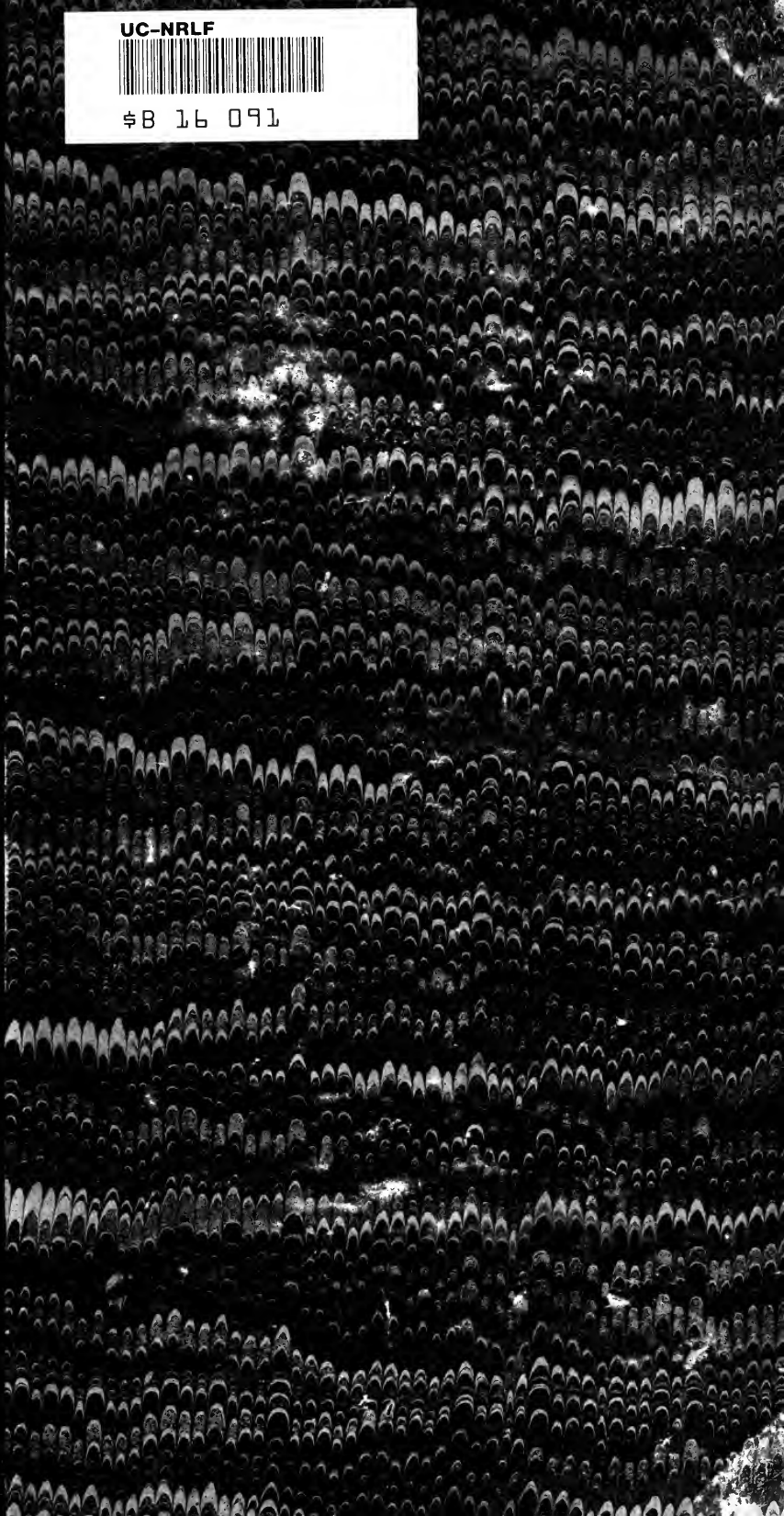

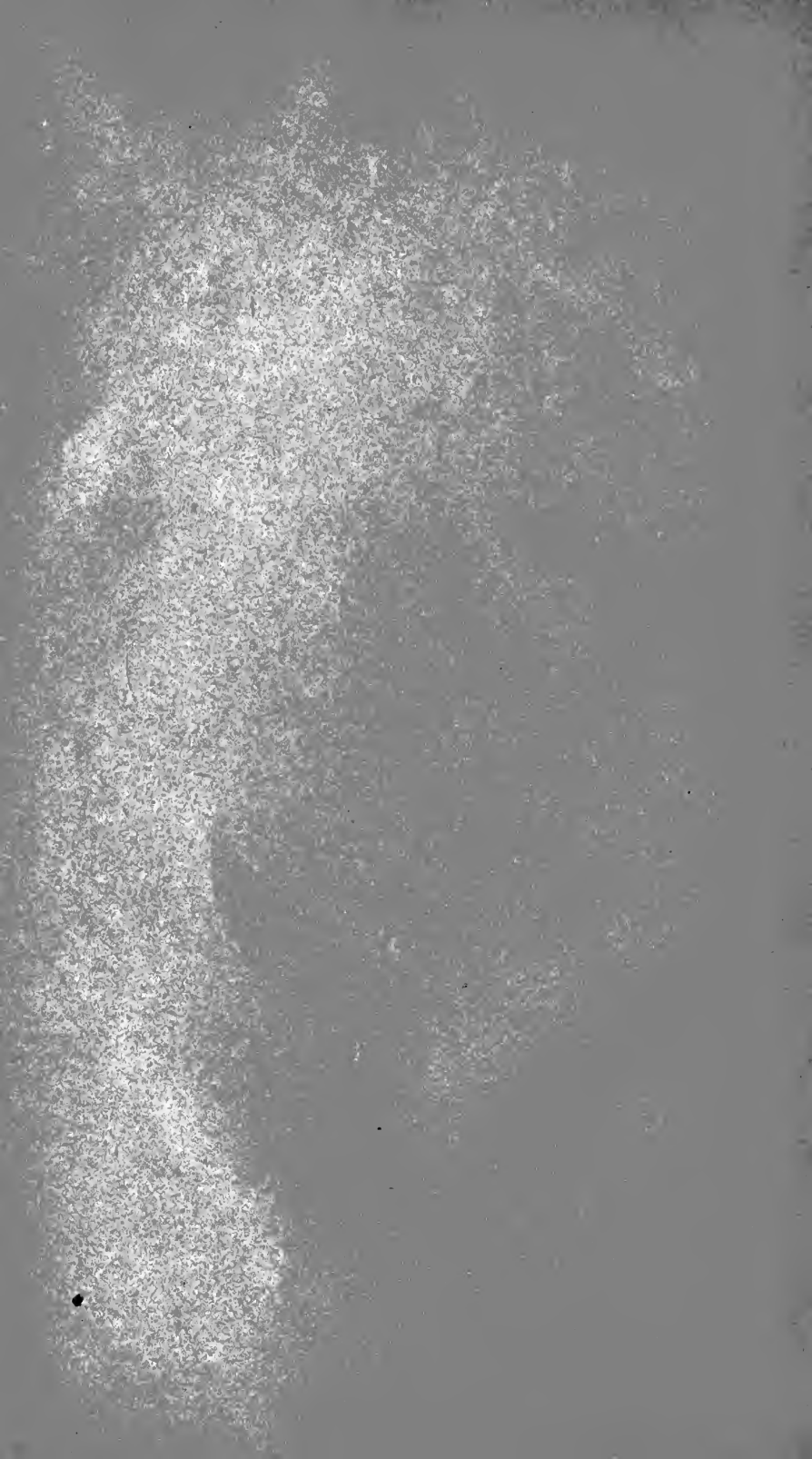

PENSIONS

BY

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PENSIONS

The following articles published from time to time in the *New Haven Register* substantially as they now appear were commenced when the enormity of pension legislation was beginning to attract public attention. They were written as much for the purpose of marking and defining reading on the subject as for imparting information. They are now published as an individual contribution to the general movement for reform.

D. Cady Eaton.

New Haven, Conn., March, 1893.

PENSIONS

I.

INTRODUCTORY.

With the permission of *The Register* I propose commencing with its readers a careful study of the pension laws. I use the word study advisedly, because I have found by experience that one of the best ways to study a subject is to write about it. I also use the word study for the additional reason that my own knowledge of the subject is as yet superficial and limited, and because I may change my views and may come to other conclusions from those to which I seem tending. At present I have the notion that pension laws are unconstitutional; that Congress had no power to pass them, has no legal power to exercise them; that they are not only in opposition to the letter of the fundamental law of our government, but in opposition to its spirit; that they are unrepublican and autocratic, and that they are unwise and injurious in the highest degree.

They have not as yet been brought before the Supreme Court. Incidentally United States judges have decided that the power to grant pensions is a part of the power given to the United States by the Constitution to raise armies.

If so, the power should certainly be limited to the armies of its own raising and should not be extended to volunteer forces, raised by the several states and mustered into the service of the United States for limited periods. The laws governing the compensation of retired army and navy officers and privates, cover all this ground completely and satisfactorily. To accord a pension is an act of sovereign grace; not of right, but of bounty. Such is the radical idea of a pension ever since pensions existed. A pension is an act of kindness and charity. A discharged soldier has no more natural right to a pension than has a discharged postmaster or revenue collector.

If there be any force at all in the theory of reserved rights, then the right of conferring pensions is reserved; and if exercised at all, should be exercised by the several states in accordance with laws they may be pleased to pass. If exercised by states under state laws, fraud would be more easily detected, for public opinion would be awake. Public opinion cannot carry at long range.

Later pension laws are *ex post facto*, and therefore strictly unconstitutional. They were not in existence when the volunteer volunteered, and therefore could not have influenced his action. A law is none the less *ex post facto* because it carries a favor and not a penalty. The patriots who did not volunteer have a right to say that if they had known that such laws were to be passed they would have volunteered. It would be strictly legal to include them. Perhaps the next amendment will be their inclusion and that of their sisters, their brothers, their cousins and their aunts.

If a government be representative and limited it has no right to exercise charity, for charity is personal. Charity should be local; within the sphere of local observation and regulation; within the limit of personal sympathy and of personal action. No republican government has a right to direct the charities of any one of its citizens, much less to tax its citizens in behalf of a charity in which political leaders happen to be temporarily interested.

Enough has already been written as an introduction to the questions I propose studying and discussing.

What is a pension?

A brief review of the history of pensions before the civil war.

The United States pension laws before and since 1861.

United States pension laws legally and equitably considered.

II.

WHAT IS A PENSION?

The word is an old word, derived from the Latin, *pensio*, which signifies a paying, a payment; and appears in many of the languages of Europe. It is used in some meanings which do not affect the questions to be discussed. For instance the word is used in France to designate a boarding house, or a boarding school; where so much is paid by the week, or by the month. At a French hotel you are said to live "*en pension*" when you have arranged to pay so much a day for board and lodging, etc. There are also in England specific uses of the word and of its derivatives. A pensioner at the University of Cambridge is a student who, like a commoner at Oxford, pays his own way. The king's pensioners are gentlemen appointed to attend the person of majesty. A clergyman's stipend is called a pension when it is not derived from tithes. These technical uses of the term, and there are others, are only mentioned to exclude them and to confine attention to the one meaning which is common to all modern civilized languages and countries.

Webster thus gives it:

"Specifically, a stated allowance to a person in consideration of past services; payment made to one retired from service, for age, disability or other cause; especially a yearly stipend paid by government to retired public officers, disabled soldiers, the families of soldiers killed, to meritorious and needy authors, artists, etc., or the like."

Worcester's definition is similar to Webster's, though shorter and more concise.

"An allowance, or annual sum, paid on any account—particularly an allowance from a government for services rendered."

The Century Dictionary gives the following definition:

"A stated payment to a person in consideration of the past services of himself or of some kinsman or ancestor; periodical payment made to a person retired from service on account of age or other disability; especially a yearly sum granted by a government to retired public officers, to soldiers or sailors who have served a certain number of years, or have been wounded, to the families of soldiers or sailors killed or disabled, or to meritorious authors, artists and others."

The definition in Stormonth's Etymological Dictionary (Edinburgh, 1881,) is as follows:

"An annual allowance of money from the public purse, or from a private person, without an

equivalent in labour or otherwise—generally in consideration of past services."

The Imperial Dictionary of London, which is going through the press, gives the following:

"A stated allowance to a person in consideration of past services; periodical payment made to a person retired from service on account of age, disability, or the like; especially a yearly sum granted by government to retired public officers, to soldiers and sailors who have served a certain number of years or have been wounded, to the families of soldiers or sailors killed, to meritorious authors, artists and the like."

The Century and the Imperial evidently had an understanding on the subject.

The Encyclopædic Dictionary, which is also going through the English press, defines as follows:

"A fixed allowance made to a person in consideration of past services; a periodical payment of money to a person retired from service on account of age or other disability; especially a sum of money allowed yearly by government to officers, civil or military, soldiers, sailors, and other public servants, who have retired after having served a certain number of years, or who have been wounded or otherwise disabled in the public service, to the families of soldiers or sailors who have been

killed in action, and to persons who have distinguished themselves in art, science, literature, etc."

These definitions are from the dictionaries which are accepted to-day as authority both in this country and in England.

Earlier dictionaries are no longer in general use. They should, however, be consulted because they give the opinions held at the time of publication.

Before Webster and Worcester appeared, Walker was the leading dictionary of the English language. In Walker of 1836, remodeled by Smart, is this definition:

"Pension—A payment of money—an allowance or annual sum paid on any account; frequently an allowance from government for services rendered, sometimes secret and base, sometimes public and honorable."

In the earlier editions of Walker the definition is shorter. For instance in the fifth edition of 1809 this appears:

"Pension—An allowance made to anyone without an equivalent. Pensioner—One who is supported."

Knowles' Dictionary of 1835, the rival of Walker, has the following:

"Pension—An allowance made to anyone without an equivalent.

To pension—To support by an arbitrary allowance."

This is almost identical with the definitions in Barclay's Liverpool Dictionary of 1810, which are as follows: "Pension—An allowance given to a person without an equivalent.

To Pension—To support by an arbitrary allowance."

In Bailey's Popular Dictionary, which first appeared in 1821 and which ran through many editions, a pension is very briefly defined as:

"A salary, or yearly allowance."

In 1780 appeared Sheridan's Dictionary, which was received with favor, but which could only hold its own for a short period against the ever increasing popularity of Johnson's Dictionary. In Sheridan is as follows:

"Pension—An allowance made to anyone without an equivalent.

Pensioner—One who is supported by an allowance paid at the will of another, a dependent."

The first edition of Johnson's Dictionary appeared in 1755. This was during the last years of the reign of George II. who distributed pensions with a lavish hand. If he did not reward vice with them as did the Stuarts, he committed the greater public crime of using them for political debauchery. Johnson who knew a spade when

he saw one, and who never hesitated to call things by their proper names, has left for the profit of mankind the following definitions which should be read and pondered by all citizens of the United States of the year 1893 :

"Pension—An allowance made to anyone without an equivalent. In England it is generally understood to mean pay given to a state hireling for treason to his country.

Pensioner—A slave of state hired by a stipend to obey his master."

The fact that Johnson himself subsequently accepted and enjoyed a pension shows the more clearly the deadly nature of the system; for it proves it's power to hurt even a man of his force and steadfastness. If he could be corrupted, what chance for lesser humanity!

All these definitions are generic. No one specifically describes a United States pension of to-day.

Till another Johnson appear, the following attempt may be offered:

Pension—An allowance in cash:

Given—To anyone; without reference to time or quality of service rendered, to bravery displayed, or to wounds received; who can establish directly or by kin the fact of a three months' connection with the armies which put down the rebellion, and the further fact of need.

Secured—By laws offered by one political party for the purpose of obtaining votes for its candidates, supported by the other party from the fear of losing them, and passed by Congress in defiance of the Constitution, in contempt of equity, in opposition to the fundamental principles of the country's government and in cowardly neglect and supine ignoring of duty.

Approved by a contemptible and time-serving executive.

III.

THEORY OF GOVERNMENT—ENGLISH PENSIONS.

The people of the United States are rapidly forgetting the fundamental principles which distinguished their government from the governments of Europe. Yet it is only by a lively remembrance of these principles and by a constant recurrence to the source of their origin that mistakes in legislation can be corrected and the government preserved in its primeval simplicity and purity.

So many idle and bombastic words have been spoken about the Constitution that the mere mention of the instrument may repel the hearer. No more difficult task than to excite interest in constitutional questions. The ordinary citizen takes it for granted that he knows all about the Constitution; that a sufficiency of knowledge on the subject has come to him by a species of intuition. At all events he desires no further information. The Constitution is for him a thing of the past; a thing that happened, like an act of birth or a funeral. He assumes and presumes that constitutional questions were all settled years ago, at the beginning of the country's history, settled and done for never more to bother, molest or trouble him or his

descendants to the remotest generations. That the Constitution is a body of fundamental principles of government to which constant reference must be made, as the theologian refers to the decalogue and the mathematician to his logarithms; that knowledge of the Constitution is no more by descent than is spiritual grace, and that each generation must be indoctrinated *de nuovo* into its spirit, are ideas he never permits to trouble him. That the Constitution is an ever living document, the sacred palladium of liberty, to be regarded with the same personal sentiments of devotion, loyalty, reverence and affection with which an Englishman regards his queen or a German his emperor, are notions to which he is obliged to listen on the Fourth of July and about election time; but which make no more impression on his mind than if they were delivered in Sanscrit. The statement that an act of Congress is unconstitutional, conveys no clearer idea to the ordinary citizen than if it were stated to be opposed to Plato's theory of a republic. That unconstitutionality is a radical defect and should render a law inoperative is beyond the reach of his comprehension. That the Constitution is a fixed, permanent living force, comprehending and vivifying the body politic as the atmosphere surrounds, and vivifies the earth is too vague a proposition for his

understanding. It was undoubtedly very important in its day, but it has had its day. History has outgrown it. Orators who still prate about it are ponderous, heavy, tiresome.

This is no exaggerated description of the condition of the public mind to-day. Yet unless the mind can be forced back to a consideration of the underlying principles of the Constitution, discussions of constitutional questions will be as useless as music addressed to the dumb, color exposed to the blind. There must be a common understanding; a point of departure, accepted premises; or no agreement is possible.

Therefore let it be once more stated, heard and accepted that the fundamental, radical and vital difference between the government of the United States and the government of England, for instance, is that in England all power is supposed to emanate from the king; in the United States, all power is supposed to emanate from the people. The theory of the English government is that all ultimate and reserved power is in the sovereign. The theory of the United States government is that all ultimate and reserved power is in the people. In the one the king is the source and fountain of unwritten law; in the other, the people. In the one the king acts in unprovided emergencies; in the other, the people. In England laws

are supposed to be the expression of the sovereign's will; in the United States they should be the expression of the people's will. Monarchies are founded on the theory that the monarch is not only the sovereign disposer of his people's persons, but the actual holder of their possessions. Lands are held at his will. He may bestow, he mak take away. Commerce is exercised by his permission. He may permit, he may prohibit. The learned professions are exercised by his license. He may allow, he may disallow. He issues all writs. Even parliament must await his writs for its meetings. The theory of to-day is founded upon the practice of yesterday. Charles Stuart did with the people of England as if he owned them, and kept on doing so till they rose against him and cut his head off. But the people of England could devise no better theory of government. The existence of an ultimate and supreme power from which there is no appeal is necessary to a government's stability. Where shall this power be, was the problem. The English could devise no other way of disposing of it than by locating it in the person of the sovereign. The people of the United States have not disposed of it at all; they hold it.

If this be accepted, understood and held, then subsequent steps will be clear.

In England parliamentary laws are limitations and definitions of the king's will. In the United States the Constitution is a grant to the central government of so much of the sovereign power as the people chose to surrender for the purpose of creating a union. Everything not specifically surrendered is still held, precisely as everything not specifically surrendered by means of parliamentary acts is still held by the king.

Constitutions, grants, charters and acts of legislative bodies, which limit sovereignty by conveying sovereign powers, are to be rigidly and strictly construed. This is a fundamental principle of law reaching back to the beginnings of government. Only just so much sovereign power is conveyed as is clearly, precisely and indubitably described. All doubts are in favor of the grantor. Nothing is conveyed by inference, by imputation or by strained construction. How different would be the condition of this country if this rule had always been obeyed!

These few fundamental, elementary and preliminary principles being accepted, their exemplification in the history and theory of pensions is easily followed.

In England, down to the reign of George III. there was no limiting, no attempt at limiting, no idea of limiting, the royal prerogative of pensions.

The king pensioned whom he pleased, when he pleased and as he pleased. In comparison with the greater rights he exercised, the right of pensioning seemed small and did not attract attention. He pensioned for life, or he pensioned for weeks or days. He bestowed pensions. He recalled pensions. In each and every case he acted in accordance with his own sovereign will. Were not all the revenues of the realm his to do with as he pleased? There seems to have been an understanding that the pensions granted by one sovereign should be continued by his successor; but there was only an understanding. A sovereign continued the pensions of his predecessor in the expectancy that his successor would continue those of his own creation. The fundamental idea of an allowance without an equivalent was not so apparent as claimed by lexicographers. There was no equivalent to the country any more than there is to the United States now; no equivalent to the people from whom came the money which paid the pensions, but there was equivalent in subserviency to the king and to his political interests. If a pensioner voted against the king's candidates, or used his influence against the king's desires, or interests, he ceased to be a pensioner.

In 1782 King George III. was sorely pressed by his enemies. Lord Cornwallis had surrendered at

Yorktown, and all hope of conquering the American colonies was at an end. The Spanish had retaken Florida and many of the English islands of the East and West Indies. One hundred millions sterling had been wasted in the American war alone. The French were defiant and victorious. At home there was poverty, discontent and loud cries for peace at any price. Under these circumstances it was thought the times were ripe for the introduction of measures curtailing the royal prerogatives. A bill was introduced into parliament and passed, known as 22, George III. c. 82. The preamble of the bill and the part relating to pensions are interesting and instructive; the preamble, because it sets forth the theory of the English government as held then and held to-day; the part relating to pensions, because it is the first legislation on the subject.

The preamble is as follows:

"Whereas his Majesty, from his paternal regard to the welfare of his faithful people, from his desire to discharge his debt on his civil list without any new burthen to the publick, for preventing the growth of a like debt in the future as well as for the introducting a better order and economy in the civil list establishments, and for the better security of the liberty and independence of parliament, has been pleased to order, etc., etc."

Observe that his majesty is represented as the father of the people, that the people are represented as his people, and that the act is supposed to emanate from his paternal regard and his solicitous desire. That to sign the bill must have been as galling to the king as it was a year later to sign the treaty acknowledging the independence of the United States does not affect the theory of the procedure. After the enumeration of the things it has graciously pleased his majesty to order comes as follows:

"Wherefore, for carrying his majesty's said gracious order into execution, may it please your majesty that it may be enacted; and be it enacted by the king's most excellent majesty, etc., etc.

Then is repeated the things enumerated in the first part of the preamble. Forms, of course, may lose their meaning and only be preserved as matters of form. But all forms originally clothed thought and meaning and in England they still have great meaning. There is no power to compel an English sovereign to sign an act of parliament. The only recourse would be to cut his head off and crown a compliant successor. The existence of ultimate sovereignty and its proper location are the ideas to be emphasized throughout this discussion.

The act, 22 George III. c. 8, was most impor-

tant. In the first place it abolished a large number of offices, fat sinecures with which the Stuarts, Queen Anne and Georges I. and II. had rewarded flattery and compensated successful political scheming. It provided that if it should appear necessary to renew any of these offices or establish other ones in their places it should be done by parliament and the incumbents should be appointed and paid by parliament.

The sections relating to pensions were drawn carefully and with attention to detail. They provide that the king shall—graciously of course—reduce his pensions to £90,000, or about $450,000 a year, and that until this limit be reached no pension of over £300 a year shall be given to any one person and no sum of over £600 shall be given in any one year; and that after the limit has been reached no single pension exceeding £1,200 a year shall be accorded. The act moreover provides that the king shall lay before parliament a full list of his pensioners and that hereafter they shall not be paid in secret by the king but in public at the office of the exchequer. A drastic act to which, however, George paid little attention for there are documents in existence to show that in 1793 the pension list had increased to £124,000. A tremendous sum for the times, almost one two-hundredth of the sum the people of the United States

are paying, not of their sovereign will, but compelled by acts of Congress which are as despotic as the edicts of the czar of Russia.

IV.

ENGLISH PENSIONS AND THEIR TEACHING.

When the people of England had persuaded King George III. to graciously consent to the act of 1782, they undoubtedly congratulated themselves upon having terminated the greater abuses of the pension system. When, however, they perceived that the abuses continued to about as great an extent as ever, they naturally opened their eyes with surprise, wondering whence came the funds for such prodigality. They seemed to have forgotten for the moment that George was, by the grace of God, not only king of Great Britain, but also king of Ireland, that the acts of their parliament did not extend to Ireland, that Ireland had its own parliament (till 1801), that King George could still dispose of the Irish revenues as he had been disposing of the revenues of England, and that the hereditary revenues of Ireland amounted to about the sum of £300,000. Nothing could be done but to persuade the king to be as graciously disposed in the matter of the Irish revenues as he had been in the matter of the English revenues. The pressure was all the stronger on the part of the Irish because the Irish revenues were for the most part distributed outside of their country,

among English pensioners whose votes and influence were of importance, while Ireland which supplied the cash enjoyed but little of the benefit.

In 1793, when war was declared between England and France, and it became of vital importance to hold the turbulent Irish fast to the English crown, a pension bill was introduced into the Irish parliament, was passed and was signed by the king.

By this bill, which was modeled on the English bill of 1782, it was provided:

"That the whole amount of pensions to be granted in Ireland in one year should not exceed one thousand two hundred pounds until the whole pension should be reduced to eighty thousand pounds, which sum it should not afterwards be lawful to exceed; and that no pension should be granted after such reduction, to or for the use of any one person, exceeding the sum of one thousand two hundred pounds except to his majesty's royal family, or on an address of either house of parliament."

The king still had the hereditary revenues of Scotland. These he continued to enjoy till 1810 when insanity put a stop to his activities. At about the time of the transfer of the regal authority to the Prince of Wales, afterwards George IV., an act was passed to the effect that no amount

greater than £800 should be granted in any one year from the Scotch revenues until the Scotch pension list should be reduced to £25,000, and that no pension exceeding £300 a year should be given to any one person.

During the reigns of George IV. and William IV. other and minor acts were passed still further reducing the funds available for pensions and also consolidating the pension lists of the three kingdoms.

Finally, on the accession of Queen Victoria, an act was passed (1 & 2 Vic. c. 2.) regulating all the expenses of royalty. As this act is law to-day, parts of it may be read with interest.

The parts relating to pensions are as follows:

"Sec. 5. And, whereas, it is expedient to make provision at the rate of £1,200 a year for each and every succeeding year of her Majesty's reign to defray the charge of such pensions as may be granted by her Majesty, chargeable on her Majesty's civil list revenues; be it therefore enacted: That it shall be lawful for the lord high treasurer, or for the commissioners of her Majesty's treasury, for the time being to charge upon and issue quarterly out of the said consolidated fund, as an addition to the sum hereby granted for her Majesty's civil list, such sums as shall be required to defray the charge of such pensions as may be granted, as

aforesaid, at the rate of £1,200 a year for the first year of her Majesty's reign, and at the like additional yearly rate for the second and every succeeding year of her said reign.

Sec. 6. And, whereas, it was resolved by the houses of parliament, on the 18th day of February, 1834, that it is the bounden duty of the responsible advisers of the Crown to recommend to his Majesty (William IV.) for grants of pensions on the civil list such persons only as have just claims on the royal beneficence, or who by their personal services to the Crown, by the performance of duties to the public, or by their useful discoveries in science and attainments in literature and the arts, have merited the gracious consideration of their sovereign and the gratitude of their country: and whereas it is expedient that provision should be made by law for carrying into full effect the said resolution, and for giving an assurance to parliament that the responsible advisers of the Crown have acted in conformity therewith: be it therefore enacted, That the pensions which may hereafter be charged upon the civil suit revenues shall be granted to such persons only as have just claims on the royal beneficence, or who by their personal services to the Crown, by the performance of duties to the public, or by their useful discoveries in science and attain-

ments in literature and the arts, have merited the gracious consideration of their sovereign and the gratitude of their country: and that a list of all such pensions granted in each year ending the twentieth day of June shall be laid before parliament within thirty days after the said twentieth day of June in each year, if parliament shall be then sitting, but if parliament shall not be then sitting, then within thirty days after the next meeting of parliament."

The effect of this act on pensions is thus stated by Sir Thomas Erskine May in his Constitutional History of England, Vol. 1, p. 214:

"The pensions thus reduced in amount and subjected to proper regulations, have since been beyond the reach of constitutional jealousy. They no longer afford the means of corruption; they add little to the influence of the Crown—they impose but a trifling burden on the people—and the names of those who receive the royal bounty are generally such as to command respect and sympathy."

Thus by persistent endeavor, lasting for generations, the English people have succeeded in driving from their country demons of corruption which the American people are welcoming to their shores, clothing them with the outward apparel of patriotism and gratitude.

Other parts of the act, though relating only indirectly to the subject, are interesting for they show the sums the queen still has at her disposal.

Three hundred and eighty-five thousand pounds a year are devoted to supporting the dignity and comfort of royalty. This sum is divided into six classes, as follows:

First class—For her majesty's privy purse, . . .	£60,000
Second class—Salaries for her majesty's household, and retired allowances, ...	131,260
Third class—Expenses of her majesty's household,	172,500
Fourth class—Royal bounty, alms and special services, ...	13,000
Fifth class—£1,200 for pensions, a special appropriation.	
Sixth class—Unappropriated moneys, ...	8,040
Total, ...	£385,000

Anything saved in one class during the year may be used to cover excesses in other classes, with the exception of the pension class. Payment, distribution, etc., to be made by the lord high treasurer, or by any three or more commissioners of the treasury.

The Crown has in addition certain other sources of income which have not as yet been disturbed by any act of parliament but which remain as they have always existed. These are called "The Small Branches of the Hereditary Revenue" and consist in a number of medieval rights and taxes

which are apparently allowed to remain in remembrance of the time when royalty was supreme. They still yield about £150,000 a year. The crown has also the independent enjoyment of the revenues of the duchy of Lancaster which amount to about £50,000 a year. These sums, together with classes one and four, constitute a large amount with which her majesty could commit large iniquities if so disposed, but bribery and corruption have ceased to be factors in English political life.

The argument against the constitutionality of pension laws might stop right here; for enough has already been shown to prove their inconsistency with such a republican form of government as the government of the United States. The Constitution was ordained and established to form a more perfect union. Laws that tax the Union for the benefit of a part of it, or for the benefit of a certain class of its citizens, impair the strength of the Union, because they teach the most unrepublican of notions, that a man may live without labor; may draw sustenance from the government without service. The Constitution was ordained and established to promote the general welfare. It is impossible to conceive of laws more injurious to the general welfare than pension laws, or anything more dangerous to a republic than the

creation of a large body of pensioners whose methods of thought and manners of living are unrepublican because their political convictions are handicapped; their energies directed to sapping the resources of the Union to which their lives and their resources should be ever ready contributions. The Constitution was ordained and established to provide for the common defence. With such laws on the statute book as a precedent, it would be impossible for this country, were it ten times richer, to bear the expense of a war of any magnitude. The Constitution was ordained and established to secure the blessings of liberty. It is idle to speak of liberty in a country of which the people permit themselves to be taxed hundreds of millions without a cent of return. If there be any limit whatsoever to the power of Congress, that limit has been overstepped. If Congress is not to be recognized as autocratic and as despotic as the sultan, then what has become of American citizenship that it should keep silent!

To confer a pension is an individual act of private munificence and gratitude. Congress is not a person and has not a dollar of its own for charity. Its funds are trust funds, raised and held for certain well defined constitutional purposes and for no others.

Pensions should be managed by the people of

the United States precisely as they manage their other charities. The power to grant pensions on a large scale is a sovereign power, only to be exercised by a sovereign, and only with funds over which he has sovereign control. Distribution of pensions in this country can only be constitutionally done by the sovereign people in their sovereign and individual capacity, and with funds which they take voluntarily from their individual pockets. Congress has no more right to tax the people of the United States for pensions for a particular class of citizens than it has a right to tax for foreign or domestic missions; for hospitals, or for free beer. Whether individual States have the right is another question. Certain it is that if they possessed it they have not surrendered it.

At the first meeting of the next Congress the following amendment to the pension laws might be offered:

"*Resolved*—Funds for pensioning soldiers of the civil war shall hereafter be provided by the voluntary contributions of the people of the United States and only the citizens of the States which remained faithful to the Union shall be permitted to contribute."

That would put the matter on a proper basis. It cannot be doubted that the citizens of the loyal States would respond in a manner creditable to

their generosity and to their common sense. There is no possible notion, or theory, of the government of the United States by which Congress can impose a tax on the people at large without a resulting and equivalent benefit to the people at large. The only definition, which is as clear in history as in lexicology, is that a pension is an allowance without an equivalent.

V.

FRENCH PENSIONS.

As in the United States principles and notions of government were derived from Great Britain, and as the laws of the several States are founded upon English laws, it would seem that a review of the history of English pensions were sufficient to prepare the mind for the study of United States pensions. Still a brief review of the history of pensions in the so-called sister republic of France cannot fail to increase general information on the subject and may expose one, if not the chief, of the fallacies on which the idea of United States pensions rests. That is the French idea of *l'État.*

French kings from Philip Augustus to Louis XVI. had the same notions of prerogatives which were held by English kings across the channel. They had at first more difficulty in enforcing them, for the country was not a conquered country and at times the kings of France had subjects who were their equals in wealth and power. The origin of pensions is past finding out. In France the word had a more extended meaning than in England and apparently included all gifts made by the king. The earliest mention of the

word given by Littré, the celebrated French lexicographer, is of the fourteenth century. In the chronicles of the Church of St. Denis it is stated that there were several cardinals who belonged to Charles VI. and were of his pension (*de sa pension*). Littré does not state who the cardinals were, or when, for what purpose, or to what amount, they were pensioned. As Charles lived till 1422, and as the famous Council of Constance was in session from 1414 till 1418, it may be that the king's cash was for the purpose of having the interests of France properly represented before that famous body. When the Council had finished burning heretics and settled down to regular business, one of its acts was to depose Benedict XIII., the French anti-pope. The king's cash, therefore, may have been bestowed "without an equivalent," as are United States pensions to-day.

From the time of Charles VI. to the revolution of 1790 French histories, biographies, memoirs and letters contain many references to pensions and pensioners. From these it appears, as already stated, that the word was used in a very general sense and included all the graces, favors and gifts of royalty, from the half pay of a retired sub-officer to the rich establishments of princes; from the reward for gallantry on a field of battle to the fiefs of powerful families. It also appears

that pensions of every description and of every value, were alike accorded and rescinded in an arbitrary manner which was complete and absolute. The whim, or pleasure, of the sovereign, was the only rule.

History records frequent mutterings, protests, even risings of the people against the profuse and unjust distributions of pensions. In 1582, during the reign of Henry III. the clergy got together and vehemently protested against charging rich abbeys and ecclesiastical livings with pensions to the favorites of Catherine de Medicis. A subject for the casuists of the time was the *quaere* whether a bishop, or other ecclesiastic, whose salary was docked to pay a pension, could without sin wish for the demise of the beneficiary. In the words of a writer of the day: "Pensions were pure favors. Only exceptionally were they given to retired military and civil officers. These were dependent for their support on the reservation of a small portion of the wages of their successors, which portion their successors could easily avoid paying." Although in times of peace a large portion of the national revenues was dissipated in pensions, it is only till a comparatively modern period of French history that definite information on the subject is to be had.

Sully, the patriotic minister of Henry IV. is-

sued, with the consent of his master, a decree limiting the annual amount of pensions to 2,000,000 livres. How much of a reduction this ordinance effected would be better understood if the intrinsic value of the French livre and its purchasing power at the time could be accurately ascertained. Originally the French livre was a pound or 16 ounces of silver. From Charlemagne down, the livre decreased in value till at the time of the revolution it was the equivalent of the franc, which is of about the value of 20 cents. Without entering into a close calculation, it may be assumed that 2,000,000 livers of the time of Henry IV. had the purchasing power of about $10,000,000 of to-day's money. If a decrease to such a sum attracted notice and applause, what must have been the sum from which the decrease started!

After the death of Henry IV. and during the regency of Marie de Medicis, pensions increased enormously. In 1614 a body known as the "États du Royaume," a representative body without any of the powers of representatives, protested against the disorderly increase of pensions. In 1617 the assembly of notables, a house of lords without any of the powers and with but few of the privileges of the English house of lords, insisted upon a return to the decree of Sully. The records of the regency and of the reign of Louis XIII. are full of

resolutions passed by one house or the other; to all of which Marie and Louis paid as little attention as if they had been formulated in Timbuctoo. Concini, the first favorite of Marie de Medicis, "knocked down" three millions on the pensions he granted in Marie's name. Over thirty millions were distributed in pensions before the strong hand of the Cardinal Richelieu seized the helm of state. After the advent of Richelieu pensions were kept at four millions annually. They grew rapidly under Louis XIV., reached fifteen millions under the still more profligate Louis XV. and nearly doubled under the weak and vacillating Louis XVI. From documents obtained by the revolutionary general assembly of 1790 it appeared that pensions had reached the sum of 29,954,000 livres, a sum out of all proportion to the resources of the nation and one greater, as stated in a report made to the king, than the aggregate sum given in pensions by all the other sovereigns of Europe. What would the revolutionary assembly have thought of the magnificent total already reached by the United States?

I use the word *already* with intent, because it is of the nature of pensions, as of all unarrested forces, to go on increasing. The momentum they have acquired in this country has the proportions of an avalanche.

Among the private effects of the king was found a book known as "Le Livre Rouge." In it were inscribed the names of the king's pensioners and the respective sums they received. The publication of this book, in April, 1790, precipitated the revolution and dulled compunctions at the lopping off of his majesty's head. May the people of the United States be spared, in terminating the rascally abuses and mountainous prodigalities of its pension system, anything more bloody than one of its own, peaceful, orderly, and well understood revolutions. One of some kind and to the purpose is sure to come.

During August, 1791, France, represented by the general assembly, passed its first set of constitutional laws. Other sets have followed ever since at intervals, all showing the singular notions held in France about constitutions and constitutional forms of government; that is, singular from the American point of view. A constitution must be of the nature of a contract in so far as it requires independent parties to form it, to sustain it, and to prevent its violation. A person may not make a constitution for his individual action; for he can terminate it as easily as he created it. There must be at the outset for the construction of a constitution independent parties, or powers, and these must be preserved in their independence

and balance to preserve the instrument. Every blow at State rights is a blow at the Constitution. Centralization is therefore logically destructive. France labors under the disadvantage of not possessing the independent elements requisite for formulating a constitution. When a king has been on the French throne he has been supreme; when the people got the upper hand they have been equally supreme and tyrannical. Personal liberty is no more secure in France to-day than when Napoleon III. was emperor. French kings and the French people are at the two ends of a teeter which never stays balanced; and it is almost time for the king end to come up once more.

William, the Norman, conquered England so effectually that since his time no English kings have sat on the throne of England. The political history of England since the conquest has been a series of constitutional compromises between indigenous and foreign forces. To the equibalance of these two independent and never thoroughly blended powers England owes her liberties and her glorious history. The United States has the still greater advantage of being founded on independent and sovereign States. Destroy their independence and their sovereignty and the destruction of the Union will be sure to follow. Republican France in its political poverty has set

up for reference, loyalty and balance, a vague thing it calls *l' État.* A pleasant subject for theoretical speculation; but a mere shadow, having no practical existence apart from the party in power. Louis XIV. in the plenitude of his sovereignty, could safely assert: *L' État, c'est moi!* So could President Carnot to-day if he chose; for there is nothing to contradict the assertion.

In the so-called Constitution of 1790, the section relating to pensions begins with the following articles. These articles are interesting as showing French sentiment and ideas on the subject.

"ARTICLE I. The State (*l'État*) should recompense services rendered to the civil body when their importance and their duration justifies this testimony (*temoinage*). The nation should also pay to citizens the price of sacrifices they have made to public utility.

ART. II. The only services it becomes the State to recompense are those which interest society at large. The service which one individual renders to another cannot be ranked in this class unless they are accompanied by circumstances which cause the effect to be reflected upon the whole social body.

ART. III. The sacrifices of which the nation should pay the price are those which arise from losses in defending the country or from expenses

met in securing for the country a real and authenticated (*constaté*) advantage.

ART. IV. Every citizen who has served, defended, or adorned or enlightened the country, or who has given a grand example of sacrifice to the public good (*chose*), has rights to the recognition of the nation and can, following the nature and duration of his service, claim (*prétendre*) a compensation."

This declaration of principles is instructive. The first thing that will strike an American constitutional student is the prominence given to a vague personality called "*l' État*" or "*La Nation*," which the French endeavor to set up and to endow with the qualities of a wise and benign sovereign. What is this thing which is neither executive, legislative nor judicial, but an attempted combination of the three, which in addition must be able to experience gratitude and to appreciate sacrifice; which has obligations to discharge, though possessing no resources with which to discharge them? What is this new member of the body politic? Is not the body politic complete without it? Is this not an effort to re-establish sovereignty where no sovereignty should exist? Gratitude is not a political principle and cannot be exercised by political bodies. The citizens of a republic cannot relieve themselves of the

obligations of gratitude by imputing the virtue to a vague thing they call the nation. The word has the same ring as the word "world" in the assertion that "The world owes a man a living." No more destructive notion to a republic than that there is a certain something connected with the government which has obligations of charity and that these are to be defined and regulated by beneficiaries. How far away from theft is the manipulation of such beneficence? Is not this vague thing already large and growing in this country? How many citizens continue to feel that they are integral parts of the United States government and that schemes to plunder it are conspiracies against their individual rights? The phrase, "A paternal government," is in many mouths. A paternal government should be as impossible in a republic as it is physically impossible for a man to be his own father. Beware the French "*l' État.*" It has no place in this country. It may permit pleasant and easy theories for shirking the duties of freemen; but let the people of a republic know that if they will not keep the sovereignty of the nation to themselves it will be exercised against them.

Apart from this recognition of a fourth member in the body politic French pension laws have excellent points. Their most excellent point is that

they do not recognize such pensions as burden this country; that is pensions bestowed indiscriminately and without an equivalent. This statement may require explanation.

All civilized nations provide for the support of those who have given the better part of life to the public service, or who, while in the public service have been incapacitated by accident or sickness. This is not gratitude, or benevolence; but right, founded on necessity. The soldier who has been a soldier for a score of years, or more, cannot be expected to be thereafter successful in the arts of peace; nor, on the modest pay of a soldier, can he save for the time of age and infirmity. Provision must therefore be offered as an inducement for enlisting. Otherwise he would not enlist. The same rule applies to candidates for positions in the civil service in those countries where such positions are permanent. So far this country has shown a decided opposition to the formation of a body of permanent office-holders; though it consents to the formation and the increase of a far more dangerous body of permanent pensioners. Dangerous, because they are not under the control of the power that fees them; dangerous, because they make no returns for the sums paid them; still more dangerous because each payment solidifies them as a body having interests opposed to

the interest of the rest of their fellow-citizens. They necessarily regard the government from a selfish and interested point of view. Their condition unfits them for the performance of the duties of American citizenship.

The French laws are very liberal. In general terms they provide that twenty-five years of service in some cases; thirty in others, may be followed by retreat on half pay, whether the service has been military, naval or civil; and incapacity from wounds or sickness, operates as a completion of the term of service. In many particulars the laws are the same as those of the United States army and navy. The chief executive of France has but little power over pensions. The decorations of the Legion of Honor, the bit of red ribbon so highly prized all over Europe, is about the only gift he controls. His salary of 600,000 francs, with 600,000 francs added for household expenses, is not a large sum when it is considered that according to French notions their president is a sovereign and must hold his own with the other sovereigns of Europe.

VI.

CONSTITUTIONAL CONSIDERATIONS.

In considering constitutional questions certain facts must be kept in mind, well-known facts, trite facts, primary facts, fundamental facts, facts taught at school, facts repeated all through American life, but facts which are apt to be forgotten, ignored, neglected, lost sight of; facts which therefore must be recalled, repeated or reiterated in newspapers and magazines, on the stump and in representative assemblies. These facts are the facts which distinguish the Constitution of the United States from the constitutions of other countries. In constitutional monarchies, constitutions define the amount of power conceded to the people by the sovereign. They are the result and mark the gains of revolutions, of uprisings against unjust exercises of power. Rather than lose his crown, with or without the encircled head, the sovereign compromises and consents to the surrender of a certain amount of prerogative. But all he does not concede he holds. The unwritten laws of sovereignty are still within his grasp. In emergencies he retains the initiative.

The Constitution of the United States was

formed differently. It resulted from the voluntary acts of sovereign bodies who had declared and fully conquered independence of their sovereign. They had rid themselves of him and his jurisdiction completely. They had re-entered into the possession of all the primal rights of a perfectly independent and aboriginal man. They were as free from George III. as if he had never existed. They had no notion of ever again recognizing him as their ruler and they were equally determined never to surrender the sovereignty they had won.

When an American states, "I am a king," he means something, but he should be taught to know exactly what he means. The spirit in which the Constitution was framed is the spirit in which it must be examined. The Constitution of the United States defines and limits the exact amount of the surrender made by the people of the United States of their regained rights for the constructing and maintenance of a government selected by themselves for themselves and their descendants.

For fear that this their will in this particular was not sufficiently clear in the original document, they emphasized it in one of the earliest amendments to the Constitution. This amendment is as follows. It should be printed in large letters and

hung up in the busiest room of every man's home and office:

"*Amendments to the Constitution—Article X.*

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, or to the people."

If the language be a bit antiquated, the meaning is as clear as crystal. In the people and the States is forever to remain the principle and the power of reserved sovereignty. If this article had always been taken as a paramount rule of interpretation, what burdens and miseries the country would have been spared. Another fact. From the time the Constitution was adopted to the present day the country, politically, with but few interruptions, has been divided between two parties whose differences can be traced directly back to differing interpretations of that Constitution; one party being disposed to interpretate it so as to increase the powers of the central government; the other disposed to interpretate it so as to preserve the powers and dignity of States, and the liberty and privileges of their citizens, as they existed at the time the Constitution was adopted. The centralizing, or aggressive, party has been the successful party. There is more force in aggression than in defence. To acquire power is more stirring than to defend liberties. It is not the ob-

ject of these articles to criticise the policy of political parties or to question the sincerity and purity of the patriotism of political leaders; but it is a most self-evident fact that, as the result of centralization, powers have been accumulated at Washington which are quite sufficient to fire ambitions dangerous to the republic. In the meantime state offices and state affairs, except those of the largest states, are shrinking away in public estimation, while the individual of to-day is of less account in this country than he is in England. There was a time when an individual preferred to be mayor of the city of New York to being a United States senator; and when an individual, though the chiefest of federalists, resigned the chief justiceship of the Supreme Court of the United States to be the governor of the State of New York.

The Supreme Court of the United States is the interpreter of the Constitution. For 71 of the 103 years of the existence of the court the chief justice has been of the centralizing party. Jefferson was the first opponent of the centralizing party to be elected to the presidency. The last act of the federalist congress preceding his inauguration was to remodel the Supreme Court; and the last act of Adams, Jefferson's predecessor, at which he was interrupted at midnight on the 3d of March, 1801,

was filling the new and the vacant judgeships with staunch federalists. Most conspicuous among them was John Marshall of Virginia, Adams' secretary of state, who was made chief justice. The making of such appointments at such a time and in such a manner and in the face of a tremendous popular majority just recorded against federalism, shows that politics in those days were about as politics are to-day, that we are no worse than our ancestors, and that the great and virtuous Adams was, under pressure, quite as much of a partisan as any of his successors. During the time of centralizing control nearly seventy constitutional questions came up before the court, all of which were decided in as satisfactory a manner as possible to the centralizing party. In 1811, when under Madison the federalists once more controlled the executive, Joseph Story was added to the bench. The decisions of these two great men controlled and shaped the political growth of the country down to the time of the rebellion. Their sincerity is as beyond question as their most exalted ability, but all their decisions were against the people and in favor of centralized power. The famous case of McCulloch vs. Maryland, in which it was decided that Congress had a right to establish a national bank and that the United States had, under the

Constitution, a right to go into the banking business; and the equally famous Dartmouth case, in which it was decided that a charter granted by a State is a contract and therefore under the control of United States jurisdiction, are but two of many decisions which are at variance with the spirit, if not the letter, of the Constitution. General Jackson knocked the first of the two decisions into a cocked hat by his veto of the bill renewing the charter of the United States bank. The second has been so modified and limited by subsequent decisions that it would no longer be quoted as authority. It might be in order for the democracy of Connecticut, under their chosen governor, to give it the *coup-de-grace* by rescuing Yale, the national university, from the exclusive control of Congregational clergymen residing in Connecticut.

But even Marshall and Story in the plenitude of federalistic power would certainly have hesitated to give their approval to the unconditional pension legislation of late congresses. Perhaps enough has not yet been written to make perfectly clear the difference between a legitimate pension law and an unconditional, and therefore illegitimate, pension law.

Under Sec. 8 of Art. 1, of the Constitution, Congress is given power "To raise and support armies; to provide and maintain a navy; to

make rules for the government and regulation of the land and naval forces; to provide for calling forth the militia to execute the laws of the union, suppress insurrection and repel invasions; to provide for organizing, arming and disciplining the militia, and for governing such parts of them as may be employed in the service of the United States, reserving to the States respectively the appointing of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

The power to do a particular thing includes all subordinate powers necessary to the exercise of the chief power. That is common sense. The power to raise armies includes, therefore, the power to place before men requisite inducements for enlisting; assurances of pay, food and clothing; of care when wounded, old, or disabled; provision for wife and children in case of death, etc., etc. However large and liberal these offers may be, they are legitimate. No question can be raised about their constitutionality. They should be fully explained to every man presenting himself for enlisting, and should be fully understood by him before enlisting. But when he has enlisted and has accepted the conditions the contract is closed. Congress has no more power to give him increased aid thereafter than it has to aid other

citizens who may be, or become, worthy objects of compassion, or gratitude. Such sovereign powers of beneficence, however admirable may be their exercise, have not been delegated directly, or indirectly, to the United States and therefore remain reserved to the States respectively or to the people.

The Constitution gives the United States power, as it is expressed, "For governing such parts of them (that is, the militia), as may be employed in the service of the United States." This power may include the subordinate and essential power of laying before the militia inducements necessary to persuade them to accept service. Nor may there be any limit prescribed to the inducements offered. But, as in the case of enlisting in the regular army, when the conditions have been offered and accepted the contract is closed and there is no existing power to open it.

The existence of this latter and doubtful power may be conceded for the nonce for the purpose of simplifying discussion. But the difference between raising and supporting its own armies; and calling forth the militia already raised, equipped and officered by separate and sovereign States is radical and must be observed by constitutional students and by students of pension legislation. The relations of the United States to its own

armies are permanent; its relations to the militia of the several States are temporary and should terminate absolutely with the termination of the emergency which made the "calling forth" necessary. The duty of the militia to the United States is voluntary: its State duty is obligatory.

When the rebellion broke out in 1861, Congress at once passed a law governing the raising and using of volunteers. The section relating to pensions is as follows:

"Sec. 6. And be it further enacted, that any volunteer who may be received into the service of the United States under this act, and who may be wounded, or otherwise disabled, in the service, shall be entitled to the benefits which have been, *or may be*, conferred on persons disabled in the regular service. And the widow, if there be one, and if not the legal heirs of such as died, or may be killed in service, in addition to all arrears of pay or allowances, shall receive the sum of one hundred dollars." With the exception of the three words, "*or may be*," there may be no objection to the act. But the three words in question are most certainly unconstitutional. The idea they contain seems eminently fair and just. Their intent is to give volunteers offering their services at the time the benefit of future legislation, so that no volunteer of one time shall have

advantages over volunteers of other times. But look at the words closely. They propose conferring upon future congresses the power to pass retroactive laws; that is, *ex-post-facto* laws, laws violating contracts.

Art. I. Sec. 9, clause 3 of the Constitution is as follows: "No bill of attainder, or *ex-post-facto* act, shall be passed." And Sec. 10 of the same article proclaims with equal force: "No State shall pass any law impairing the obligation of contracts." If no State may, whence comes the power which permits the United States to violate with impunity "the first principles of the social compact—every principle of sound legislation?" The words are the words of the chief of the federalist party, the party of centralization. To quote in full: "Bills of attainder, *ex-post-facto* laws and laws impairing the obligations of contracts are contrary to the first principles of the social compact and to every principle of sound legislation." (The Federalist, 44.)

It is nevertheless true that in the matter of pensions this principle has been repeatedly violated, and that for the reckless legislation of late years abundant precedents may be found extending back to the earliest years of the country's history.

Attention must be called to the fact that the prohibition to Congress and the prohibition to the

States are now worded alike. The prohibition to Congress is: "No bill of attainder, or *ex-post-facto* law shall be passed." The prohibition to the States is: "No State shall pass . . . . any bill of attainder, *ex-post-facto* law, or law impairing the obligations of contracts." The term relating to the obligations of contracts would seem to be superfluous. Its existence has led jurists to distinguish it from the *ex-post-facto* clause, confining the former to criminal matters and limiting the latter to civil matters. It has also been the tendency of decisions to leave to States their sovereign power to pass retroactive laws, whenever these laws did not affect the obligations of contracts; as, for instance, when contracts had been left vague or insecure by former legislation. The idea that the United States has a right to violate contracts because it is not expressly prohibited from doing so is apparently the insane notion upon which all retroactive pension legislation rests; though, as Mr. Justice Chase remarked in the great case on the subject of Calder vs. Bull, 3 Dal., 386: "It is against all reason and justice for a people to entrust a legislation with such powers . . . . i. e. to take property from A and give it to B."

The only possible excuse for the pension laws passed during the continuance of the rebellion is that they were war measures of imperative neces-

sity, passed because: "*Salus populi, suprema est lex.*" If the necessity for such legislation be acknowledged, it must also be acknowledged that the necessity terminated with the surrender of Lee's army.

VII.

EARLY U. S. PENSIONS.

Congress met for the first time under the Constitution on March 4, 1798, in the city of New York, and the first pension law under the Constitution was passed September 20th, of the same year. In 1785 the colonial congress had passed a resolution recommending the States to provide for invalid soldiers, and the act of September 1789 of the new, or constitutional congress, was an act to pay for one year the pensions hitherto granted by the States. There seems to have been good reason for the act, for the relations of the regular army to the militia had been changed by the Constitution. Under the Constitution the troops which had hitherto been pensioned by the States could be regarded as parts of the regular army. It seemed right, therefore, that the United States should assume the payment of pensions which the States under the Constitution might discontinue. This bill was extended from year to year.

In April, 1790, a law was passed reorganizing the army. Under it pensions to commissioned officers for wounds and other disabilities were fixed at half pay; and to privates, musicians, etc., at five

dollars a month. A dollar in those days had as much purchasing power as three dollars nowadays, yet silver lunatics are seeking to still further depress the purchasing power of the dollar "of the daddies," as with feigned affection they call it. On June 4, 1790, the very bad precedent was established of voting a pension to an individual whose case was not reached by any law on the statute book. Baron Steuben was the recipient and $2,500 a year for life was the sum; Washington and Hamilton using their stong personal influence with Congress to secure the passage of the bill. These gentlemen, it must be remembered, were such strong federalists that their republicanism was more than once called in question.

It would be most tiresome and quite useless to follow pension legislation in detail. Over two hundred pension laws of a general character were passed by Congress previous to the outbreak of the rebellion, and over one thousand of a private character. The majority of the general laws are retroactive, increasing the scope and liberality of former laws. Now and then a law slips through Congress which is so outrageous in character that a subsequent Congress repeals it; but the drift is all the other way. As stated, congresses of to-day find in these early laws full precedent for any action however monstrous. The only reason why

public attention is aroused and the principles of pension laws are being studied and exposed is because the sums required by modern legislation are so enormous as to affect the economics of the whole nation and to retard effort to reduce iniquitous taxation. It appears from these early laws that from the start Congress assumed and exercised full and sovereign power in the matter of pensions; nor, so far as my reading extends, has the constitutionality of any of the most extreme laws been called in question till very recently, and not as yet in such a manner as to bring the question before the highest court of the nation.

When Hayne of South Carolina made in the United States senate the first recorded speech of any account against pension laws he did not broach the question of their constitutionality. Many of his remarks apply with force to-day. Speaking of the bill in question by its popular name "The Mammoth Pension Bill" he said: "Under the specious pretext of paying a debt of national gratitude to the soldiers of the revolution it was calculated to empty the treasury, by squandering away the public treasure among a class of persons many of whom, I do verily believe, never served in the revolution at all, and others, only for such short periods as hardly to entitle them to praise." He goes on to speak of the mighty host

many of whom never saw an enemy: "Sunshine and holiday soldiers, the hangers on of the camp, men of straw, substitutes who never enlisted until after the preliminaries of peace were signed." In his review of the pension system he gives in brief the history of the establishing of the system in the United States. The paragraphs are so interesting and instructive that they must be quoted in full:

"The people of the United States, even before the revolution, had imbibed a deep-rooted and settled opposition to the system of pensions.

In the country from which they had emigrated they found it operating as a system of favoritism, by which those in authority made provision at the public expense for their friends and followers. In Great Britain pensions have long been used as the ready means for providing for the 'favored few' at the expense of the many. This system affords the most convenient means of appropriating the industry and capital of the laboring classes for the support of those drones in society, the *fruges nati consumere*, who occupy so large a space in all refined, civilized and Christian countries. Our ancestors had seen, and severely felt, the effect of such a system, which necessarily converts the great mass of the people into the 'hewers of wood and drawers of water' for the privileged orders of

society. When our revolution commenced, therefore, a deep, settled and salutory prejudice against pensions almost universally prevailed. On the recommendation of General Washington, however, Congress had found it necessary to provide that the officers of the regular army who should continue to serve until the end of the war should be entitled to half pay for life. So strong, however, was the prejudice against pensions that the officers entitled 'to half pay for life' found it necessary so far to yield to public opinion as to accept of a 'commutation' in lieu thereof of five years' full pay, a debt which was not finally discharged, according to the true spirit of the contract, until about two years ago.

In 1806 provision was made by law for pensions to all persons disabled in the military service of the United States during the revolution; and in 1808 the United States assumed the payment of all the pensions granted by the States for disabilities incurred in the revolution, and from that time to 1818 the principle was settled that all persons disabled in the course of military service should be provided for at the public expense, and the United States took upon themselves the payment of pensions to such persons, 'whether they served in the land or the sea forces of the United States, or any particular State, or the regular

army, or the militia, or as volunteers.' Here then was the American pension system established on a fast and sure foundation. The principle assumed was not merely gratitude for services rendered, for that principle would have embraced civil as well as military pensions, and would have been broad enough to admit all the abuses which have grown up under the pension system even of Great Britain. Our principle was, that pensions should be granted for disabilities incurred in military service—a measure deemed necessary to hold out those inducements for gallantry and deeds of daring which have been found necessary in all other countries, and which we have, perhaps, no right to suppose, can be safely dispensed with in ours.

Here, then, we find that, up to the year 1818, the principle of our pension system was disability —a wise and safe principle—limited in its extent, and almost incapable of abuse."

The whole speech should be read by all interested in the subject of pensions. It is given in Benton's Abridgement of the Debates of Congress, Vol. X, p. 547.

In the opinion of some Hayne's arguments may be weakened by his assertions that pension laws were part of the protective system and were devised to keep up the expenditures of the government so as to make the retention of a high tariff

necessary even after the public debt was paid off. Whether this view were true or not at the time Hayne was speaking it is certain to-day that there can be no tariff reform till existing pension laws are modified or repealed. About Hayne's time Pickering and Calhoun were equally outspoken and bold in their opposition and both, as he, based their opposition on the notion that the pension laws were part of the protective system. If the party of revenue reform adopt these principles it will find itself opposed by the serried ranks of a million of pensioners controlling the distribution of $200,000,000 a year. Yet how can the issue be avoided?

After 1850, in spite of additions caused by the Mexican war and by expansions of legislation, the number of possible pensioners so diminished that pension laws ceased to be a topic of legislative discussion. It was universally acknowledged that legislation had been vicious, but the hope was felt and expressed that there would be no more wars and that consequently pension laws would become dead letters. The great mistake committed was in not making use of the calm years of the early fifties to emphasize opinion and to secure the future by repeals, or by a constitutional amendment. Soon it was too late. The slavery question from a small beginning grew into a grand

conflagration filling the whole atmosphere of thought with its dark passions and its fiery flames. Then came the rebellion and now is the reaping of the whirlwind. For a serene jurist in the quiet and comfort of his own study to express the opinion that a certain law is unconstitutional is one thing. For the justices of the Supreme Court assembled in Washington during a session of Congress, or during a heated political campaign, to declare the same law to be unconstitutional is quite another. In the first place it may be years after the passage of an act before the opportunity occurs of presenting it to the court. In the mean time it may have been so interwoven with national life that the court from motives of public policy will decide every doubtful point in its favor and against the Constitution. Again an appointment to a position on the supreme bench is a political appointment made, as most political appointments are made, not especially for merit but more especially for political purposes, as political rewards, or as personal favors for personal services. It seems to be an established custom when the president tires of a cabinet officer and there happens to be a vacancy on the bench to shelve him as it is called; that is, to elevate him to a Supreme Court justiceship. Of course no president will appoint a man who is not of his own political party. And it

is reasonably safe to say now-a-days that no justice will decide against his party. Under all these adverse circumstances what chance for able, disinterested, impartial, rigid, exact construction of the Constitution?

A decision lately made by the Supreme Court is most apt in illustration. Immediately after the passage of the McKinley bill action was inaugurated by a number of importers to test its constitutionality. Although the lower courts helped them in every way to expedite action decision has but lately been rendered. In the meantime, under the reciprocity section several treaties have been made with foreign nations; new lines of commerce drawn and new outlays of capital fixed. The main point, and the only point worth considering against the bill, is the reciprocity section, added, it is supposed, under the advice of Secretary Blaine, to soften the bill's sting. This section gives the president the power within certain specified limits of making and unmaking commercial treaties with foreign nations without consulting the senate.

The text of the Constitution is as follows: "He (the president) shall have the power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senate present concur." The text of the Constitution seems as

simple, as plain, and as easily understood as anything possibly can be. If such a clause can be twisted for party purposes then indeed, as a witty New Haven editor puts it, "The Constitution is a concertina upon which any given tune can be played." Yet on this point the Supreme Court was divided and divided strictly along the lines of political parties. Messrs. Fuller and Lamar, the only appointees of a democratic chief executive, were of the opinion that the section in question is unconstitutional. The other justices, all republican appointees, held to the contrary. Yet let no one assert that their convictions are not honest. When we were young we were told to speak the truth. It takes a lifetime of devotion to the truth to know a little of what the absolute truth may be. How pension laws would fare before the court as at present constituted can easily be anticipated.

VIII.

U. S. PENSIONS TILL 1873.

The late election, in the hopes and expectations of the people of the United States, has settled the future of unequally protected industries, of trusts, combines and all other devices for using the labor of the many for swelling the fortunes of the few. Not since 1860 has an election been held where the issues were so vital, the decision so signal. In 1860 the people decided that thereafter difference of color should have no weight in estimating American citizenship. In 1892 the people have decided that forevermore differences of cash shall not be factors in the matter, and that where by mistaken policies such differences have been permitted to grow to the injury of the republic there they must be eliminated; not by the play of dynamite bombs but by the slow and easy processes which a free people understand and which the democratic party is selected to put into action. The doctrine that a corporation created by one State can exercise corporate powers and transact corporate business in all the States is a modern doctrine. The old and better doctrine was that the activities of a corporation should be confined to the territory of

the State creating it. A good addition would be to the effect that all the officers of a corporation should be *bona fide* citizens of the State creating it. Under such ruling trusts and combines would fade away like the mists of a summer morning and the advantages of healthful competition would be restored to the people. But pensions, not corporations, are the theme. For the convenience of study the pension laws passed since the outbreak of the rebellion may be divided into two classes; those passed before and those passed after the revision of 1873 of the United States Statutes. Reference has already been made to the first law, passed July 22, 1861, applying the pension laws of the regular army to volunteers and giving both regulars and volunteers the benefit of future legislation. From July 22, 1861, to March 3, 1873, there were passed four general laws on the subject of pensions and any number of special and specific laws, exclusive of thousands of private and individual acts. In the matter of pensions Congress has ever acted as if it were a sovereign body and not a body created by and subject to a constitution. The apparent object of all legislation since 1861 has been to increase the number of possible pensioners and to increase the amount of each pension received. Therefore instead of the decrease to be expected in accordance with the work-

ing of natural laws, there has been a steady and constant increase in the number of pensioners and in the amounts appropriated till now the number of pensioners is rapidly approaching 1,000,000 and the amount required is with equal rapidity approaching $200,000,000.

The first general law after the law of 1861 was passed July 14, 1862. This law extends the benefits of previous laws to persons who, though neither officers nor privates, may still be said to have been "in" the army or navy. It is therefore an act of large and liberal expansion. In the act the notion of rank controlling the amount to be received is still preserved: $30 goes to a colonel while only $8 goes to a similarly wounded private or "other person." The act, moreover, provides that when the pensioner leaves neither wife nor children, then a dependent mother may enjoy; and if there be no dependent mother, then dependent sisters under sixteen can come in. The word "dependent" is most liberally construed. Manual labor seems to be the test. If a relative be not able to support him, or herself, by manual labor, then the word applies though the applicant be a millionaire bondholder or be earing a large income by his wits or his learning. A son should support his mother; therefore a mother is dependent whether the son has supported her or not. The

expansive power of pension laws is illimitable. A played out old pensioner cannot be allowed to die in peace. He is too valuable. He must be married in *extremis*, and married to the youngest and heartiest woman of the community who is willing to sacrifice herself on her country's altars for the indefinite prolongation of the moribund's pension. Never at any time, or in any country, were laws in operation more stimulating to deception and crime.

The next general law was passed July 4, 1864, the date undoubtedly selected to make the concealing veil of patriotism thicker. It is a hodge-podge law containing good points and bad points. All the good points have been repealed by subsequent legislation and all the bad points are still in force. The good points were in the way of strict examinations and of prescribed time for registration. Under present laws examinations are farces, and there is no limit to the time within which one must apply for a pension and no limit to the backward reach of the time when the pension begins to be payable. Pensions date back to the time of the original cause, though not applied for till thirty years afterward. So holy a thing is a pension that legislators have been afraid to surround it with the most ordinary business and legal safeguards. It would seem as if everybody who did

not mind a fib or two, and who could fib with assurance, might live at the expense of the government; and in the matter of pensions, consciences are no less apt to be weak than in all other matters connected with the public purse.

Sec. 5 of the act raises pensions to $20 a month in the case of loss of both feet; and to $25 in the case of the loss of both hands, or eyes, whether the sufferer be a private or an officer. If to every person who has suffered such loss in the defence of country $20,000 a month could be paid no one would begrudge the amount. The question in this case as in all other cases is: "Where is the money to come from? Who is to do the paying?"

It would seem as if Congress regarded the United States as an outside benevolent old Uncle, with unlimited cash and that everything got out of him was so much gain; ignoring the fact that every penny voted away comes directly from the pockets of constituents.

Sec. 7 is hard on widows. It provides that if they remarry their pensions shall terminate. The effect of this law was to knock soldiers' widows out of the matrimonial market by destroying their commercial value. The severity of the action was partially atoned by Sec. 14, which permits colored widows to prove marriage after the ways and man-

ners of their own race. The value of this magnificent boom to the colored race is large. It is almost impossible to take pension laws seriously. One would suppose they were incidents of opera bouffe and were addressed to opera bouffe understanding.

During the years 1864 and 1865 in response to the easy legislation of the act the number of pensioners, in round numbers, sprang from 14,000 to 85,000; the appropriations from $1,000,000 to $8,000,000, and the number of widows from 6,000 to 50,000. Under the system of legislation which has prevailed and is still prevailing there has never been, and never is, any difficulty in increasing the number of pensioners and the amount of appropriations. One would suppose that congresses and presidents instead of dealing with the trust funds of the people of the United States were ladling the waters of the Atlantic ocean.

To follow in detail all the pension laws would fatigue and confuse the general reader. Besides, the result is the principal part in which he takes interest. The laws are so numerous, so complicated and at times so contradictory that to understand them clearly requires special and protracted study. They and the official rulings under them form a weighty volume. The literature of the subject is an independent library.

From 1865 to 1873 the number of pensioners increased from 85,000 to 238,000 and the proportion of widows from 50,000 to 118,000. In 1861 the cost per pensioner was a little less than $100. In 1875 it was a little over $150; while to-day it is close to $200. This at a glance shows clearly the reckless history of pension legislation.

In 1873 the laws of the United States, including the pension laws, were revised. The pension laws occupy about one hundred sections of the Revised Statutes beginning with Section 4,692. To copy them were a waste of space. Besides the few who would read them may consult a copy of the Statutes. The revision is the result and the compilation of all preceding legislation. Very few changes were made from former statutes. Laws were simplified and contradictions were partially removed. The extreme liberal character of legislation was preserved, widows hold their own, the sphere of dependent relatives is enlarged and the principle is fully recognized that whenever legislation benefits a particular class of pensioners, the benefits must be extended to all classes, whether the working of the law be retrospective or not; or in other words, whether the plain prescripts of the Constitution be obeyed or be disregarded.

The Revised Statutes are important as giving

the result of legislation up to the time when they were enacted. They are of but secondary importance to-day, because the enormities of subsequent legislation are so startling that the Revised Statutes seem meek and mild in comparison.

IX.

PENSIONS SINCE 1873.

The Revised Statutes were passed March 4, 1873, and the people thought they were entitled to and would thereafter enjoy, for a while at least, peace from pensions. They knew they were sufficiently taxed and they presumed that the most ardently assumed buncombe patriotism of the most radical congressional howler could excite no further legislation to their injury. The people of the United States have yet to learn that when a pecuniarily profitable evil has been given the impulse of congressional sanction, and has started, it gathers force and power like an avalanche, and nothing can stop its career till its devastating powers are exhausted.

In 1874, but a year after the revision, the ball was started anew. On the 6th of June, 1874, an act was launched providing that no pensioner should be injured by the Revised Statutes and that all pensioners should be entitled to all the contained benefits. That is, that all pensions must be increased to the Revised Statutes limit and that wherever the Revised Statutes inadvertently cause a reduction, there they are inopera-

tive. Or, in other words, that every clause of the Revised Statutes protecting the United States is void, and that all clauses beneficial to particular pensioners must be construed to the benefit of all pensioners. Read the act. It is an act of the United States Congress and not an act of the Middletown Lunatic Asylum.

On June 18, of the same year another act was passed increasing all thirty dollar pensions to fifty dollar pensions. The second section of the act provides that the act shall take effect from and after June 4, 1874; that is, a fortnight before its passage. By the same kind of unconstitutional legislation a tariff law might be passed and a section inserted making the act operative four, fourteen or forty years before its passage and another section added putting the entire force of the government to work collecting, or remitting, consequent duties. And yet we are supposed to be a civilized people—to have acquired a knowledge of a few of the fundamental principles of law and to possess a fair share of common sense. On the same day of the same year another law of the same species was passed giving twenty-five dollars a month to all pensioners "who are now entitled to pensions and who have lost an arm either at or above the elbow, or a leg either at or above the knee." The act to take effect fourteen days before its passage. The

law does not say how, when or where the arm or leg may have been lost. For all the wording of the act, the loss may have been sustained in a drunken row ten years after the close of the war. Gilbert and Sullivan's attention should be called to legislation which so far exceeds the legislation of their imaginary "Mikado."

In 1875 a law was passed extending the benefits of pension laws to parties who, after discharge, were attacked by Missouri guerrillas. Why these particular victims of assault and battery were selected does not appear, nor why under former laws all sufferers from assault may not come in.

During 1876 Congress seems to have satisfied itself with an act concerning the distribution and affixing of artificial limbs. If the people hoped that pension expansion was over they were rudely awakened from their dreams in 1879 by the passage of the so-called "Arrears of Pensions Act." This act is so stupendous in the amounts involved and sets forth so clearly the evil principles underlying all pension legislation that it should be carefully examined by every voter in the United States. The act is also important because it seems to have been about the first pension law passed since the outbreak of the war to attract public attention and to lead a few patriotic citizens to put the question where such prodigality

would finally land the nation. The act provides that all pensions, etc., shall commence from the date of death, or discharge from service, of the person on whose account the claim has been, or hereafter shall be, granted. Or in other words, a party enjoying a pension to-day which was taken out yesterday is to receive in a bunch all the annual payments for as many years back as, with the assistance of Congress, he may be able to date the cause of his claim. Here is presented in perfectly clear and simple language the notion that Congress claims and exercises the right of voting away the people's money when and how it pleases, to whom and in what quantities it pleases, without service or compensation, without any more regard for the Constitution than if the Constitution had never existed and without any more observance of the principles of a republican form of government than if acting under orders from Emperor William! Congress would be equally justified in raising the salary of the president to $500,000 a year and in voting the same amount per annum since the foundation of the republic to the heirs, representatives or assigns, of all the presidents from Washington down. Congress would be equally justified in voting $10,000 a year to every living and dead post-master since Washington wrote his first love-letter. Congress

would be equally justified in voting an independent fortune to every citizen of the United States without reference to age, sex, color or pre-existing condition of servitude, or pre-existing condition of birth for that matter; the fortune to be voted to take effect at the beginning of the history of the government and to be regarded as accumulating at compound interest till the living representative appear and claim the heritage. How can one speak seriously of such an act? What kind of argument can be addressed to a people who will accept it? Where can be found common ground for discussion?

One point apart from the question of the constitutionality of the law.

If the congressmen who passed the law owned of their own personal right all the property of the United States they would not have passed it. Nor would they have passed it were their clients and intimate friends, or partners, the sole owners. If they had possessed a strict sense of responsibility and had felt thoroughly the representative character of their office they would not have passed the law. Sense of representative responsibility decreases with the square of the distance of time and space from the homes of electors and the date of election. Therefore in a republic where public opinion should govern supply and expen-

diture should be kept as close together as possible. This is the principle which should govern in all republican economics. When a duty involving expenditure can be performed by a state, let a state perform it. Where it can just as well be done by a city or town, let the city or town do it. Can it be asserted that Connecticut pensions would not be better, more wisely and more economically, administered by the State of Connecticut than by the general government? How many persons in easy circumstances in New Haven are to-day receiving pensions which under state or city regulations would be stopped, because the parties enjoying them do not deserve them, do not need them, and by no stretch can be said to be dependent? Even with the best of intentions existing at the pension office in Washington, its optics are totally inadequate to distinguish a thousand miles away cases of fraud from cases of true desert. The objection is made that under such regulations the veterans of one state might fare better than the veterans of another. In amount of cash they might; for in one state the same amount of cash will go further and do more. Instead of inequalities being increased, they would therefore be diminished. That in any state worthy and dependent veterans would suffer cannot be supposed. Even if a state were negligent, no

other state has the right, the United States has still less right, to regulate charitable duties. Otherwise we are living in a greater despotism than any of the despotisms of the old world. If a citizen or a state can be forced to pay a certain sum of money to provide pensions for a certain class of men, then he, or it, can be forced to provide any sums of money to pay pensions for all classes of men; democracy is terminated; personal liberty and rights of property abrogated. The right to accord pensions, as shown in a previous article, is a sovereign right and one which has never been directly or indirectly surrendered by the states to the general government. The right may only be exercised by the general government as a war measure. Only during and in immediate contemplation of war may the general government bestow and promise pensions. When peace is declared the right terminates.

During the years 1879 and 1880, under the working of the new law, the amount disbursed for pensions increased from $26,000,000 to $57,000,000, though the number of pensioners increased only 27,000. That is an increase of over $1,000 per pensioner. Eighteen hundred and seventy-nine was the banner year to date for pension agents, for during it they succeeded in filing 110,673 new claims, of which 77.7 per cent. were allowed.

The law of 1879 is still in full swing. Not a day passes but keen-scented pension hounds nose out scores of well-to-do parties living in affluence and in ignorance of the fortune the agents disclose and offer to share. It is a wonder that foreign capitalists are selling United States securities and demanding their pay in gold! If a nation will bankrupt itself, there is no international court with power to issue an injunction restraining the act. On the 1st of March of the same year another act was passed which throws still more light on the character of pension legislation. In 1865 a very reasonable act was passed to the effect that veterans who had so far recovered from their disabilities as to be able to perform labor, and who were actually employed, and receiving salaries, in the civil departments of the government should have their pensions docked to the amount of their salaries. This excellent law was repealed the year after its passage and the act of March 1, 1879 restores to poor sufferers the amounts they lost during this brief sway of common sense. It would seem as if in the matter of pensions legislators are determined that common sense shall have no play and that if by accident a bit of it appear the bit must be eradicated on detection.

Month after month and year after year the havoc goes on. Never in the wildest days of the

French revolutionary assembly was legislation more senseless, more unrestrained. Now and then an act is passed which, by way of relief, may be regarded humorously. For instance, on March 3, 1879 the following was enacted:

"Be it enacted, that all pensioners now on the pension rolls, or who may hereafter be placed thereon, for amputation of either leg at the hip joint, shall receive, etc., etc." The act does not state that the pensioners must undergo the amputation in question in order to enjoy its benefits. It only states that they must be put on the rolls for the purpose. Purpose is one thing, accomplishment another. There is nothing in the act to prevent the soundest soldier in the army having himself put on the rolls for the purpose of amputation and with both legs enjoying the benefits of the act indefinitely.

All through the eighties, numbers increase in magnitude. In 1880 there were over 250,000 pensioners and over $57,000,000 of disbursements. In 1890 there were over 537,000 pensioners and over $106,000,000 of disbursements. An increase of 10 per cent. a year.

Finally the last and most startling enormity is reached which if not repealed will bankrupt the nation before the nation is five years older.

X.

THE ACT OF 1890.

The readers of these articles cannot have failed to acquire a knowledge of the origin and nature of pensions and of the history and character of United States legislation on the subject. The writer's object has been to present the subject simply and free from technicalities, not fully but tersely and without detail, so that reading would be without fatigue and understanding without effort.

The last act to be considered is the act of June 27, 1890, the act which substantially puts on the pension list "all persons who served ninety days or more in the military, or naval service of the United States during the late war of the rebellion." By the time the student of United States pension legislation reaches this law his mind by successive shocks will have lost the capacity of surprise. He will read without emotion, and it will require an extra effort to understand and appreciate the monstrous legislation contained in the act.

First direct attention to the second section of the act:

"Sec. 2. That all persons who served ninety days, or more, in the military, or naval service of the United States during the late war of the rebellion, and who have been honorably discharged therefrom and who are now, or may hereafter be, suffering from a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them from the performance of manual labor in such a degree as to render them unable to earn a support, shall upon due proof of the fact, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the list of invalid pensioners of the United States, and be entitled to receive a pension not exceeding twelve dollars a month, and not less than six dollars per month, proportioned to the degree of inability to earn a support, and such pension shall commence from the date of the filing of the application in the pension office, after the passage of this act upon proof that the disability then existed, and shall continue during the existence of the same."

The rest of the section is of lesser importance. It provides that parties may choose under which law to enjoy pensions; that rank does not affect, and that no one may enjoy two pensions, or pensions under two laws, at the same time.

Let particular attention be directed to those

words of the section relating to disability. The disability specified is the disability to support one's self by manual labor. Manual labor is labor performed by the hand in distinction to labor performed by the brain, or directed by the brain. Manual labor is the labor performed by persons known as daily laborers.

How many persons actually support themselves entirely by manual labor? How many are capable of doing so; and for how long a period of their lives can they keep it up? How much proof on the subject would be required by such a commissioner as Tanner? How much proof on the subject could be obtained in each particular instance by a conscientious commissioner of the very reverse of Tanner? The disability restriction of the act is inoperative as those who passed it very well knew it would be. The act is a service pension act in disguise. Its conditions are ninety days of any kind of service, a shorter period according to my reading than appears in any bill of any country at any period of history!

Again; consider the number of persons who may be brought, or who may bring themselves, under the provisions of the bill. The number of men who enlisted during the war is given as 2,778,304. Of these but 75,000 enlisted for a

less period than three months. Of all the others very few are not still represented by themselves, their wives, their children, or their dependent relatives. But the act is not limited to enlisted men. It includes all who "served in the military or naval service" without specifying or limiting kind or place of service. Every steamboat chartered by army or navy was in the service of army or navy and every member of the crew was in service. Every civilian at work in any department of army or navy was equally in service. How many hundreds and hundreds of thousands of civilians may be included will depend entirely upon the construction put upon the act, and they all are as well represented to-day as their enlisted confreres. The statement is therefore not an exaggeration that the act at the very least contemplates an increase in pensioners of from 1,000,000 to 3,000,000, and an increase in expenditure at the present ratio of from $200,000,000 to $600,000,000! There are hundreds and hundreds of thousands of new claims on file to-day. They would all be examined and passed to-morrow were there not a limit to the space and force which can be utilized for the purpose and were there not a fear that an abrupt increase of vast magnitude might possibly arouse the people of the United States from their lethargic slumbers to economic inquiry

and activity. The bill was not passed hurriedly, nor stealthily. It was fully discussed. Its possibilities were exposed so far as its supporters desired and its opponents dared to expose them. The bill is substantially the same bill as the bill passed by the Forty-ninth Congress and vetoed by President Cleveland. In the following Congress it was again introduced; passed by the Senate, but defeated in the democratic house. It was debated for years. Hundreds of pages of the *Congressional Record* are covered with its discussion. It was during one of the various and varied debates on the bill that Senator Platt uttered his famous remark: "Nothing is extravagant that is right." Which being interpreted must mean that the republican party will enforce ruinous extravagance upon the country in prosecution of measures which it, the republican party, chooses to assert, or asume, to be right. The senator is a man of few words; but his words are solid and weighty. Nor would any one presume to suggest that his convictions are not most upright, most unselfish and most patriotic from his point of view. The utterance shows how diverging may grow views which start with differing interpretations of the Constitution and to what extremes a man may be logically led from assumed premises.

One point will strike every reader of the *Record:* that is the obligation every speaker acknowledges of commencing remarks by proclaiming supreme, undying and unrivalled love for each and every veteran, veteran's widow, veteran's baby and veteran's dependent relative. Without this exordium speech would apparently not have been permitted. It would seem as if no one, in or out of Congress, had the courage to proclaim the simple truth that only in the immediate presence, or by the personal knowledge, of misery is the heart of the individual moved, and that the generic humanitarian makes no classification of causes. Is it not equally true that injuries from war are assuaged, comforted and exalted by sympathies and honors denied to civil disaster; though many a humble man in the discharge of civil duty has displayed heroism and self-sacrifice to make a battle-field resplendent.

Congressional protestations of love for pensioners are supreme and unmitigated bosh; and no one knows it better than congressional protestators.

The third section of the act would have attracted more attention than it has had it not been for the overwhelming character of the second section. It extends the provisos of the act to widows and children under eighteen upon about

the same conditions that occur in former acts, and then occurs this clause: "Provided that in case a minor child is insane, idiotic, or otherwise permanently helpless, the pension shall continue during the life of the said child, or during the period of disability, and this proviso shall apply to all pensions heretofore granted, or hereafter to be granted under this or any former statute, and such pensions shall commence from the date of application therefor after the passage of this act. And further provided: That said widow shall have married said soldier prior to the passage of this act." This means, if it means anything, that hereafter all pensions are to be continued during another generation provided the helplessness of any one child can, to the satisfaction of the commissioner, be established to have commenced during its minority. What possible hope of the reduction of pensions by the working of natural laws so long as such legislation is possible? Given the right to accord pensions, there is no logical limit to their reach. There is no logic in excluding the one month volunteers who responded with patriotic impulse to the first call for troops. There is no logic in excluding one relative because one degree more remote than another. There is no logic in discriminating between classes, or in refusing to any class the full

amount, with arrears, accorded to any class. Logically every pocket in the United States, except those of pensioners, may be turned inside out and kept empty. Moreover, if the pension system be recognized as a principle of government, what logical reason can there be why the system should not be extended to other classes of citizens, to postmasters, to revenue collectors, in fact, to all government employes? If three months of toying with a musket be rewarded with a pension, should not twenty-five years of faithful and valuable service in a post office be rewarded? Most certainly, most logically!

The report of the commissioners for pensions for the year ending June 30, 1892 has lately been issued and brings the official history of pensions down to date. The report is not so full or satisfactory as it might be and fails to answer important questions. An idea of the magnitude of the system may be obtained from the statement, on page 28, that there are 4,209 medical examining surgeons engaged in the work of examining applicants for pensions, what a medical examining surgeon is does not appear: from the further statement, on page 20, that "the salaries of clerks and the per diem and expenses of special examiners were, from March 4, 1889 to October 31, 1892, $8,799,387.92," though it does

not appear why these particular dates were selected, nor why the salaries of the regular examiners were not included; and from the still further statement, on page 29, that there are "2,009 employes engaged principally in the work of adjudicating pension claims," though it be not stated how many more thousands may be employed in other duties of the bureau, nor how many more millions may be required to pay them.

In the report for the year ending June 30, 1891, it is stated that there are "3,800 physicians engaged in the work of the medical examination of applicants for pensions." The number of "medical examining surgeons," if there were any at the time, is not given. The 1891 report also refers to the "total number of 6,246 officers and employes of the bureau." Both reports are filled with confusing details which make it in some cases most difficult, in others impossible, to obtain the desired general information. In the report of 1891 the commissioner states: "I have no hesitation in saying that in my opinion the present appropriation of $133,478,085 will be amply sufficient" for the ensuing fiscal year. The actual disbursements were over $141,000,000. The report of 1892 states in the same vein: "I estimate that the greatest number of pensioners under all laws will be 1,200,000 at an aggregate annual cost of

$188,000,000." As all predictions from Garfield's down have not come within millions and millions of the reality it is safe to assume that they were all made in the same spirit of ignorance and for the same purpose of deception.

What is the remedy and how is it to be applied? The people have issued their mandate and have entrusted the democratic party with its execution. If the views set forth in these papers are correct, even in part, then the remedy is in affirming, proclaiming and enforcing a strict interpretation of the Constitution, and in remanding to each State the care of its own veteran volunteers. If the United States government be a government of limited powers then unlimited extravagance cannot be constitutional. The constitutional right of the United States to confer pensions has not as yet been brought before the Supreme Court. United States district and circuit judges have in a few unimportant cases based the right upon the right to raise armies as has already been stated. The words of the Constitution are these: "Congress shall have power to raise and support armies." If it be conceded that the right to confer pension follows, the right should be limited to the armies "raised" by Congress. The volunteer forces of the war of the rebellion were raised, equipped and officered by State

governments and not by Congress. They preserved their State names and distinctions during their periods of service. The differences between the volunteer and the regular troops always appeared and were always observed. The volunteers were mustered in as State troops; they were mustered out as State troops. Then how can they be brought in under this army clause of the Constitution?

The democratic party has before it a task of supreme difficulty. It is of the nature of economics that whenever there has been a disturbance of values there can be no readjustment without injury. No modification or repeal of existing pension laws can be made without serious hurt. The innocent and the guilty alike will be included in the suffering. Reform must move not only against the outcry of the innocent victim, but also against the vast army of pensioners who, with enormous sums at their disposal, are ready at a signal with wedge-shaped compact to oppose unfriendly legislation. Unless the country at large add personal service to voting no change can be effected. Even then steps will be slow, difficult, dangerous. For thirty years the system has been built up in towering strength and assured in conscious power. It may well take thirty years to reduce the structure to a republican level.

The country is to be congratulated that the bravest and the wisest of Americans has been elected to the presidency. And he is to be congratulated that the country reposes such absolute confidence in his leadership. The existence of such leadership and of such confidence assures a right beginning.

The points set forth in these papers may be briefly recapitulated as follows:

1. The right to confer pensions is a sovereign right which can only be exercised by a sovereign person, or by a government possessing full sovereign powers.

2. After separation from England each State became a separate and independent sovereignty.

3. The power to confer pensions still remains in the States, not having been conveyed to the United States by the Constitution.

4. If exercised by the United States it can only be exercised as a war measure, or by virtue of the right conferred by the Constitution on Congress of raising armies.

(*a.*) In the latter case it should be limited in its application to armies raised by Congress; that is, to the regular army.

(*b.*) In the former case it should only be exercised during, and in immediate contemplation, of war.

5. All United States pension laws passed during periods of peace are contrary to the spirit, if not to the exact letter, of the Constitution.

6. All retroactive pension laws passed during periods of peace are unconstitutional and void.