal rights guaranteed to the people of the States by the Constitution. Mr. Montgomery, of Kentucky, tried to substitute a clause that all the principles of the Constitution and all the prohibitions to legislation, as well with respect to Congress as the Legislatures of the States, be "declared to be applicable to the said Territory, as paramount acts." This was voted down, and the following is Benton's comment on the incident²:

"This prompt rejection of Mr. Montgomery's proposition shows what the Congress of 1822 thought of the right of Territories to the enjoyment of any part of the Constitution of the United States. . . . The only question between Mr. Montgomery's proposition and the clause already in the bill was as to the tenure by which these rights should be held—whether under the Constitution of the United

¹ Annals of Congress. 1803-'04, p. 513.

² Benton's Abridgement, Vol. VII, p. 295, note.

States or under a law of Congress and the treaty of cession. And the decision was that they should be held under the law and the treaty. Thus a direct issue was made between constitutional rights on one hand and the discretion of Congress on the other in the government of this Territory, and decided promptly and without debate (for there was no speech after that of Mr. Rea on either side) against the Constitution. It was tantamount to the express declaration: 'You shall have these principles which are in the Constitution, but not as a constitutional right; nor even as a grant under the Constitution, but as a justice flowing from our discretion, and as an obligation imposed by the treaty which transferred you to our sovereignty.'"

Justice Story, in his commentaries,¹ has thus stated this doctrine:

"The power of Congress over the public territory is clearly exclusive and universal, and their legislation is subject to no control, but is absolute and unlimited, unless so far as it is affected by stipulations in the cessions or by the ordinance of 1787, under which any part of it has been settled."

A host of Supreme Court decisions laying down this law with some reservations might be cited. When those reservations are quoted in support of constitutional restraint on Territorial lawmaking it is to be remembered that the Constitution, as well as the general laws of the United States, are in force by legislation in the Territories. It is indeed curious that Congress should have made the Constitution into a law for the Territories, if that Constitution of itself governed them, but it has done so time and time again in particular cases, and finally summed up these enactments generally in Section 1,891 of the Revised Statutes, which declares:

"The Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within all the organised Territories and in every Territory hereafter organised as elsewhere within the United States."

Thus the open question of Justice Nelson's time has been practically closed, and the Supreme Court has for years been declaring as a fact that the fundamental personal rights guaranteed by the Constitution belong to the inhabitants of the Territories. In some cases undoubtedly the opinions tend to uphold the view that the so-called Bill of Rights and the general limitations of the Constitution by their own force extend to the Territories. But even while conceding these rights the Supreme Court often shows a tendency to do so merely on the theory that the old Anglo-Saxon "law of the land" protects all within the range of government from tyranny and injustice.

Thus Justice Bradley² says:

"Doubtless Congress in legislating for the Territories would be subject to those fundamental limitations in favor of personal rights which are formulated in

¹ Section, 1328.

² *Mormon Church vs. United States*, 136, U. S. 1.

the Constitution and its amendments; but these limitations would exist, rather by inference and the general spirit of the Constitution from which Congress derives all its powers, than by any other express and direct application of its provisions.'

It may be conceded that every officer of our Government, owing to its very nature, must exercise his functions in harmony with the spirit of our institutions, with what Justice Matthews¹ called "the principles of constitutional liberty which restrain all the agencies of government, State and National." But that does not compel the application to Territories of particular rules of administration made by States for the government of States in their united capacity. And it should be remembered in construing these rules that, however much the country may have grown and the idea of a broader nationality developed, the framers of the Constitution formed a government for States and committed the territory or other property which might fall to the general government to its complete discretion, with a general grant of power. So those who first added new territory understood and acted, though they were strict constructionists and theoretical democrats.

Perhaps the Louisiana legislation ought to have been declared unconstitutional. But if so, what is to be said of the condemnation to death or imprisonment without jury trial of American citizens by Ministers and Consuls for crimes committed at places constructively made American territory for that purpose by treaty with foreign governments? There is no constitutional warrant for it. If trial by jury is a right of all men subjected to the authority of the United States, is it not as much their right in a consulate at Yokohama as in a courthouse at Santa Fe? The Supreme Court has frankly cut this Gordian knot since it could not untie it. It has said² that though a private American vessel is constructively American territory, yet an offence on it can be punished by a consul without jury trial, for "By the Constitution, a Government is ordained and established for the 'United States of America' and not for countries outside their limits. . . . The Constitution can have no operation in another country."

The rule of uniformity in taxation of what is essentially one people is so manifestly advisable that nobody would wish to change it or even open the door to change. But in view of all the exceptions made in practice to the necessary application of the Constitution to the home Territories, and the political purpose, which about 1850 demanded limitation of the power over them, it is a violent

¹ Murphy vs. Ramsey, 114 U. S. 15.

² In re Ross, 140 U. S. 453.

assumption to assert that a rule laid down in one particular case then would be literally and slavishly applied to overturn a deliberate policy of the Government formed to meet utterly different conditions which the Court did not and could not foresee.

The Supreme Court itself in the California tariff decision intimated as much. It noted that California was part of the United States by treaty, and it found nothing in the treaty to differentiate it from the rest of the United States. The California treaty did promise to incorporate the Territory into the Federal Union, and naturally judges with the "trust for Statehood" idea in mind would give that promise immediate effect so far as they were concerned with government under it. The fact that they consulted the treaty to learn the Territory's status with reference to the Constitution implies that even this State Rights Court would have regarded a treaty for acquiring a dependency as giving the acquisition quite a different character.

In that respect the Philippines hold an entirely distinct relation to the general government. They are not by treaty taken actually or prospectively into the Union. The United States has simply assumed possession of the Philippines. It holds them, just as all the Federalists, and, indeed, many of the Republicans, believed in 1803 it could alone hold Louisiana. The narrow construction which denied the power of expansion for assimilation has been outgrown. Certainly, it is too late to bind the country in a similar bond of narrow construction carried to an opposite extreme. Nor is there anything new or startling in the idea of dependencies outside the United States. Neither Congress nor the Supreme Court has ever hesitated to recognise and provide for territorial and administrative anomalies. The Louisiana and Florida governments were, as has been seen, utterly inconsistent with the Constitution. The Indians, with their separate laws in States and Territories, have ever been anomalies, and offer a precedent for dealing quite unhampered with Orientals as their needs may require.

Our extraterritorial jurisdiction exercised by Federal officers since 1848 has no warrant in the Constitution for any United States of the Constitution.

Congress did not hesitate to use the word "dependencies" in legislating for the United States Bank.

Later, in 1856, it made laws for the government of the Guano Islands, which at the discretion of the President might "be considered as appertaining to the United States." In other words, they were territory of the United States which was not within it.

Finally, the XIIIth Amendment to the Constitution declares that neither slavery nor involuntary servitude "shall exist within the United States or any place subject to their jurisdiction." The men who drew this had been through the slavery contest, knew the doctrine of limited power in the Territories, and had repudiated it, and won their case in war. They passed the Amendment in the light of their own contention to assure the exclusion of slavery from any territory which Congress ruled or might rule outside the United States of the Constitution.

The supposition that the term United States in that instrument means more than the government over the States united requires the assumption of its use in two utterly different meanings without any indication of the difference. Thus it must be said that the "people of the United States" who make and amend the Constitution are people of States, but the United States for which the preamble says they make the Constitution is the whole "American Empire;" that the United States of the Judiciary Article means only States, but of the Tariff Article all the territories or dependencies over which the Government may extend its rule. And that in face of the final use and implied definition in the XIIIth Amendment of that term in the narrower significance.

Such a restricted meaning is fully in accord with common sense. Who thinks of the Philippines as being in the United States? They are manifestly no part of the system for which our Constitution was made. The belief that the Constitution must of necessity apply to the home Territories, in spite of evidence that the founders and early rulers had no such thing in mind, is due in its present form largely to the feeling of continental interest and common American nationality. The interpretation of the Constitution as a fundamental law for Asiatic islands simply because this country is called upon to rule them is no proper development of that idea of the American Nation. "The Constitution can have no operation in another country," and the Philippines, even though we control them, are another country, physically, morally, socially and commercially.

The reversal of the California tariff decision is not essential to the "open door." The reasons for questioning the law it laid down for this continent are cited only to show clearly how little ground there is in the circumstances of its delivery, and in our history, for stretching its meaning to forbid a Government policy in an emergency which its authors never contemplated. Courts do not thus tie the hands of Government with reference to particular situations

which cannot be foreseen. In a constitution, as Story says, "there ought to be a capacity to provide for future contingencies as they may happen, and as these are . . . illimitable in their nature, so it is impossible safely to limit that capacity."

It has not been limited in this country. The Constitution, in spite of being written, is mobile. It never would have been adopted if its meaning to the present generation had been known to those who drew it, if, for instance, it had been understood as an indissoluble compact instead of a voidable association. Those who thought it made blank paper by the changed interpretations circumstances forced were merely victims of the tendency to limit by one day's conceptions the power of meeting another's needs. Some American trader may follow the example of the plaintiff in the California case, and strive to avoid duties at Manila, or some Spanish interest may seek, regardless of this country's welfare, to close the door to the world's commerce in the Philippines. But it is scarcely conceivable that either could overturn in those distant islands, which have nothing in common with this country and are not a part of its industrial system, a considered policy of the United States with reference to international relations, by invoking a disputed constitutional doctrine, which, even if true, is true only for "the United States of America."

CHINA AND THE PHILIPPINES.

BY THE EDITOR.

WHEN the United States requested the powers to give a definite promise of an open door policy in China, they did so mainly on the ground of abandoning all interference in Chinese politics. The Russians have taken their share of Chinese territory in Manchuria, the English dominate the Yang tse kiang valley, the Germans have taken Chiau Chow as a fair compensation for the lives of two banished Jesuits, the French and the Italians are clamoring for Chinese provinces, and so it was but natural that the United States, too, should receive their sphere of influence. This, of course, would mean the end of China and the division of its coasts among the powerful nations of the world.

To prevent this course, which does not seem very promising to either of the parties concerned—neither to China, which would be sliced up nor to the powers, for the commerce of each one would then be limited mainly to its own provinces,—Lord Beresford proposed the plan of leaving China undivided and of having its integrity guaranteed by the powers, on the promise of keeping it open to the world's trade. The United States of America pushed the plan because it is in their interest. We are not in a position to acquire more territory than has been forced on us and if we go out empty-handed, we should at least have definite and unmistakable guarantees of this open door policy; otherwise, considering future conditions and the probable expanse of our trade in the far East, it would be folly not to take part in the division. Our Chinese trade has been constantly growing, and even now our interests are not less there than those of the other European powers concerned, perhaps with the exception of England. If our business and industries are not crippled by internal strife or party legislation, our interest in Chinese trade should be steadily on the increase, and might in time surpass even that of Great Britain, for the geograph-

ical situation of America as lying between Europe and Eastern Asia is the most favorable for the purpose.

Thus, the offset which the United States are expected to pay for the pledge of the European powers to maintain in China an open-door policy in their various spheres of influence, does not consist in keeping the door open in the Philippines but in abstaining from taking part in the general spoliation of China.

Nevertheless, it would be very unfair if we, the United States advocated an open door policy for China where we actually do not have any possessions, while we would close the doors in the Philippines; and it appears to me that even if the United States were not actually pledged to follow this same open-door policy in the Philippine Islands, they would be in honor bound to pursue it as far as possible. And it is interesting to see that the United States are making arrangements for being assured of such an open door policy in China while they are anxious to preserve the Chinese wall of so-called protection that separates the United States from the rest of the civilised world. So we are willing to have the doors opened in the Philippines provided they remain shut at home.

First let us look at the question from the legal side. That the clause enjoining uniformity of all taxes and duties refers to the United States and not to dependencies which may temporarily or even permanently come into possession of the nation, has been demonstrated from a legal point of view beyond a shadow of a doubt by Mr. Roscoe C. E. Brown. The islands ceded by Spain to the United States are at present *de facto* our dependencies, whatever Congress may later on decide as to their future fate; and as such they cannot be, nor have they as yet been, treated as parts of the United States themselves.

Should the Philippines become a federal republic of the United States in such a way as we have advocated, it would by no means follow that thereby they would possess the right of regulating the import duties, harbor taxes, foreign representation, etc. None of the States of the Union exercise these rights which are specially reserved to Congress and the government of the United States. In Germany the kingdoms of Bavaria, Saxony, Würtemberg, the Grand Duchy of Baden are independent sovereign states, and yet they do not exercise the right of regulating import duties, or of sending representatives to foreign governments.

Thus these rights might in the case of the Philippines as well be reserved to a federal commission, or be directly managed by the United States government. But it seems fair that they should

be attended to in concurrence with a commission consisting of men representing the business interests of the Islands; for after all, it seems to me desirable to allow the home government of the Philippines to regulate their own affairs, including the imposition of duties, as they see fit. We ought to allow them to regulate their own commercial relations with the outside world according to their own wishes. We call attention to the fact that the English dependencies enjoy the right of taxing the imports even of their mother country. All that can be claimed is that home government does not as yet necessarily include the regulation of import duties.

There would be another way of allowing the Philippines to be a federal republic of ours, and yet keep the door of their commerce open to the whole world, and this would be by pledging the Philippine government at its instalment and from the beginning through a constitutional clause to such a course, as a condition of receiving the recognition of the world. In a similar way Japan was pledged to an open door policy by Commodore Perry; and the Japanese themselves are agreed on the result as having been most favorable to the development of their country. An open door policy in the Philippines would mean an assurance of Philippine prosperity.

AMERICAN WAR-SONGS.

BY C. CROZAT CONVERSE, LL. D.

OUR civil war's chief war-song survivors are—*Marching Through Georgia*, and *Dixie*. Those of our war with Spain are—*There'll be a Hot Time in the Old Town To night*, and *'Rastus on Parade*.

Some thoroughly excellent and appropriate American national hymns were written, composed and offered to the American people for use during our civil war; but they were not adopted by the people at large. Similarly excellent hymns were prepared for our national use in Cuba and Manila, and likewise failed of attaining general public use.

These superior national hymns may be found in our hymnals and song-shops. They are highly meritorious in sentiment and singable in their music. Their non-success is not due to any lack of theirs in these regards: "the boys" did not like them,—that is the all of this matter; and success with "the boys" is proved to be—by their fate—the test of their merit; and yet, because of their non-success, many a person infers—unjustly—that no good national hymns were made during these wars. A truer, juster inference may be this: that slow-moving national hymns, or chorals, are too slow for our national use; in evidence of which are these meritorious, yet unpopular, chorals.

If public opinion, which "the boys" apparently echo, were not in this condition, it would never tolerate the setting of Julia Ward Howe's *Battle Hymn of the Republic* to "the boys" tune for *We'll hang Jeff. Davis to a sour apple tree*; it would pronounce against this wedding of such words as "Our God is marching on" to this tune, for being one that outdid in incongruousness any of the Salvation Army adaptations; as indeed it does outdo them. Compare it with the hymn beginning: "Come, ye sinners, poor and needy," set to the tune of *Yankee Doodle*,

Our Revolutionary fore-fathers piped, whistled, and sang this tune's lively strains ; yet to equally lively thoughts and words, and not to those of a serious import. Nevertheless they had use for, and used, the stately *Hail Columbia*, though it has a voice-range so great as to render it unsuitable for all the people's use ; because of which, and other musical features, it might be—and probably would be—shelved with the non-successful war-songs if offered the public nowadays.

The four songs cited above are characterised by a right robust, energetic rhythm ; one which slugs, pounds itself into the memory ; a square cut, trip-hammer pounding of the most self-assertive sort.

The tunes of *God Save the Queen* and of *The Star Spangled Banner* are not of this kind. A war-song candidate for present public favor hardly would succeed, though never so meritorious, if he cast his song in the $\frac{3}{4}$ rhythmic mould of these last-cited pieces.

Reasons for the rhythm of the English national hymn may be found in the poetic structure of the cry : "God save the queen !" which necessitates the use of its $\frac{3}{4}$ rhythm ; this hymn having been written and then adapted to its melody, which was composed long before in Germany ; and these reasons will apply equally well to *The Star Spangled Banner*.

Neither of these two songs is a marching-piece ; all of the other four, herein cited, are altogether march-like, therein showing that this rhythm, in war-songs, suits the present public taste.

To induce the people to use a war-song, of choral form, new words set to old music—as in the cases of *God Save The Queen* and *The Star Spangled Banner*, doubtless would be more operative than new words to new music.

No grander, fitter tune could be selected for this purpose than that of *Old Hundred* ; its perfect choral form, giving but one tone to each syllable, rendering it superior, in this regard, to the Austrian and Russian national airs. What American poet will immortalise himself by setting patriotic words to it ? If there be no American poet who is equal to this task, then let our poets try to set lively, patriotic words—not hymn-words—to the music of *There'll be a hot time in the old town to night*, with the encouragement that, which ever one of them makes the best poetic adaptation to it, will be rewarded with an immediate and great national success ; a success for which he might toil a life-time, along other poetic lines to attain, or, perhaps, never realise otherwise. The offer of a cash-prize for it, by some wealthy patriot, might arouse and stimulate poetic competition.

Quarrelling with the people, for liking such tunes as this, would be as profitless as for their liking the syncopative nibbles of rag time. Giving the people words for them, which glow with love for country, is far better.

"The boys" of the army, navy; of the grocer-cart, butcher-wagon, news-stand, machine-shop, corn-field, and cattle-ranch, now sing of "a hot time."

Giving them a song of country, liberty, union, set to the "hot time" tune, would grandly help in teaching them those patriotic lessons which tend to fit them for American citizenship. If musical critics object to separating this tune from its original word-mate, let them consider the tonal expansion of the song entitled *America*, through the setting of the melody of the British national hymn to its words; an expansion which felicitously insinuates into English thought purely American ideas.

Such song-adaptations as these illustrate man's common spirit of fraternity, as do the declarations of the Golden Rule by Buddha and Confucius; and they suggest that the religious parliament idea may be universally fostered and practicalised through song-interchange, song-expansion; a song-interchange unhampered by song-critics; one of and for the common people of the whole world.

Emigrants, of different nationalities, sing together, on their passage to America, hymns, in their respective languages, which are set to the same tunes, fellowshipping in song though unable to talk to each other; and this song-union influences the singers in their subsequent American experiences.

In the war-song survivals there is a key to the conscience of the present common man,—under man; he who rejects the national chorals, though never so stately and effective, and coerces to his song-use the vocal favorites of "the boys." The truly human and humane philosopher (not a Nietzsche) will find it potent for unlocking, reaching and effecting man's edification from man's humble foundations—not downwards, from the Nietzschean spire and aspirations. The truly human, philanthropic philosopher will not hesitate to make a Salvation Army use of such music as this, in this edifying of the common man, by adapting to it sentiments of universal brotherhood; sentiments of world-wide reach and good will; sentiments which the world's religious parliament in all its wealth of theologic lore, must approve; because of its universally familiar and popular character; and, because, through singing, the world may be unified in heart and aim.

GOSPEL PARALLELS FROM PÂLI TEXTS.

Translated from the originals by ALBERT J. EDMUNDS.

I GAVE some facts about the pre-Christian antiquity of the Pâli Texts in a note in *The Open Court* for November, 1898. The question of Hindû ideas reaching Palestine is still on its trial. The interchange of thought between Greece and India was part of the programme of Alexander, who took Greek artists on his Eastern expedition. When his successors at Alexandria began translating the Old Testament, they were carrying out his cosmic plan. Diodorus of Sicily states this plan :

“[Alexander decreed] that there should be interchanges between cities, and that people should be transferred out of Asia into Europe, and conversely out of Europe into Asia, to the end that the two great continents, by intermarriages and exchange of good offices, might become homogeneous and established in mutual friendship.” (*Diod. Sic.* XVIII. 4).

The Alexandrian librarian pointed out to Ptolemy the lore of the Hindûs and others, while the court of Antioch set Berosus to translate the records of the Babylonians. The Old Testament was already in progress. Now, while the Greeks were thus translating the Sacred Books of the East, twenty-one centuries before Max Müller, Asoko was sending Buddhist missionaries into their empire. Why should not these two outreachings have met ? Asoko boasts that his mission made headway. Even though the Buddhist oracles were still oral, they can have left traces among ascetics in Palestine and Egypt. The origin of the Essenes is still a mystery ; but the semi-Christian Elkesaites, according to Hippolytus, came “from Seres of Parthia,” i. e. Buddhists. Hippolytus also tells us that the Docetæ taught that Christ came to abolish transmigration. Now, Gotamo says, on the first page of the *Itivuttaka*, the Buddhist Logia-Book : “I am your surety against return to earth.”

Joseph Jacobs has shown that Hindû fairy-tales were known in Palestine in the first century, and the Jâtaka stories represent their hero as being educated at Taxila, the centre of Indo-Greek learning. *The Questions of King Milindo* exhibit Buddhist schools of reciters, at the time of the Christian era, keeping up the sacred lore, which was enquired into by intelligent Greeks.

In the Book of Discipline, Gotamo predicts that his religion will last for five hundred years. Now these figures have been altered to five thousand in uncanonical works written after the time of Christ, i. e. after the five hundred years had expired. Therefore, the Book of Discipline would appear to have been untampered with since that date; and the Canon may well have been put into its written form about 90 B. C., as the Ceylon Chronicles state.

These remarks are the summary of an essay, giving full references, the result of years of research. No borrowing is alleged on either side—Christian or Buddhist—in these Parallels. We offer no theory, but present them as facts. They at least belong to a world of thought which the whole East had in common.

THE CHRIST REMAINS [ON EARTH] FOR THE ÆON.

John xii. 34. Udâna VI. 1; and Book of the Great Decease, p. 23. (Translated in S. B. E. XI. p. 40).

[This is not a New Testament doctrine, but a current belief at the time of Christ. Commentators have been at a loss to identify the Old Testament passage which is supposed to be quoted. *The Twentieth Century New Testament* proposes the Aramaic version of Isaiah ix. 7 as the source. Be that as it may, we have here a verbal Pâli parallel.]

Ânando, any one who has practised the four mystical methods—developed them, made them a vehicle and an aim, pursued them accumulated, and striven to the height thereof,—can, if he so should wish, *remain* [on earth] *for an æon* or the rest of an æon. Now, Ânando, the Tathâgato has practised and perfected these; and if he so should wish, *the Tathâgato could remain* [on earth] *for an æon* or the rest of the æon.

[The words in italics agree with those in the Greek of John, except the mood and tense of the verb. Rendel Harris has pointed out to me that the tense of μένει is ambiguous, being either present or future. This is because the manuscripts are without accents. Tathâgato is a religious title equivalent to Christ. Its exact meaning is doubtful.]

FEW THAT ARE SAVED.

Matth. vii. 13, 14; Luke xiii. 23, 24. *Aṅguttara Nikāyo* I 19 (Not before translated).

Monks! just as, in this India, there are only a few pleasant parks, groves, landscapes, and lotus-ponds, but far more of broken ground, impassable rivers, tree-stumps, thorny roads, and rugged rocks: so also, monks! there are few beings who, when vanished from the human, are born again among humans; but far more who, when vanished from the human, are born again in hell, in the wombs of brutes or the haunt of ghosts; few who are born among the angels, more who are born as I have said. And there are few beings, O monks! who, when vanished from the angelic, are born again among angels, but far more who vanish from the angelic to be born again in hell, in the wombs of brutes or the haunt of ghosts.

ASCENSION.

Udāna VIII. 9. (Not before translated).

This story is more analogous to the ascension of Elijah in the Second Book of Kings than to that of Christ, as related in the first chapter of Acts. There is no account of the Ascension in the Synoptical Gospels, except a single line in Luke xxiv. 51,¹ while the Mark Appendix is a later addition. John refers to the Ascension as a spiritual fact; so does Paul; but the only pictorial account is that of Acts. In the Pāli legend, the hero is Dabbo the Mallian, a disciple of Buddha's who had extraordinary psychical powers. The Book of Discipline tells us that he was able to light the monks to bed by emitting magnetic flames from his fingers. See *Sacrea Books of the East*, Vol. xx., p. 7.]

Thus have I heard. At one season the Blessed One was staying in the Bamboo Grove beside the Squirrels' feeding-ground, at Rājagaha. And the venerable Dabbo the Mallian approached the Blessed One, saluted him and sat on one side, and so sitting, said to him: "O Auspicious One, my time is at hand to enter Nirvāṇa."²—"Whatever you think fit, O Dabbo."—Then the venerable Dabbo the Mallian rose from his seat, saluted the Blessed One, and keeping on his right hand, went up into the sky, and sat in the posture of meditation in the ether, in the empyrean. Intensely meditating on the nature of flame, he ascended and passed into Nirvāṇa.

¹ The doubt thrown upon this line in the margin of the Revised Version of 1881 was dispelled when the Sinai Syriac was found.

² See my defensive note on this rendering in my translation of Digha 14. (*The Marvellous Birth of the Buddhas*: Philadelphia, 1899, p. 4.)

And when the venerable Dabbo the Mallian had thus gone up, meditated and ascended, there remained neither ashes nor soot of his body when passed away,¹ consumed and burnt. Even as, when ghee or oil is consumed and burnt, neither ashes nor soot remains, so was it with the body of the venerable Dabbo the Mallian. And forthwith the Blessed One, having understood the fact, gave vent on that occasion to the following Udâna :

“The body dissolved, perception ceased, all sensations were utterly consumed ;

“The constituents of existence were stilled, consciousness and sense departed.”

SUPERNATURAL BIRTH.

Luke i. 35. Majjhima Nikâyo, Sutta 38. Quoted in *The Questions of King Milindo*, p. 123, but *not* translated in *S. B. E.* XXXV.

Conception takes place, O monks, by the union of three. In this world the father and the mother are united. The mother may be capable, but the genius (*gandhabbo*, Sanskrit *gandharva*), may not be ready. It is by the union of these three, O monks, that conception takes place.

[Neumann, in his German translation, expands the text here, perhaps from the commentary.]

THE SAVIOUR IS UNIQUE.

John i. 14 and 18 (“only begotten”); Hebrew ix. 26 (“once, at the end of the ages.”)
 Aṅguttara Nikâyo I. 15.

It is unlikely and impossible, O monks, for two Arahats who are perfect Buddhas to arise simultaneously in the same world-system: this is not likely. But it is likely, O monks, for one Arahata who is a perfect Buddha, to arise in one world-system: this is quite likely.

[A similar statement is made of an emperor;² and then it is denied that a woman can be a Buddha, an emperor—strangely contradicted by fact—a Sakko, a Mâro, or a Brahmâ.]

SAVING FAITH IN THE LORD.

Luke xxiii. 42, 43. Majjhima Nikâyo, Sutta 22.

Thus, O monks, is the Doctrine well taught by me—plain, patent, clear, and with the old cloth cut away.³ Seeing, O monks,

¹ Or, *passed into Nirvâna*, as above. It is a special word, only used for the death of an Arahata.

² I was interested to learn lately from the lips of a Hindu that the ancient title *chakkavatti* applied to-day to the Queen of England as Empress of India.

³ Cf. Mark ii. 21.

that the Doctrine is thus well taught [etc.], all those who have merely faith and love toward me are sure of Paradise hereafter.

HE WHO SEES THE TRUTH SEES THE LORD.

John xiv. 6 and 9.

Itivuttaka 92.

O monks, even if a monk should gather up the folds of his robe and follow behind me, treading in my footsteps, yet if he be covetous, on lusts intent, bad-hearted, corrupt in his mind's aspiration, heedless, mindless, ill-conducted, with heart confused and unripe faculties, then is he far from me, and I from him. And why? Because, O monks, that monk sees not the Doctrine; and he who sees not the Doctrine sees not me. But if that monk should dwell an hundred leagues away, O monks, and be not covetous, nor intent on lusts, not bad-hearted nor corrupt in his mind's aspiration, but heedful, mindful, well-conducted, with concentrated heart and faculties restrained, then is he near to me, and I to him. And why? Because, O monks, that monk sees the Doctrine; and HE WHO SEES THE DOCTRINE SEES ME.

[The word *Doctrine* is the ubiquitous *Dhammo*, Sanskrit *Dharma*; and can be equally well translated *Truth* or *Religion*.]

MISCELLANEOUS.

EROS AND PSYCHE.

The story of Eros and Psyche reflects the religious life of classic antiquity more than any other book, poem, or epic, not excepting the works of Hesiod and Homer, who are said to have given to the Greeks their gods. The Theogony describes the origin of the gods and gives to them a definite shape. Homer introduces their figures into his grand epic; but the popular tale of Cupid and Psyche reflects the sentiment with which the gods were regarded, and describes the attitude of man toward the problems of life, especially the problem of problems—the mystery of death and the fate of the soul in the unknown beyond.

The orthodox Greek religion consisted in the performance of certain rites which were attended to by priests in the name of the state, and for the public benefit. Neither faith nor morality was required, but it was of paramount importance to give all the gods their due according to established tradition and thus to fulfil the duties that men may have toward the invisible powers, upon whose beneficence their welfare depends. But the performance of sacrifices and other ceremonies left the heart empty; they were attended to in a perfunctory way by persons duly elected either according to descent or station in life and were kept up simply from fear lest any deity might be offended by the neglect. The personal attitude of the people demanded a satisfaction of the religious cravings of their hearts which resulted in a religious movement originating with the importation of new thoughts from Egypt, Chaldæa, Phœnicia and Syria, and finding at last a definite expression in the mysteries and secret teachings of Orpheus, Dionysus, Demeter, and other deities. These innovations were not revolutionary. New gods, it is true, were introduced such as Dionysus, and new prophets such as Orpheus, but the old ones remained in power; the change was not in name, but in interpretation; as such, however, it was none



EROS AND PSYCHE TOGETHER WITH THE
GOOD SHEPHERD.¹

(Pagan Sarcophagus.)

satisfaction of the religious cravings of their hearts which resulted in a religious movement originating with the importation of new thoughts from Egypt, Chaldæa, Phœnicia and Syria, and finding at last a definite expression in the mysteries and secret teachings of Orpheus, Dionysus, Demeter, and other deities. These innovations were not revolutionary. New gods, it is true, were introduced such as Dionysus, and new prophets such as Orpheus, but the old ones remained in power; the change was not in name, but in interpretation; as such, however, it was none

¹ Reproduced from Kraus, *Geschichte der christlichen Kunst*, I., p. 102.

the less radical, for the very nature of the old gods underwent a thorough transformation and gained a deepening of their religious significance.

Nor is it difficult to describe (at least in its main outlines) the character of these innovations for they are obvious and unmistakable, because they became the chief factors in the formation of the Greek type in its classic period and left their imprint upon all philosophers and poets as well as upon the public life of ancient Hellas. The great problem of Greek thought was the riddle of the sphinx finding its solution in Greek conception of man's soul as worked out by Plato.

How much Plato again and his doctrines affected Christianity is well known and so we may in the evolution of religion regard the hopes and dreams of the Mysteries, especially the Eleusinian Mysteries as one of the most important preparation of and transition to Christianity.

All these views found expression in the fairy tale *Eros and Psyche*—the only fairy tale of ancient Greece that has come down to us in the bizarre satirical romance of Apuleius, *The Golden Ass*. A symptom of the consanguinity of the ideas that pervade the story of Eros and Psyche and the rising belief of Christianity may be found in the fact that the Christian emblem of the good shepherd was chiselled on a sarcophagus side by side with the figures of Eros and Psyche.

We offer the story to our readers in a new version for the sake of its religious significance and reproduce with it Paul Thumann's beautiful illustrations which in their spirit are as genuinely classic as any production of Phidias or Praxiteles.

Paul Thumann's illustrations were published for the first time by Adolf Titzte, of Leipsic, a publisher whose firm is justly famous for high class work in illustrating classics.

P. C.

THE INTERNATIONAL CONGRESSES AT THE WORLD'S EXHIBITION AT PARIS, IN 1900.

It must be gratifying to the inaugurators and promotors of the Chicago World's Congresses that the French Exhibition will follow its precedent and carry out the same idea, with such modifications only as will be necessary in a country where European customs and principles prevail. There will be a series of congresses with most fascinating programs, worked out by scholars and capable men, and directed with discretion. The religious congress will not resemble the Chicago Parliament of Religions, in so far as it will not be a congress of representatives of the various religions now living, but a convention of scholars, especially of Orientalists, who as students of the history of religions will discuss the subject purely from a theoretical point of view, and without any reference to the practical questions of to-day. The president of the religious congresses is Prof. A. Réville, Nouville Dieppe, Seine Inférieure, France.

The sections of the Congress of the History of Religion are eight in number and will be divided according to the requirements of the hour into sub-sections. The main eight sections are as follows: (1) Religions of non-civilised peoples. The religions of the pre-Columbian American civilisations. (2) History of the religions of the far Orient (China, Japan, Indo-China, Mongolia, etc.). (3) History of the religions of Egypt. (4) History of the so-called Semitic religions: (a) Assyria Chaldæa, anterior Asia; (b) Judaism and Islamism. (5) History of the religions of India and Persia. (6) History of the religions of Greece and Rome. (7) History of the religions of the Germans, Celts, and Slavs. Pre-historic archæology

of Europe. (8) The history of Christianity, subdivided into the history of the first centuries, the history of the Middle Ages, and the history of modern times.

Supporters of the Congress who will subscribe the sum of ten francs will receive gratuitously the printed reports of the meetings and the various publications of the Congress. All communications intended for the Congress should be sent to the secretary before the first of July, 1900; they may be in either French, German, English, Italian, or Latin. The secretaries are MM. Léon Marillier and Jean Réville, the Sorbonne, Paris, to whom applications for prospectuses giving full details should be sent.

The philosophical congress is also in very good hands. Its secretary is M. Xavier Léon, the able editor of the *Revue de métaphysique et de morale*, and its president M. Boutroux, a member of the Institute and professor of philosophy at the Sorbonne. They will be assisted by a number of the most prominent professors and savants of France.

The program has been carefully worked out, and shows that the man who devised it is a systematic thinker.

The work of the philosophical Congress will be divided into four sections: I. General Philosophy and Metaphysics; II. Ethics; III. Logic and the History of the Sciences; and IV. The History of Philosophy Proper. Here are the details of the Program:

I. General Philosophy and Metaphysics. This section is divided into the following subjects: (1) Science and metaphysics. Can the sciences be reduced to unity? (2) The nature of the fundamental psychical fact; (3) The unity and identity of the ego; (4) The connexion of space-conception with the concepts of the mind; (5) Liberty and determinism; (6) Monism and dualism; (7) The relativity of knowledge; (8) The unknowable; (9) The problem of finitude; (10) The different forms of contemporary idealism; (11) Rationalism and faith; the rôle which the will plays in opinions; (12) The categories; (13) Is a common terminology for all philosophers possible?

II. Ethics: (1) Can a moral doctrine be established without metaphysics? (2) Can a moral education suffice for the mass of the people without falling back on religious beliefs? (3) The relation of Christian morality to the contemporary conscience; (4) Is a moral sanction possible or at all necessary? (5) The aim of civilisation; (6) War and peace; is it possible to suppress war? (7) The individual happiness and social interest; (8) Morals and politics; (9) Is the basis of justice individual or social? (10) Solidarity; (11) Cosmopolitanism; (12) The casuistries in morals; (13) How far is the social question a moral question? (14) Philosophical sociology and scientific sociology; (15) Conditions of responsibility in the social and moral order.

III. Logic and the History of the Sciences (*A*): (1) The algebra of logic and calculus of probabilities—Theory of ensembles; theory of concatenations; theory of groups—The transfinite; (2) Principles of analysis: number, the continuum theory of functions; (3) Postulates of geometry; their origin and value—Intuition in mathematics—Non-Euclidean geometry; (4) Methods of geometry; analytical geometry; projective geometry; geometrical calculus (quaternions); (5) The principles of mechanics, their nature and value; (6) Methods of mechanical physics; theories of errors and approximations; (7) General hypotheses of physics; mechanical theory of energetics; (8) The hypotheses of chemistry; the constitution of matter—The atomic theory; stereo-chemistry; (9) The problem of the origin of life; (10) Theories of the evolution of the species; transformism; heredity. (*B*):

(1) The foundation of the infinitesimal calculus; (2) The genesis of the conception of imagination and the progressive explanation of the theory of functions; (3) The history of the discovery of Newtonian gravitation, and its influence on the development of mechanics and physics; (4) An exposition of the necessities which led to thermo-dynamics, the conservation of energy, the principle of Carnot-Clausius etc., etc.; (5) The history of biological methods.

IV. The History of Philosophy: (1) The aim of the method of the history of philosophy; (2) Progress in the history of philosophy; (3) Can the study of ancient philosophy be made useful? (4) The place of the sophists in Greek philosophy; (5) Can the historical evolution of the ideas of Plato be determined? (6) The principles of natural science in Aristotle; (7) The idea of evil in Plotin; (8) The value of Scholasticism; (9) The place of Descartes in the general history of thought; (10) Spinoza and Leibnitz; (11) The rôle of Hume's philosophy in the development of modern thought; (12) Kant's criticism and psychology; (13) Fichte's ethics; (14) Hegelianism in actual philosophy; (15) The tendencies in contemporary philosophy.

POPULAR MUSIC.

The present number of *The Open Court* contains a short article by C. Crozat Converse, a well-known American composer of both choral and popular music, in which he presents his views on the rise of popular songs and the non-acceptability of noble melodies to the American public. The general conclusion, although not expressed in words, seems to be very saddening, for it would indicate that we shall never have good national hymns or an elevating popular music. The cause of it lies in the paramount influence which the broad masses of the people exercise in America.

This is a feature of American life which has been pointed to again and again with great satisfaction by representative champions of European systems of government. The truth is that the masses of the people are, and always will remain vulgar. If their taste shall decide in matters intellectual, we cannot expect that America will be productive of anything good in any line of progressive work. If the democracy of a republic means that the majority shall dominate, then there is no prospect here for the artist, the scientist, the philosopher, and the poet.

Republicanism does not mean that the majority shall rule. The laws shall rule and the government shall administer the laws. The majority has the right only to decide who shall be entrusted with the work of administration.

Republicanism removes the rule of princes and abolishes prerogatives of an aristocratic minority, but it should neither endow the majority with sovereign power, nor should it abolish the functions of an aristocracy. The rule of the majority would be not less a misfortune than the elimination of aristocratic influences. American progressiveness has shown itself first of all in the useful arts, in feats of engineering of all kinds, in the enhancement of mechanics, and American inventiveness is mainly limited to that which is of immediate practical use, such as labor-saving machinery, locomotives for heavy traffic or rapid transit, etc.

Our art critics have pointed out that American art and poetry are lacking in originality and depth; they are sometimes powerful, but rarely noble and elevating. As a rule, they appeal to the masses, and not to the taste of the cultivated few. Most of the plays performed at our large theaters are stale and unprofitable; they are more shows than dramas; they are not a development of action and thought but exhibitions of scenic effects and of gaudy dress. The question has

often been raised how this unhappy state of affairs can be mended. We have not the slightest doubt that the conditions will be improved, and they may follow the law of evolution, that is to say, the course of progress will begin with an attention to the immediate and most pressing needs of practical life, proceeding to the higher but not less important domain of intellectuality.

The advance of American civilisation shows that to a great extent a development for the better has set in. The foundation of great universities is a step in this direction. And endowed theaters which shall set the standard of musical and poetical taste will be added in time. Endowed newspapers which should be started on a limited basis, perhaps in the form of weeklies, will have to follow. As a matter of course, they must be rigidly non-partisan, and take the ground of a purely ethical point of view.

The musical and artistic taste of the masses is not worse here than in Europe. The war songs that were actually sung in the German army, both in 1813-1815 and 1870-1871, were by no means the classical music of later days. The German warriors did not sing either Koerner's or Arndt's songs, but ragtime-melodies, with words of the coarsest character. It is a fact still that the officers of the German army have great trouble with the singing instinct of the private soldiers, generally venting itself in songs which not only betray a lack of musical taste, but also abound in rudities and even shocking indecencies. The regulations in the German army enjoin officers not to permit such breaches of good behavior; but, nevertheless, partly through connivance, partly through actual encouragement on the sly these songs spread like wild-fire. But these songs do not become known outside of the army and the elevating songs of the German nation are produced and known in a radically different atmosphere.

We may here on American soil allow public opinion to be too much dominated by the taste of "the boys," but this consideration exercises perhaps an educational influence on them, and may in time serve as a leaven that will raise the masses to a higher musical understanding.

I see no cure for the vulgarity of our national taste in music and other arts than by the foundation of independent art centers which would be looked up to as an authority, and thus organise the better elements constituting an intellectual aristocracy,—an aristocracy which is not based upon ancestry, but upon intellectual and moral superiority.

P. C.

LIFE AFTER DEATH. A COMMENT ON HOFFMANN'S STORY OF "TANTE FRITZCHEN."

To the Editor of The Open Court:

"It is awful, when two grow apart so and one of the two has to realise and know it. O God, I am tired, and want to sleep, just to sleep!" (*Tante Fritzchen*, Hoffmann.)

To those who cannot believe in a revelation, the position taken by "Tante Fritzchen" which so shocked the good pastor, will assume less or more importance, according to their intellectual environment. The sea of opinion will have no beaten path for such to pursue. Each, from Hans Hoffmann's story as a centre, may move out on one of as many lines of reflexion as a circle has radii.

But, to those who believe in a revelation,—let it be made through a carpenter under the shadows of Lebanon, or through a prince of the plains under the Himalayas, or through a shepherd of Sinai, or a camel-driver of Arabia,—the

whole matter of the questions so shrewdly raised becomes more simple. Each has only to quote from records he holds to be sacred, and to show that no known fact or truly scientific deduction is controverted by his "scripture." If the "scripture" one holds as revelation does not agree with the "scripture" another holds as revelation, it is a cause for worry and indecision only to yet another who holds neither: or revelation.

The assumption made by the Carpenter of Nazareth that HE KNEW, is forced as truth upon the mind of the writer,—by training, by "intellectual environment," and by a study that has led to the conclusion that the Man of Nazareth spake as never any other man before or since has spoken.

First:—The recognition by John, and James, and Peter, of the spirit companions of Jesus on the Mount of Transfiguration,—is evidence that the mental compass or range of intuitive faculties, when the sphere of the now unseen world entered, will be enlarged to a proportion perhaps limited only by the capacity of the individual personality.

Second:—The recognition of himself called for by Jesus in the interval between his resurrection and his ascension, has only a limited significance, and that only to those whose mental capacity cannot fathom a concept without sensual accompaniment,—such as sight, touch, hearing. He was "not yet ascended,"—so his bodily appearance had no necessary relation to the ordinary life after death whose possibility and environment is in question. And moreover, he exercised personal power which was sufficient to prevent or call for recognition at his will.

Third:—The exact words of Jesus, in description of this after-life are: "They are as the angels in heaven." He also, in a parable, used to, more or less poetically, clothe a truth he sought to impress upon his hearers, spoke of "a great gulf fixed," that divided certain of the dead from others whom they knew when on earth.

Fourth:—To the Sadducees, who said "there is no resurrection, neither angel, nor spirit," Jesus went beyond his mere assertion, and gave what he considered would be to them an unanswerable argument; "That the dead are raised, even Moses shewed at the bush, when he called the Lord the God of Abraham, the God of Isaac, and the God of Jacob. For he is not the God of the dead, but of the living."

According therefore to the revelation of the law-giver of Sinai, and of the carpenter of Palestine, there is an awakening after death that leads to recognition of one another and a satisfaction, that has no relation to youth or age, scars or wrinkles, earth's "forty-five years" or cycles of time. "Many of them that sleep in the dust of the earth shall awake, some to everlasting life, and some to shame and everlasting contempt. And they that be wise shall shine as the brightness of the firmament." (Daniel xii, 2.)

Nevertheless, the Athenians are not yet extinct, who, "when they heard of the resurrection of the dead, some mocked; and others said: We will hear thee again of this matter." (Acts xvii, 32.)

DANVILLE, VIRGINIA.

REV. J. CLEVELAND HALL.

THE CROSS IN "JAPANESE HERALDRY."

To the Editor of The Open Court:

I read with interest the article in your December number on *The Cross in Japanese Heraldry*, but I was astonished to read the author's statement regarding

the "Manji," viz. that its use by Christianised Japanese nobility is a conclusive proof of its Christian origin. This statement is absolutely incorrect. Whatever Christianity the Manji may have is due to adaptation from sources similar to those whence you trace the analogies in the histories of Nativities in your concurrent article *theron*. The Manji is an emblem whose use as a solar, and possibly lunar, representative can be retraced to the fourteenth century B. C. having been frequently found by Herr Schliemann among Trojan remains, and described in his work *Ilios*. Moreover this Manji is merely another name for the Swastika of India, concerning which much has been written; I believe it is mentioned in the Ramayana as being painted on the bows of Bharatás fleet, and it is shown in the *Archæological Survey of India*, vol x, plate 2, fig. 8, as being on a coin of Kranda, supposedly the oldest Indian coin.

This emblem is also known as the Cross gammée, and as the gammadion, and could pile Pelion upon Ossa in proofs not only of its pre-Christian but almost of its prehistoric existence.

Should any reader wish to look into the history of this deeply interesting emblem, I recommend for valuable assistance the *Migration of Symbols*, by M. le Comte Goblet D'Alviella, Senator of the Royal Academy of Belgium, and also *The Svastika*, by Mr. Thos. Wilson, Curator of the Department of Prehistoric Anthropology at Washington, D. C.

LOWELL, MASS.

N. W. J. HAYDEN.

BOOK NOTICES.

TALKS TO TEACHERS ON PSYCHOLOGY: And to students on some of Life's Ideals. By William James. New York: Henry Holt & Co. 1899. Pages, xi+301.

Prof. William James has written a characteristic production in his *Talks on Psychology and Life's Ideals*. The addresses abound in practical insight and unconventional wisdom, and have far more value for teachers than many of the ponderous tomes of the psychological Dry-as-Dusts. The scant pedagogical outcome of the ultra-technical psychological research now in vogue, the great importance of motor elements in education, the function of reactions, the laws of habit, the association of ideas, the factors of interest, attention, memory, apperception and will, are all delightfully and, in the main, soundly emphasised. In the section, "Talks to Students" the essay on "The Gospel of Relaxation" which is an appeal to the American public, recommends a species of diluted Yoga-practice, a descending at intervals to the non-thinking level, an absorption in the supreme felicity of the sensorial life. Here, too, is the source of much genuine philosophy, Professor James thinks; and it is his essay "On a Certain Blindness in Human Beings," which treats of this topic, that he likes best. The essay is a gospel for life's sake a gospel of a subjective criterion of all ethical values, a levelling of all the standards of ideality to individual sentiment, culminating in the assertion that "the truer side is the side that feels more, and not the side that feels less." On this, his individualistic and polymorphic philosophy, Professor James lingers with loving emphasis.

We should like to quote, if space permitted, some of the many apt and trenchant passages which Professor James's book contains; but we must content ourselves with saying that serious readers of all professions cannot fail to find in it stimulating and ennobling thoughts.

One of the latest issues of the *Bibliothèque de la revue générale des sciences* published by G. Carré and C. Naud, (Paris, 3 rue Racine), is a cheap but very elegantly bound volume of oddities and fancies from the history of mathematics in France during the seventeenth and eighteenth centuries. The title of the work is *Opinions et curiosités touchant la mathématique*, and the author is Georges Maupin, member of the Mathematical Society of France. The following are the author's and sources of a few typical selections: Orontius Finaeus, Bovelles, Montaigne, Pascal, the geometry of Port-Royal, Lamy, Ozanam, Sauveur, Bossuet, D'Alembert, etc. There are several good illustrations which include a portrait of Orontius Finaeus (1556) and the frontispiece to a work by Barrême (1671). Many of the extracts are interesting from the point of view of the history of civilisation, one for instance being the question discussed in the Academy in 1667, as to the character of the studies which were fit to be pursued by women,—a subject which is referred to more than once in the book. Most of the space is taken up by certain classical solutions of the squaring of the circle; the collateral pursuit of medicine and geometry is illustrated by an extract from a production of 1586; there is a proof of the existence of God, deduced from a consideration of asymptotic spaces by a Jesuit, Pardies, etc., etc. Upon the whole the book has a decidedly educational value, in addition to its antiquarian importance.

Those who desire a sound and instructive discussion of the history and principles of the municipal administration of American cities, may turn profitably to a recent work entitled *The Government of Municipalities*, by Dorman B. Eaton, a man whose name has been known for many years as that of a distinguished civil service reformer, and whose very recent death is to be greatly lamented. The first portions of the volume are historical and critical. "In the midst of the vast contrariety and confusion of our hastily devised municipal constructions," says Mr. Eaton, "I have felt the need of a definite plan and theory of city government,—carefully considered on the basis both of principle and experience,—and I have therefore presented such a plan, well knowing, however, that it would encounter fewer objections if it were less definite and therefore less useful for its purpose. Besides, it seems to be essential for our municipal betterment, to bring our indefinite municipal thinking—or lack of thought—and our manifold partisan schemes, of city domination for party and sectarian advantage, to the test of a definite kind, and organisation of city government, having its principles defined and its methods organised in the interests of the people and not of any party or sect." (New York: Macmillan Co. Pp. 408. Price, \$4.00.)

In two good-sized volumes published by The Macmillan Co., Mr. Gamaliel Bradford has traced through the intricate mazes of history *The Lesson of Popular Government*. Such subjects as universal suffrage, the general theories of democracy, the histories of popular and cabinet government in Great Britain, the history of France, public finance, the spirit of party and government in our legislature, are treated in Vol. I. In Vol. II., the history and theory of state governments is considered, Massachusetts and New York having been taken as the type, and the general theory of city governments in America examined and criticised. The key-note of the work is this: That while the principles of the government and the character of the people of the United States, despite their motley ethnological composition, are still sound and reliable, "some modifications and readjustments of the machinery must take place, unless we are to drift through practical anarchy and increasing

corruption to military despotism." The work concludes with an apt quotation from an English writer that "the failures of government in the United States are not the result of democracy, but of the craftiest combinations of schemes to defeat the will of democracy ever devised in the world." The price of the book is \$4 00.

Allen Walton Gould, who has done so much for the literature of children by publishing a series of nature studies which appeared in the form of a periodical, and was, if we are not mistaken, republished in book form, has made another venture of a similar kind, entitled, *The Child's World in Picture and Story*. Four numbers lie before us, which are extremely interesting, and adapted as literature for children of from ten to fifteen years. It is neatly and thoughtfully illustrated, the first number being dedicated principally to "houses of silk" as built mainly by moths, spiders, in trees, under ground, and under water. The second number treats of "houses of paper," explaining the paper-like cells of the wasp. Next come "houses of wood," built by seeds, (the pea building its pod, etc.) by birds and ants; in addition, the beavers' dams are illustrated and discussed. The fourth number is dedicated to "houses of clay" built by various insects, in comparison to whose work the mound builders are alluded to. The illustrations are carefully selected so as to be instructive, and to render the articles more interesting. Price, \$1.50 per year, five cents per single copy.

The Macmillan Company began in January the publication of a new periodical entitled, *The International Monthly; A Magazine of Contemporary Thought*. The type of the *Monthly* is that of the more serious English and American reviews, with the exception that in the present case a thorough-going popular presentation of topics is aimed at. The editorial management is conducted by Mr. Frederick A. Richardson, assisted in each department by an advisory board consisting of distinguished representatives of science, literature and art, in America, England, Germany and France. The contents of the January number are as follows: Later Evolutions of French Criticism, by Edouard Rod, Paris; Influence of the Sun upon the Formation of the Earth's Surface, by N. S. Shaler, Harvard University; Organisation among American Artists, by Charles De Kay, New York; Recent Advance in Physical Science, by John Trowbridge, Harvard University; The Theatrical Syndicate, by Norman Hapgood, New York. Price, \$3.00 a year. Single copies, 25 cents.

Fords, Howard, and Hulbert, of New York, have issued a collection of the addresses delivered at the semi-centennial Jubilee of Plymouth Church, Brooklyn, in November, 1897. The title of the collection is *The New Puritanism*, and the addresses are mainly concerned with the significance of the career of Henry Ward Beecher, and of the work of Plymouth Church. Their tone is that of a liberalised, but militant, Christianity, which still remains true to the stern ideas of Puritanism as adapted to the changed condition of modern life. The authors of the addresses are: Lyman Abbott, Amory H. Bradford, Charles A. Berry, George A. Gordon Washington Gladden, and William J. Tucker. (Pages, 275. Price, \$2.25.)

Dr. Hermann Schubert, Professor in Hamburg, Germany, and well known in the educational world for his text-books of elementary mathematics, has just published a second edition of his *Exercises in Arithmetic and Algebra* (*Aufgaben aus der Arithmetik und Algebra für Real- und Bürgerschulen*. Potsdam. 1899

A. Stein). The new edition has been entirely recast, and is published in three forms: (1) With answers; (2) Without answers; and (3) With the answers separate. The examples are systematically and logically arranged, and would be especially valuable for the use of teachers in preparing examinations. The collection will be in two volumes. (Price, 1 Mark 70 Pf. each).

A *Syllabus of the Lectures on Vertebrata* delivered by the late Prof. Edward D. Cope in his courses at the University of Pennsylvania have recently been published by the University. Professor Cope was one of the most distinguished scientists that America has produced, and Professor Osborn, who writes his biography in the present volume, ranks him as a comparative anatomist, both in the range and effectiveness of his knowledge and ideas, with Cuvier and Owen. There are many illustrations in the work and a portrait of Professor Cope. Price, cloth, \$1.25

The International Folk-Lore Association, of Chicago, has issued the first authentic collection of *Tales from the Totems of the Hidery*. The collector of the tales is James Deans a well-known geologist and ethnologist, who prepared for the World's Fair an anthropological exhibit representing the modes of life of the Hidery Indians of North-west British America,—an exhibit now to be seen in the Field Columbian Museum, at Chicago. The book is published in good form, and with illustrations.

The publishing house of Otto Hendel, of Halle, Germany, has just issued in their *Bibliothek der Gesamt-Litteratur* a new edition of Immanuel Kant's *Critique of Pure Reason*. The editor is Dr. Karl Vorländer who has supplied an introduction and a carefully compiled index. The text is that of the second edition of the *Critique*, published in 1787. The price of the volume bound is 3.25 marks only.

NOTES.

We have just been informed of the death of the Hon. John B. Stallo, which took place on January 6th, at his residence in Florence, Italy. He was one of the most prominent philosophers of this country, and combined in his person the rare qualities of a thorough knowledge of the exact sciences with an unusually clear and logical judgment, which had been sharpened in his profession as a lawyer and judge. He served as United States Minister to Italy under Cleveland's administration, and remained in that country after his resignation. His American home was Cincinnati, Ohio.

Professor Mach writing from Vienna, says: that his great book, *The Concepts of Modern Physics* is far too little known and appreciated, at least in Germany and he adds "perhaps I might succeed in causing a German translation of his main book to be made and brought out here." Professor Mach, who has for two years been in correspondence with the American thinker, adds that his career too was very remarkable.

The National Pure Food and Drug Congress will hold its third annual meeting in Washington at the Columbian University, beginning their sessions on Wednesday, March 7, 1900.

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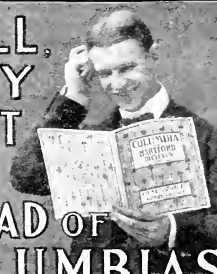
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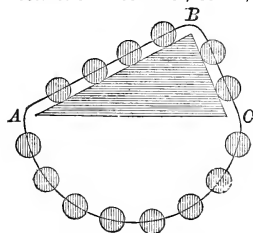
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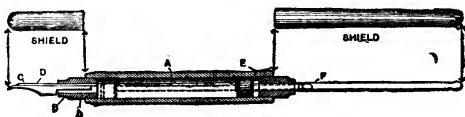
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GENERAL LEW WALLACE, the author of the greatest book of the age, Ben Hur, also The Prince of India, says: "I have tried every pen of its kind on the market and now unhesitatingly give the preference to the Post. It not only feeds itself with less care, but has the immeasurable advantage of re-supply without inking the fingers. I do all my work with it."

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A testimonial from the late **HON. ROSWELL P. FLOWER** was worth a great deal and we value very highly the accompanying testimonial, which he sent us in his own handwriting a short time before his death. "This is written with the Post, a new fountain pen, the simplest and best I have ever seen."

DR. LYMAN ABBOTT, the editor of the "Outlook," and former pastor of the Plymouth Church, needs no introduction. We know the full value of the beautiful testimonial which he has just forwarded and which is as follows:

"A number of years ago I had a Prince fountain pen, which went out of existence, and I was sorry for I preferred it to all others for the reason that it had no filler. Your "Post" self-filling fountain pen has the advantage of the Prince, and one which it did not possess, namely, greater simplicity. To me it is a greater advantage to have a fountain pen which requires no filler and can be filled at any time, and at any inksstand, without the possibility of inky fingers or blotted paper or desk."

"Enclosed please find my check for \$3.00 for the pen received, which I cordially recommend. It will be found especially convenient for travelers."

COLONEL HERRICK, of Cleveland, O., says: "Recently I became possessed of a Post fountain pen, which I am pleased to commend as in every way a perfect pen, simple in its mechanism, durable, perfectly tight and responding readily. It has fully answered my expectations and is a source of much comfort to me."

HON. LUTHER LAFLIN MILLS, the celebrated criminal lawyer and eminent orator of Chicago, writes as follows: "Your Post fountain pen is the best I have ever used, simple, reliable, durable, and I thank you for having brought it to my notice."

THE POST FOUNTAIN PEN

R. CAYGILL, MANAGER.

120-124 W. 14th Street,

NEW YORK CITY.