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THE
POLITICAL CLASS BOOK;

INTENDED

TO INSTRUCT THE HIGHER CLASSES IN SCHOOLS

IN THE

ORIGIN, NATURE, AND USE

OF

POLITICAL POWER.

“Government is instituted for the common good ; for the protection, safety, prosperity, and happiness of the people ;—and not for the profit, honor, or private interest of any one man, family, or class of men.” *Mass. Bill of Rights.*

“Ignorantia legum neminem excusat ; omnes enim præsumuntur eas nōsse, quibus omnes consentiunt.”

BY WILLIAM SULLIVAN,
COUNSELLOR AT LAW.

WITH AN APPENDIX
UPON STUDIES FOR PRACTICAL MEN ;
WITH NOTICES OF BOOKS SUITED TO THEIR USE.

BY GEORGE B. EMERSON.

WITH AMENDMENTS AND ADDITIONS.

BOSTON :
CHARLES J. HENDEE,
AND
G. W. PALMER AND COMPANY.
1838.

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1838

DISTRICT OF MASSACHUSETTS, to wit :

District Clerk's Office.

BE IT REMEMBERED, That on the seventh day of January, A. D. 1831, and in the fifty-fifth year of the Independence of the United States of America, **WILLIAM SULLIVAN** and **GEORGE B. EMERSON**, of the said district, have deposited in this office the title of a book, the right whereof they claim as authors and proprietors, in the words following, *to wit* :

“The Political Class Book ; intended to instruct the Higher Classes in Schools in the Origin, Nature, and Use of Political Power. ‘Government is instituted for the common good ; for the protection, safety, prosperity, and happiness of the people ;—and not for the profit, honor, or private interest of any one man.’ *Mass. Bill of Rights.* ‘Ignorantia legum neminem excusat ; omnes enim præsumentur eas nōsse, quibus omnes consentiunt.’ By William Sullivan, Counsellor at Law.—With an Appendix upon Studies for Practical Men ; with Notices of Books suited to their Use. By George B. Emerson. New Edition, with Amendments and Additions.”

In conformity to the act of the Congress of the United States, entitled, “An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned ;” and also to an act, entitled, “An Act supplementary to an act, entitled, ‘An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned ;’ and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.”

JNO. W. DAVIS,

Clerk of the District of Massachusetts.

P. A. S. M. R. C. 13

INTRODUCTION

TO THE FIRST EDITION.

THE people of the United States have undertaken to preserve and transmit civil and religious liberty, and the blessings of life, by the administration of just and equal laws, made in conformity to written constitutions, voluntarily adopted.

There must be, somewhere, an authority competent to judge whether such laws are so administered. This authority resided in those who instituted our governments. It passed to their successors. It resides, always, in those who compose the political community. This community has not only the exclusive right to judge whether power, established for its benefit, is constitutionally exercised, but also the absolute right to amend, and even to abolish, an existing system, and substitute any other.

Such sovereign power implies *knowledge* of the subjects to which it is to be applied ; and, as there is no distinction in the political rights of the members of the community, every citizen, who has attained to the age of *twenty-one years*, is entitled to all the rights of citizenship, and is held

to the performance of all its duties. *He must, therefore, be presumed to know what these rights and duties are.*

Every citizen of a state is also a citizen of the United States. Being entitled to all the rights of national citizenship, and held to the performance of all its duties, *he must be presumed to know what these are.* Among these are included the duty, and consequently the competency, of judging whether those who undertake to administer the National Government execute their trust with ability and faithfulness.

It is not perceived that provision has been made, in the usual course of education, to qualify those who are approaching manhood, to discharge, with advantage to themselves, and with justice to their fellow-citizens, the political duties which they must assume. If the young acquire any knowledge of this nature, it must be by inference and accident, and not because it is systematically imparted.

This small volume, of very humble pretensions, is designed to do something towards supplying what is supposed to be a want, in the present course of education. It treats, briefly, several subjects, which are commonly supposed to be above the intellectual capacity of the young. This difficulty has been met, it is hoped, by the elementary mode of treatment. The book is divided into chapters and short sections, as is usual in school books; and questions are appended, intended to intimate the subject comprised in each section.

If this book should be deemed worthy of being made a class book, it is supposed that it may be most profitably used, by requiring of a pupil to give, *in his own words*, the meaning of sections. This is the same intellectual exercise, which is required in the business of life, in whatsoever department of industry one may find his lot to have been cast.

A book comprising many subjects, and yet *small enough* to be a school book for general use, could not contain practical and historical illustrations. Intelligent teachers can easily supply these, from their own resources. They can do this in a mode not too much in use, that is, by an interchange of thoughts between themselves and their pupils; and, by such means, lead to a useful exercise of the powers of the mind.

To the young it may seem, that time moves heavily. But it will soon remove many of their predecessors, and advance themselves to the rank of citizens. Almost unconscious of the change that is in process, they will suddenly find themselves called upon to take their part in affairs, which involve the most important interests of a great and increasing people.

It is yet a problem, whether united representative republics will continue to diffuse their blessings through a prosperous and grateful community. The solution may depend, in no small degree, on the veneration which the young carry into manhood, for the institutions of their fathers; and not less on their ability to distinguish between

the unprincipled contrivances of politicians, and the manly actions of statesmen.

At the request of the writer, a gentleman well qualified to render such service to the community, has furnished instructions for a course of reading on the arts, sciences, and history. This course is introduced by explanatory remarks, which will be found highly instructive, not only to those who are seeking the advantages of an education, but to those who are engaged in the active scenes of business. The part of the volume alluded to, is contained in an Appendix.

W. S.

Boston Mass., August 1, 1830.

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TO THE NEW EDITION.

THE first edition having been more favorably received than was even hoped for, and very soon disposed of, the publishers applied to the authors to revise the book for a new edition. In doing this, all the suggestions which have been made by way of improvement, have been attended to. For some of them, a due sense of obligation is entertained. Many corrections have been made. Additions have also been made; and among them a new chapter, as a substitute for the concluding one of the former edition. In this (chapter XXX), an attempt is made to show the nature and use of physical, moral, and intellectual power; and also the principles on which *manners* are formed, and what their proper utility is, in social intercourse. In page 151 will be found a note, on the *constitutional* law of debtor and creditor; and, next following this, a note on *crimes*, showing the distinction between national and state jurisdiction. A copious Index is prefixed to this volume.

To the *Appendix* has been added a chapter on *moral philosophy*, in which the three branches, into which this subject is usually divided, are explained.

This edition is designed for schools, *in all the states in the Union*; and to make it fit for this purpose, the constitution of each state has been described. The analysis of the constitution of Massachusetts, and of that of the United States, will enable instructors in each state (with the aid of the description above mentioned) to explain how powers are derived and exercised, in their respective states. It is impracticable to be more particular; it is believed, that the course adopted will be found sufficiently so.

It is improbable, that either of the authors will have leisure, or inducement, to make any further alterations. So far as they may be permitted to judge, the volume will be found to contain all that is necessary to the object in view; and as it is, and such as it is, it must find its own way as it can. If it should attain to the honor, for which it was framed and designed, and should prove to be useful to those who *are to be citizens*; and if it should enable them to understand the institutions of their own country (the value of which is made the more striking by recent, and probable events, in other countries); the purpose of the authors will have been accomplished, and their labors most acceptably rewarded.

W. S.

G. B. E.

Boston, Mass., January 1, 1831.

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THE

POLITICAL CLASS BOOK.

CHAPTER I.

On the Laws which govern Men in Society

1. REASON, or the mere light of nature, does not make known to us with certainty either our origin or destiny. We know that we did not form ourselves, either as to mind or body; nor call ourselves into being: nor do we know when life will end, though we know it must end. We see that there are families, and that there are many relations arising out of family ties; that many families, dwelling in a neighborhood, make a society, or community; that many communities of families make a nation; and that a nation occupies a part of the surface of the earth, as its own.

2. We know that the earth is fitted to be our dwelling-place; that all things necessary to human life, and comfort, and pleasure, except heat, light and air, come in some way, with or without man's labor, from the earth, or its waters. We know that the earth performs its journey around the sun once in every year; that from this motion the variety of seasons is derived; that it turns on its own axis once in every twenty-four hours, having always advancing day over one half its surface, and retiring night over the other. We see that, with the coming of the seasons, the same changes recur; that in winter the earth is bound with frost; that in spring the vegetable kingdom lives again; that summer produces its fruits, and its harvests; that autumn withers and destroys; and that winter comes again with frost and snow. We see that these changes are connected with *animal life*, in that part of the globe which we inhabit. The spring, summer and autumn are the periods of labor to provide for the passing from the old to the new year. These recurring

changes impose the necessity of being industrious, and of providing for wants which are sure to come. From these relations, rightly understood and observed, the good order of society arises. We see that the sun is the source of light and heat; and that, though it is at a great distance from the earth, the changing of the seasons depends on its influence. When our side of the globe is turned from the sun, and the absence of its light permits other luminaries to be seen, the vast space above us appears to abound with bright orbs; and, knowing as we do the magnitude of some of them, and the distance of some of them from us, and from each other, the mind is filled with veneration and awe at the grandeur and magnificence of the universe. The question that naturally rises in the mind is, How came this universe into being?

3. This can be answered, by the light of reason, no otherwise than by feeling a solemn conviction, that there is some GREAT FIRST CAUSE, who created and ordered all that we perceive; that the same Cause continues to govern according to HIS OWN LAWS; and that HE is everywhere present, to preserve the beautiful order which reigns throughout. His power is shown not less in the delicate forms of vegetable and animal life, which the naked human eye cannot see, than in man himself, in the earth, the sun, and the numberless worlds which exist in the firmament. Mere reason infers, that to this Almighty Lawgiver adoration and obedience are due from all created beings whom he has blessed with the power of raising their thoughts to him. But mere reason does not disclose the answer to the anxious inquiry, *What is the destiny of man?* Is that being, who is made capable of thinking of another and superior existence, shut out from it? Does he *end here*, and remain forever ignorant of all that his humble senses and poor thoughts cannot disclose to him?

4. The hope of future life is natural to the human mind; but we know, from the writings of eminent men, who lived before the time of the Christian revelation, that unassisted reason cannot assure us of existence beyond the present being. Wherever belief in future life, not derived from Christianity, has been entertained, such life was supposed to consist of earthly good unmixed with earthly evils, or of earthly evils unrelieved by any good.* The doubts and perplexities,

* Pope's Essay, Epis. I. line 99, &c.

which hung over human hope, were at length dispelled by the revelation of Christianity. From this source we are assured, not only that there are laws for human life, but also what they are; that they extend beyond this transitory scene; that welfare here, and future condition, depend on knowing what these laws are, and in rendering obedience to them.

CHAPTER II

The Sources of Knowledge.

5. WHAT the human mind is, is not known, nor to be known. Whether there be, or be not, innate (or inborn) ideas in the mind, is a point on which philosophers are not agreed. The knowledge of outward objects is conveyed to the mind through the senses. The eye (or *vision*, from the Latin *video*, to see) makes known the color, shape, size and distance of objects. The sense of feeling makes known softness, hardness, smoothness, form, &c.; that of smelling makes known the fitness or unfitness of substances for our use; that of tasting renders like services. The ear is given to assure us of danger or security; both the eye and the ear, to maintain our connexion with persons and objects; and all the senses to be sources of pleasure and of pain. By the frequent use of the senses, they become more and more acute. In many mechanical employments, as in painting and sculpture, the eye attains to surprising exactness. Among musicians, the sense of hearing acquires a wonderful accuracy in distinguishing sound from sound, and one sound from all others, when very many come to the ear at the same time. The sense of feeling makes known to the skilful the qualities of many objects, which cannot be discerned by others. The like remarks apply to the other senses. The perfection of the senses depends on original formation, and on the use which is made of them in education, and in business or pleasure.

6. When the senses have conveyed to the mind a knowledge of things without us, we have the power of retaining that knowledge, and can recall the impressions made, and think of them, and seem to see the outward objects before us. We separate and combine anew the images in our minds, which can be made to exist in reality; as, for exam-

ple, a house, ship, a picture, mechanical machinery. In like manner, poems, sermons and books are formed out of ideas gained through the senses, and out of innate ideas (if there be such) which are reformed and arranged by thinking. The thoughts of one mind come to other minds by speech, writing or printing. From our experience of what the mind can do with the impressions and ideas (that is, with what it perceives to exist in itself), we suppose it to have certain powers and faculties. *Reason* is said to be that power whereby the mind comprehends truths, which are necessary and universal in their application; as that the violation of the laws of our nature is wrong; or that two things, each of which is equal to a third, must be equal to one another. *Reasoning* is that faculty whereby we deduce unknown from known or given truths. *Judgment* is that faculty whereby the mind can compare the relation of its ideas to each other. *Judging* is the process by which the mind comes to a conclusion from such comparison. *Memory* is that faculty by which the mind recalls what it has formerly perceived, felt or thought. That faculty by which we are determined to do, or not to do, is called the *will*; that by which we range through created or fanciful being, we call the *imagination*. *Passions* are strong excitements of the mind relatively to external objects. Though we speak thus familiarly of the mind, we know nothing of it but from its operations. Its connexion with the earthly matter of which we are formed, is above human comprehension.

7. Other animals besides men have the power of making themselves well understood by sounds; but *speech*, with the uses which can be made of it, is that exalted faculty, which places man far above all other animals. Speech is connected with the mind of man, and mind connects him with his Creator.

8. The power of preserving thoughts by writing or printing, is another beneficent gift to man only. By these means we may know what others think and do in remote countries, and what has been done and thought in the past ages of the world. Thus the treasures of the human mind descend through successive generations, although the minds in which they were formed, and the frames which these minds inhabited, may have long ceased from the earth.

9. Another source of knowledge, and on which many of the most important acts of our lives depend, is this: We know, that, under certain circumstances, a certain consequence has

usually followed. We do not know that it certainly will follow ; but the expectation is so strong, that we act upon it as a certainty.

10. We cannot know that placing a youth in the way to receive an education, and knowledge of some art or science will enable him to live, and thrive, and become useful to himself and others. But as such efforts have been usually successful to some extent, every parent endeavors to give his children the opportunity of making the experiment.

11. We observe that persons are, by nature, different in external form, and in the qualities of the senses, and in the power of using what the senses send into the mind. We know that both bodily and intellectual power depends much on habit and discipline. We see some children, who are apparently well gifted by nature, who have not the opportunity, or who neglect to use it, of improving their senses and their minds. We see others, who are, by nature, less fortunate, who use opportunities with great diligence, and who become superior to the former.

12. There is, probably, as much of difference among children in natural disposition, or temper, as in the senses and qualities of the mind. Education is intended, among other things, to strengthen good dispositions, and to correct erroneous or defective ones. The effect of education on the natural qualities of individuals cannot be clearly defined. There must have been many persons, whose propensities were naturally wrong, who have been saved from disgrace by discipline, and thereby made good members of society. So, also, there must have been thousands, who were naturally well disposed, and adapted to be worthy in themselves, and an honor to society, but who have been tenants of prisons, and some of whom have left the world as condemned criminals. What an appeal is this, to those who have the ordering of social welfare, to provide, and apply, the means of moral instruction !

13. Supposing these views of our nature to be substantially right, the object of the following chapters is, to point out to the youths, who are in the course of education, their relation to each other, to society, and to their country ; and to show, in a plain and simple way, the excellence and value, beyond all price, of the political condition in which they exist. The further purpose is, to give some information of the social system, of which they are to become active members, and on which their own happiness, in common with that of all around

them, absolutely depends. The plan is, *first*, to sketch the principles on which society is formed ; *secondly*, to show the fitness of the state government to accomplish the intended object of it , *thirdly*, to do the like as to the national government ; *fourthly*, to notice some subjects which concern those who are approaching manhood, and those who have risen to be citizens.

CHAPTER III.

Men considered individually and socially.

14. WE see that men are so formed, that each one must have a care for his own safety and subsistence ; that each one has wants, and is forced to find out means to satisfy them. This is a common rule to all the human race, however different may be the nature of their wants, and means of satisfying them. But as men are necessarily to live in a social state, other laws arise. Certainly the Creator has given to men the power of knowing the laws intended for their government. He has left them free to act according to what is seen to be right, and to have the benefit of obedience ; or to act against what is right, and to suffer the consequences. No observing mind can doubt, that the vegetable kingdom is preserved, that the myriads of animated existence are continued (ever changing individually, though ever the same in species), not only from year to year, but through successive ages, by *immutable laws*. How, then, can it be doubted, that there are laws for moral and intellectual being ; or that ignorance of these laws, and disobedience to them, when known, degrade man below the rank which he is permitted to hold !

15. Our first duty, then, is, to use the gift of reason in learning the laws which are prescribed to us.

16. The first fact that presents itself to our notice is, that men cannot live each one by himself, but must live together, or in society ; that the wants of each individual must be such as may be gratified consistently with the like rights in others,—since, by the law of nature, all men are equal in this respect.

17. The fundamental principle of society is this—that the wants and rights of each member shall be regulated by the

rights and wants of every other. Writers have entertained different opinions as to the way in which men formed society in the beginning.

18. It is not easy to see how men could agree beforehand, that there should be society; but it is very clear, supposing society to exist, that it might gradually improve, from the very nature of man; and that customs, rules and laws would come.

19. We can imagine some families dwelling near each other. At first, they might get food from the natural products of the earth, and from the animals of the forest, and of the shores, and the streams. The food, so obtained, might be divided among them as a common stock, obtained by joint exertions. Their habitations might be made by joint labor. Their defence against enemies, and their warring against them, must have depended on the union of their strength. Some of the wants common to all might be supplied by joint efforts. Some rules, however simple, would necessarily exist. There would be a sense of right and wrong. The question what is right, implies the existence of a rule. This rule was found, probably, in the will of the chief, who may have become such because he led in war. When certain questions have been settled in a certain way, a rule arises. A rule, long followed, becomes a law of the strongest authority. Supposing such a collection of persons to be capable of improvement, they would supply wants, as numbers and means increased, by exchange or barter.

20. It would soon be found, that there must be a *division of labor*, because each one might, by devoting his time to one occupation, produce more than if his time and attention were given to many different employments. Thus, if the same man were a baker, a blacksmith, and a housewright, he must have means of carrying on all these trades. As his attention and time would be divided on three objects, he would be less skilful in each, than if confined to one. His cost must be proportioned to his number of callings, but his gains would not be. Thus each one, led, by necessity or inclination, to pursue some particular employment, would become skilful in it, and would be able to produce more than he needed for his own use, and would have something to dispose of. For a while, a small community might go on, by exchanging one article for another, to supply the wants of each member. But as numbers, and improvements, and wants, increased, the exchanges would become more and more difficult. The

person who had on hand the product of his labor, and who needed that of another, might find the latter supplied with, or in no want of the article which he had to part with. The difficulties arising in making or measuring the value of the necessary exchanges, introduced a common measure under the name of *money*. The word *money* is found in many different languages, and nearly the same in all, and is derived from the word *mint* (now used to signify the place of coining); and both are supposed to be derived from *mine*, the place whence the precious ores come. Another supposition is, that the word *money* is derived from *mené*, numbered. (Daniel v. 25.)

21. It is a provision of the Creator, that gold, silver and copper should be found in such quantities and in such places, and that they should be obtained with such labor, and be of such value, as to make just what is wanted for the convenience of mankind, as the common measure in exchange. These metals *pass*, or are current (whence *currency*), in the world under the authority of a known stamp, *without weighing*. Thus money becomes the common measure of all things; not only of products of labor, and of all sorts of property, but of services, of whatever description. The teacher of religion, the physician, the instructor of youth, and all that class of persons who can do something which the members of a community want to have done, are paid in money, with which they can supply their own wants.

22. The value which is thus given to the precious metals is derived from the common consent of mankind, and from their peculiar qualities and scarcity, and from their fitness to be made the measure of all things valuable. A household article made of gold is not of any greater value, for mere use, than one made of clay, or of inferior metal, unless for the reason that it is less liable to be destroyed in the use. It is within common experience, that iron, and especially when formed into steel, is much more useful than gold, or silver, or copper can be.

The world have consented, universally, to regard gold and silver as the measure of all property. In every country, the value of every earthly thing that can be bought or sold, and of every service that can be rendered, is known by comparing it with a sum of money. To have money, therefore, is to have the command of property, and of all things which are not more valuable than money—as one's integrity, one's self-respect.

23. As numbers, and wealth, and wants increase, the labors of the members of a community become more and more narrowed down to exclusive pursuits. The village grows into a town; the town becomes a city. The inhabitants of a great city are engaged in many separate occupations, each one adhering to his own calling, and, in general, trying to get money, wherewith to supply wants, whatever they may be.

An extensive and varied society, embracing farming lands manufacturing and commercial communities, villages, towns, and cities, and wherein a great amount of property is continually passing from one to another, cannot go on prosperously, and with equal justice to all its members, without established laws. But such laws, however just and righteous in themselves, are unavailing unless there be a faithful administration of them.

CHAPTER IV.

On the Means by which the Order of Society is preserved.

24. To show the necessity of having laws, let us suppose that the inhabitants of a great city are suddenly freed from all moral and political restraint; that each one may take and use what he can, and do every act, as to persons and property, which selfishness and evil passions may suggest. Every citizen must immediately arm himself; families and neighborhoods must unite for mutual preservation. War must arise between different combinations. There would be rules for attack and defence, and for governing each association, not only as to its enemies, but as to its own members. Some one would assume the command from necessity, and would govern by consent, and then by authority, then by force, and then by tyranny. Or we may suppose that such a chief, with some associates, would exercise such power; or that the members of such a community would meet, and agree that some things should be, and some things should not be done; that some agents should act for the whole; that disobedience of the rules agreed upon should be judged of and punished.

25. From such elements all governments must have originated. Thus government of some sort springs out of society, and society cannot exist without it. It is the only security against foreign foes, and against the wrongs which the

members of a society may do against each other, and the only agency by which justice can be administered. It is plain that government must be good or bad, according to the laws which exist in it, and the fidelity with which they are applied. The great family of mankind, scattered, as it is, over the face of the earth, shows all the varieties into which human society can be cast.

26. *Well regulated society* means the security of person and property, and the natural enjoyment of rational life; that is, that each individual may lawfully acquire, possess and use all things which are necessary, convenient and agreeable to him, excluding possession and use by all other persons, unless with his consent. Society is said to be the best which human condition permits, in proportion as each member of it is free to use his faculties, in obtaining the means of happiness, without disturbing others, who are using their faculties to the like end; and when each member is protected by fixed, equal and just laws, faithfully and impartially administered.

The forms of government which have prevailed in the world, have been little adapted to these purposes. Generally, the mass of the community have been subjected to one or a few. The most common forms of government among nations have been the following:—

27. *First*, the dominion of *one man* over all his nation, maintaining his power by having part of his subjects armed, to keep the rest in awe, or by having a force of hirelings. This power has been aided by long continued habit, by ignorance of the people that there could be any better condition for them; and sometimes religious fear and superstition have greatly aided the purposes of the ruler. This is called *despotism*, or *tyranny*. (*Despot* and *tyrant* are words derived from the Greek language, the former meaning *master*, the latter *king*. Neither of them was originally used in an odious sense.) The governments of the eastern nations have always been of this cast; those of Russia, Prussia, Austria and Spain, are not much removed from it, though private property is, practically, as secure in these as in other states in Europe. The sovereign has no guide but his own will. Whatever the forms may be, persons and property are at his absolute disposal, if he chooses to have it so.

28. A similar power has been sometimes exercised by a few persons combined together, and producing nearly the same result to the subjected. When tyranny is in the hands of a few, it is called an *oligarchy*; from the Greek, signifying

the government of a few. The word *aristocracy*, from the same language, signifying the government of the best, is sometimes used in an odious sense.

In both these kinds of rule, the power has been acquired originally by military usurpation, and continued in right of succession by birth; or, on the fall of one usurper, new ones have arisen, but always with the same ill fortune to the people.

29. Another form of government has been known less frequently among men, consisting of the dominion of one man, holding his rank by right of birth, but with a limitation to his power resting in a class of men noble by birth, and some of whom have been rich in lands and dependants, and who could present a strong barrier to the exercise of absolute authority. Such was the state of things in England, and on the continent of Europe, in what are called the *middle ages*; and when the land was divided among great chieftains, and the people were considered as vassals, or slaves, and sold with the land.

30. Another form of government has been that which is commonly called a *mixed monarchy*, in which there is a king, nobles, and some acknowledged rights in the great body of the people, or some privileged part of them. Of this description is the present government of England and that of France.

31. A *fifth* form of government is a *republic*, derived from *res*, a thing, and *publicus*, public, common, or belonging to the people. *Commonwealth* has the same meaning as *republic*. Such is the government of the several states in our Union, and of the American nation.

32. Some of the Greek governments were properly *democracies*; derived from *demos*, people, and *kratos*, government, which means *ruling by act of the people*. There may be such governments, where the whole community is comprised in a very small space, as a city and its neighborhood, and where all the people can meet in one assembly, and make, judge of, and execute the laws. There cannot be such a government here, unless it be in those things which the people of a single town can manage. Our governments are properly *representative republics*; that is, the people are ruled by those whom they choose to represent them. No thoroughly organized system of representation of *all the people* ever existed before. One who desires to have our country ruled by democracy, and one who desires to have it ruled by a monarchy, may be said to be equally at variance with our forms of government.

33. In the four first mentioned descriptions, the rulers and the ruled are strongly distinguished from each other. The rulers speak of the government, and treat it as their own, of right. The kings of England use expressions like these—"my armies," "my navy," "my people," "my courts of justice," as though the great mass of the people were not interested or concerned, otherwise than to render obedience. But in a commonwealth, government is carried on for the common benefit of *all the people*, and they are the fountain of sovereignty.

34. In limited or mixed monarchies, there is usually a constitution or charter. *Constitution* is formed from the Latin words *con*, with, and *statuo*, to resolve, fix or establish, and means an agreement between a whole community and each one of its members. It may contain any provisions which the contracting parties see fit to adopt. It is to be expounded only by its own words, and the usage which grows up under it. The constitution of England is frequently referred to, but it is not *written*. It is founded in solemn concessions, wrested from successive princes by their subjects, and on acts of parliament, and on immemorial usage.

In republics, the usual basis of government is a constitution or written code of principles, agreed upon and adopted by those over whom it is to be administered. It defines the power which may be exercised, and the mode in which rulers shall come into power, and in which they shall cease to exercise it.

35. In republican governments, the distinguishing qualities of a constitution are,—that it provides for the manner in which laws shall be made; what laws may be made; and by whom and in what manner they shall be administered. In some instances, a constitution declares the rights which the citizens living under it shall have, and also that certain powers shall not be exercised over them. In other constitutions, such declarations are omitted, and the rights of citizens are to be inferred from what is provided for. The constitution of Massachusetts contains a formal bill of rights; that of the United States does not, in form, but it declares that certain powers shall not be exercised; or so limits and defines the mode of exercising the powers given as to come to much the same thing as such a declaration. It may be doubtful which is the best mode. No enumeration of rights can be perfect; nor is any declaration effectual, unless the constitution and laws provide for their secure enjoyment.

36. It may be safely asserted, that the wisdom of man has never invented any forms of government more wisely adapted to the promotion of the common welfare and happiness, than those of the United States; and that no union of states, although there have been many in other countries, in past times, was ever so wisely designed, or so successful in accomplishing its purpose, as that under which we have hitherto had the good fortune to live.

CHAPTER V.

The Government of the State of Massachusetts.

37. IN the constitution of this state, its purpose is declared to be, to secure to each member of the community, safety, tranquillity, natural rights, and the blessings of life. The means of doing this are expressed to be, by making the whole community of people "a body politic," by voluntary association or "social compact" or agreement, whereby each one covenants with the whole, and the whole with each one, that the whole people shall be governed by certain laws, for the *common good*.

38. A *body politic* is a *corporation*; which means, a number of persons acting under *one name*. This word is derived from the Latin word *corpus*, which means *body*. Although there cannot be a corporation without *natural* persons, yet the same persons are not necessary to it. Corporations continue, however often the persons in them may change. A corporation may be likened to a bee-hive. If one has a bee-hive for several years, he would call it by that name, and obtain from it his honey every year; but the bees would be changed more or less every month; and at the end of two or three years, there would be an entire change of every inhabitant of the hive. But it would still be known by the name of the *bee-hive*, and annually yield the fruit of industry. The state of Massachusetts is a corporation; so is every bank, turnpike, and every collection of persons, who act under a common name, in virtue of a *public law*. No new corporation can exist but by a law of the state. What a corporation is, or can do, depends on the enabling powers which the law creating it gives. The evidence that the people of Massachusetts agreed to be a corporation, is the constitution

which they adopted. The powers which they intended to have exercised are expressed in that instrument. The original is kept in the office of the secretary of state. Copies of it are printed, and are found in every town; and a copy is always contained in the statute books published by authority.

39. It is remarkable, as our constitution was made in the midst of the war for independence (1780), and when it was at least uncertain what the end of that war would be, that it should have been made with so much coolness and wisdom. An experience of forty years, and during great changes, and many important events, has proved that it was originally nearly perfect. A faithful and patient examination by a convention, delegated by the people, was made in 1820. It was found to have been fully adequate to the beneficial purposes for which it was framed. Some slight amendments were then proposed and adopted by the people, which will be mentioned hereafter.

40. It should not be overlooked, that, although this country was under the kingly government of Great Britain, from its earliest settlement to the commencement of the revolution, which secured independence by a separation from the parent country, the habits of the people were always essentially republican. Our ancestors, at an early period, formed their communities into towns and counties, and the same divisions were continued when our republic was established. *Revolution* means a change in the government of a country. It may happen in any sort of government. For example, the French put their king to death in 1793, and called their country a *republic*. But a revolution may happen, also, by the change of one king for another, as in England in 1688; and by usurpation, as in Sweden in 1772; and again in France, by expelling the reigning family, reforming the system of government, and choosing a king (July 1830).

41. When the time came for making a constitution, there was nothing to change in the opinions and habits of the people, and little more to do than to transfer the sovereignty from the *king* to the *people*, and solemnly to declare the *principles* on which government should be founded, and clearly to define the *manner* in which these principles should have effect.

42. As it is the duty and the interest of those who rule in our republic to promote the common good, so the duty of each citizen is, to be respectful to the rulers, and obedient to the

laws. As each one relies on the government for security and protection, so each one is bound to render his personal service, and to contribute his portion to the common expense of maintaining the state. If it may not be asserted, that no government but such as is founded on the principle of equal rights and rational liberty to all, is consistent with the laws of the Creator, it may be said, that no form of government seems to be so much so.

43. As the real foundation of government among us is the people, it is first to be considered in what manner the people exercise their powers of sovereignty. All the people cannot act in one assembly, nor each one in his own name. Hence there must be many places of meeting, and some name common to many. The acts of the people must be made known in some agreed manner. The people exercise their political rights by the general name of inhabitants of towns. All the political acts which they may do collectively must be done in town meetings. The people may assemble in such meetings, in an orderly and peaceable manner, to consult upon the common good, to instruct their representatives, and to petition the legislature for the redress of wrongs, or to remonstrate against grievances. The people have reserved to themselves the right to assemble when and how they please, in an orderly and peaceable manner, otherwise than in town meetings, to consult on the common good. The acts of such meetings have no legal force. Among such meetings may be classed lyceums, assemblies to hear lectures; caucuses, held by electors to confer together, and agree on candidates for office. The word *caucus* was first used in Boston, about the beginning of the revolutionary times. Its origin is not ascertained; it has now a well known meaning, and is in common use throughout the United States. The inhabitants of each town are declared to be a body politic and corporate. Their acts, as such body, are known by the record of their proceedings, duly certified by proper officers.

44. When a town meeting is necessary, the law requires that the selectmen shall issue a warrant, setting forth that a meeting is to be held, and for what purpose. The inhabitants who are qualified to attend and act, are to be duly notified thereof by the constable,* or such other person as the selectmen shall appoint to notify them.

* The first use of this word was (*comes stabuli*) count of the stables, or master of horse of an emperor. Afterwards it meant the highest *military* office,

45. The next corporate bodies known in the constitution are counties, which are divisions made for the purpose of administering justice within them. Counties are composed of one or more towns.

46. All the counties together make the next and last denomination of the political system, viz. 'the state.'

47. The law-making and the executive power arises from the votes of inhabitants of towns, and is thus provided for:—

The constitution expresses (in the 3d article of amendment adopted in 1820), that every "male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district within which he shall claim a right to vote, six calendar months, next preceding any election for governor, lieutenant-governor, senators or representatives, and who shall have paid, by himself, his parents, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall by law be exempted from taxation, and who shall in all other respects be qualified as abovementioned, shall have a right to vote in such election of governor, lieutenant-governor, senators and representatives; and no other person shall be entitled to vote in such elections."

48. Before this amendment, there was some distinction between those citizens who might vote in affairs of the town only, and those who might vote on those affairs and for state officers; but now that distinction is abolished in effect. The assessors are required by law to make a list, annually, of voters, and to publish it. They are also required to meet, on some day previous to an election, to receive evidence of qualifications to vote, and to add names to the list. A list is carried to the place of election, and no one is allowed to vote, whose name is not found thereon. Persons who vote, knowing themselves not to be qualified, are subject to a fine.

49. The city of Boston does the same acts, in relation to all state affairs, which towns do; that is, it takes its share in all elections of state officers and rulers, and pays its part of

and then the highest *civil* office, under a sovereign. *Constable* means the lowest executive officer, as used in the United States. His duties arise in part by common law, and in part by statute law.

taxes, &c. But its interior government is exercised in a different manner, and by officers of different names from those known in towns. This is so, from the law or act incorporating the city. This act is sometimes called the *charter*, which means nothing more than the law written on paper, *charta* being a Latin word, meaning paper. The citizens of Boston, instead of assembling in town meeting, assemble in wards or divisions of the city. Instead of voting in the presence of selectmen, they vote in the presence of ward officers. Instead of having selectmen, they have four representatives from each ward, and a board of aldermen, and a mayor. Thus they have a city legislature of two branches, each having a negative on the other. The mayor is the executive officer. The city is a little republic.

50. Justice is administered by officers different from those in other places, though the same laws are administered, with the addition of such as are made by the city legislature.

51. There is a court of civil causes of twenty dollars, and less, peculiar to the city; a court of criminal jurisdiction for small offences, called the Police Court; and a court of criminal trials of all offences between a justice's court and the Supreme Court. This is called the Municipal Court, and it punishes all offences which are not punished with death. The word *municipal* is derived from a Latin word, which meant taking a gift, and was applied to taking the gift or privileges of citizenship, in a city; and then was used to mean things pertaining to a city; and, as applied to this court, means the City Court, if it has any meaning. The word *municipal* is also used to signify some matter pertaining to the interior affairs of a nation, in contradistinction to matters which pertain to international law. The judge of this court in Boston has no civil jurisdiction. He is appointed and holds his office like other judges, and is paid, half his salary by the city, and half by the state.

52. The office of mayor is a very responsible one. It is his duty to see that the laws of the city are executed, that the public peace and tranquillity are preserved. He has also a legislative character, as the presiding officer in the board of aldermen. He is, necessarily, aided by subordinate officers in the exercise of executive power. *Mayor* is said to be derived from an old English word, *meyr*, and that from *miret*, and means to keep, or guard.

CHAPTER VI.

On the Authority by which the State Laws are made.

53. A LAW is a command to do, or not to do, or a permission to do, some act. It must be made in relation to those who are bound to obey, and must be made by competent authority. There must be tribunals to judge of breaches of the law, and power to execute judgments. To show in a strong light the difference between absolute despotism and a government of constitutional laws,—The sultan of the Turks wants money: he orders certain rich men to be put to death, and their money put into his treasury. The state of Massachusetts wants money. It cannot have such want for any purpose not provided for in the constitution. It cannot supply this want from the money of the people, otherwise than by a public law, openly and deliberately made; and whereby each citizen will be held to pay his just proportion.

This law-making power is vested in a "GENERAL COURT,"* or legislature. This latter word is derived from two Latin words, which signify law, and bearing or enacting. Experience has proved that the power of making laws may be safely trusted to the concurrence of two independent branches, subject to the qualified opinion of the executive chief. This principle is common to all the American constitutions. The General Court is composed of two branches, viz. the Senate and House of Representatives.

54. The number of senators is forty, who are chosen in districts composed of several towns, and which districts are established by law, from time to time.

The number of senators which each district may send, depends upon the amount which the inhabitants dwelling within that district are liable to pay, as their proportion of the whole state tax. But no district can have more than six senators, whatever tax it pays. Senators are chosen in town meetings, in each district, on the first Monday in April. The town-

* The word *court* is (as many of our words are) from the language of the Saxons, a people who had conquered and settled in a part of England about the year 500. It meant a square in the castle of the chief lord, where his people met. With us, it means also the legislative assembly. Here, and everywhere in the United States, it means the tribunals of justice. The judges (and the judge, when only one sits) are called "the court." It means also the assembly in a court-house, in common speech. The word *court* is supposed, by some writers, to come from the Latin word *curia*. The English of this word is *court*.

clerk records the names of all persons voted for, and the number of votes for each. The selectmen and town-clerk send a copy of that record, certified by them, to the office of the secretary of state, seventeen days before the last Wednesday of May, to be laid before the governor and council, who examine those returns. The secretary is ordered to notify those persons who appear to be chosen senators, to attend the General Court, on the last Wednesday in May. If it happens that there is not a choice in one or more districts, the choice is made by a convention of senators and representatives, from the two candidates who have the highest number of votes.

55. A *convention* (derived from two Latin words, signifying to come together) is a meeting of the Senate and House of Representatives, in the hall of the latter, at which the president of the Senate presides. The two branches constitute one body, in such case, as to the act to be done in convention. The speaker of the House acts only, then, as one of the convention. Such conventions are held in consequence of a proposal made by one branch to the other, by sending one of its members with a message.

56. Representatives are chosen in May, ten days before the last Wednesday. They are chosen from among the inhabitants in each town, and represent the towns in which they respectively live. They are chosen by the inhabitants in town meeting, and are certified to have been voted for as in the case of senators; and they carry those certificates with them to the General Court.

57. As the constitution now is, each town is entitled to send a certain number of representatives, in proportion to its number of *ratable polls*,* making an assembly of more than five hundred persons. This provision is thought to make too numerous and expensive a House. Propositions are before the people to amend the constitution in this respect. It will be observed that the Senate is founded on representation of property; the House, on representation of numbers in towns.

58. Senators are called *honorable*. The constitution does not confer this title. The usage may, perhaps, be derived from the fact, that the Senate may be resolved into the highest judicial tribunal for the trial of impeachments; more probably, it is a remnant of colonial usage. The king's council were a branch of the colonial legislature. Its members

* For the meaning of these words, see numbers 72, 73, 74.

had the title of *honorable*. It would not have been matter of regret, if it had met the fate of some other usages of that time.

59. The senators assemble in their chamber, and the representatives in their chamber, on the last Wednesday in May; and the governor of the commonwealth goes into each chamber, where he administers to the members the oath required by the constitution. The Senate chooses a president and clerk. The House chooses a speaker and clerk. The governor is notified who these officers are, and each branch is notified, respectively, of the officers of the other, so that each may know that papers, sent to them from the other, are sent by the proper persons. The governor and council sit, by themselves, in a chamber. This chamber is not open to spectators. Those of the Senate and House are always open to spectators during the session.

60. When a law is to be made, the subject is usually committed to a committee, who report a bill, or a written paper called a bill, containing the proposed law. If in the Senate, the bill is read and debated. If approved of (this is done by a vote), it is ordered to be read again, at some future time, and it is read. If again approved of by a majority, it is passed, and sent to the House of Representatives, where it is read three different times, and debated, if members see fit; and if approved of on the three different readings, it is passed. If there be not a majority, in both branches, in favor of the bill, on each reading, it does not pass. Bills originate in like manner in the House of Representatives. All money bills originate in the House; that is, laws for the raising or paying of money. All bills are read and passed upon in the same manner, whether they come from the Senate, or are to be sent to the Senate, to be acted upon. Bills are acted upon in the Senate in like manner, whether they originate in the Senate or come from the House.

61. As both branches must concur to make a law, each branch can prevent the passing of a bill, approved by the other. When both branches agree, the bill is copied on parchment, signed by the president of the Senate and speaker of the House, and sent to the governor. If he approve of it, and sign it, it becomes a law; and the parchment, so signed, is kept in the secretary's office, and a copy of it is certified by him, and printed; and it appears in the statute book. The word *statute* means an act of the legislature, and is derived from *statuo*, to resolve or establish. The word *law*,

(from the Latin) means the thing chosen, or marked out, as a rule or guide ; and comprehends all rules made by authority. A statute is a law, though a law may not be a statute. If the governor disapprove of the proposed law, he returns the bill to the legislature, with his reasons. It is again considered by the legislature, and if two thirds of each branch concur, it is a law, though not signed by the governor. It rarely happens that the governor rejects a bill ; still more rare, that the legislature pass the law after the governor does reject it. The power given to him is hardly capable of misuse ; and if misused, still the legislature have a remedy in the concurrence of two thirds.

62. The power of the legislature to make laws is limited only by the provisions of the constitutions of the state and of the United States. Every subject which, in their opinion, is connected with the public welfare, is a proper subject for their attention. But they have no power to make any law affecting any particular citizen by name, individually, against his will ; except only, that each branch may, by order, imprison any person for contemptuous behavior in their presence. Whenever any legislative measure is proposed, which may affect particular persons, and not all persons, it is an invariable practice to notify it to the interested party, that he may appear, and remonstrate, or be heard before a committee.

63. As it is in the power of the legislature to make any law within the constitutional limits, so it is in their power to repeal any existing law, unless some personal or corporate right was conferred by it ; in which case they cannot repeal, unless the power to do so was reserved in the original act. It sometimes happens that a law passes, which is plainly and clearly against the constitution. In such case, if the law is questioned, and comes before the Supreme Judicial Court to be judged of, and is found, by that court, to be irreconcilable to the constitution, they declare it to be void. This power is known only in the American constitutions. It is exercised with great care, and only in clear cases.

64. Besides the laws so made, the people had, before the revolution, the benefit of the *common law* of England. That benefit the people retained in their new constitution, by providing that all laws adopted, used and approved in the colony, should continue in force until altered or repealed by the legislature.

65. The common law was brought over by our ancestors.

In England, it is grounded on the general customs of the realm. It is founded in reason, and is said by English authorities to be the perfection of reason, acquired by long study, observation and experience, refined by learned men in successive ages. It is the common birthright for the defence of one's goods, lands and revenues ; and of one's wife, children, liberty, fame and life. Our own statute law provides, for example, that murder shall be punished with death ; but it does not define what murder is. For this definition we resort to the common law. We find this in the books of authority. These contain the description of the crime ; and when a trial is had, these books are read. The principles and adjudged cases therein contained, are compared with the case on trial, and furnish the grounds of decision. The common law prescribes the rules of proceeding in a great majority of all the cases, civil and criminal, which are tried in our courts. In those cases in which the principles of the common law have been found unsuitable to our institutions, they have been annulled or modified by our own statutes.

66. It is the duty of the governor to communicate to the legislature, at the beginning of every session, his opinion on the state of the commonwealth ; and to recommend for consideration such measures as he finds to be proper. This he does, either by going personally into a convention of both branches, and speaking to them ; or by sending to each branch the same written message, which is read to the members by the presiding officers therein. If the former course was pursued, until very lately, each branch made an answer, which was sent by a committee to the governor. This practice of answering has been wisely laid aside. If all the branches are in harmony, that is, free from party divisions (as is happily the case at present), answers are useless ; and if divisions exist, answers furnish opportunity for party debates. No answer is made to a message. Of late, the latter mode is most commonly adopted.

67. It sometimes happens that legislative debate calls forth illustrious examples of learning, patriotism and eloquence. Such power has been shown by American citizens in a manner which has rivalled the finest examples of eloquence in any country or age. It has been remarked, however, that eloquence is not so common an accomplishment as might be expected in a government in which so much speaking occurs, and wherein the ability to address the understanding in a persuasive manner, may be applied to the most useful pur-

poses. The cause of this is the neglect of proper instruction in our seminaries. The art of speaking has not been regarded as it deserves to be.

CHAPTER VII.

Town Meetings, Choice of Officers, Taxes, &c.

68. IN the month of March or April, annually, the inhabitants of towns must be assembled, in the manner before mentioned, for the purpose of choosing town officers. These are selectmen, assessors of taxes, town-clerk, constables, overseers of the poor, surveyors of highways, and several other officers, which the law provides for. At this, or any other meeting, all subjects on which towns can act, may be disposed of, provided notice is given in the warrant for calling the meeting, that they are to be acted on. For the orderly conducting of meetings, some one of the inhabitants is chosen moderator, who is what the sense of that word implies. Any inhabitant may express his opinion on the subject under consideration, which is usually brought before the meeting by reference to the warrant calling the meeting; and it is decided upon according to the opinion of the majority, ascertained by their votes.

69. The vote is taken after debate is ended. The moderator states the question, and then calls on those who are in favor of it to manifest it by holding up their hands. Then he calls on those who are opposed, to do the same. The greatest number of votes, on the one side or the other, settles the fate of the question, and it is so recorded by the clerk. This record is the only legal evidence of the will of the inhabitants.

70. All officers of the state are chosen by written or printed ballot. *Ballot* is derived from a French word, meaning a little ball. Different colored balls expressed yes or no to the question to be decided; each voter having two, and putting into a box which of them he pleased. With us, the word means a slip of paper, on which is the name of the person voted for. Town officers may be chosen by ballot, or in such other mode as the inhabitants may agree on.

71. Besides the choice of officers for the town, and the

choosing of state officers, towns have power to do, and are required to do, many acts. They may assess upon the inhabitants all sums of money necessary for town purposes; and among them for repairing highways, erecting or repairing buildings, maintenance of the poor, and many other purposes. They may, in such meetings, choose agents for special purposes; order the disposal of all town property; and, generally, do all acts which concern the common welfare, within the usual power and authority of towns. But there are some things which a majority cannot do. The majority cannot bind the minority to pay assessments for purposes which towns are not competent to order; as matters of charity or mere ornament, and many others; it being well understood, in practice, that the corporate powers of towns are such only as the laws, made in conformity to the constitution, require or permit. It is obvious that each citizen retains for himself the right of deciding whether he will or will not do some things; and as to which the whole community have no political power over him.

72. One object which engages the attention of towns is the assessment of taxes for public uses, whether of the state, or counties, or towns.

The process of taxation is provided for in the constitution, in these words:—"While the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates taken within the commonwealth anew once in every ten years, and as much oftener as the General Court shall order."

73. Under this provision, it is the course of the legislature to provide by law for the enumeration of polls, and the valuing of all property in the state. *Poll* is said to be a Saxon word, meaning head. In the constitution, it means a person; that is, the number of heads, or persons, who are liable to taxation. *Poll* is used to signify an election, because the result depends upon the number of persons who act therein. "Going to the polls," is going to vote, or to the place of voting.

74. The assessors of every town, district or plantation, are required to return to the General Court such enumeration and valuation. A large committee of the legislature is chosen, to whom these returns of the assessors are committed;

and its power and duty is, to compare all these returns, and to ascertain what proportion each town in the commonwealth is to pay, of any sum which may be required by the state, or for the county. To know who is to pay that sum, as well as other taxes, which are raised for the town's use annually, the assessors cause the polls to be numbered, and all the property in the town to be valued. The proportion of the sum to be raised, which may be laid on each poll, is fixed by law, and the residue is assessed on property. For example, if \$1000 are to be raised, \$200 may be assessed on polls, \$800 on estates.

75. The tax required for state purposes varies according to circumstances. When the legislature lays a tax, which is done by a law, the treasurer of the state sends his warrant to the assessors of each town, who are thereby required to cause the sum in the warrant mentioned (being the town's proportion, as fixed by the valuation once in ten years), to be assessed, collected and paid into the treasury. County taxes are authorized by a law of the General Court. County treasurers issue their warrants to the assessors in the towns of the county, in like manner. Towns are liable to indictment for not choosing assessors, and may be fined. The property of any inhabitant may be taken to pay the fine. Assessors are liable to penalties for not performing their duties.

It makes no difference how the estates are valued, in any one town, if all are so valued as to bear a just proportion to each other, because each person will pay the same sum, whether the value is high or low ; but great injustice may be done, unless the fair relative value of one town to another be preserved, in the taxation by the state.

-76. When a tax is to be collected, the polls and estates being known, and the sum which each one is to pay apportioned to him, the assessors make a list, containing the names of all who are to pay, and put against each name the sum to be paid. This list is annexed to a writing called a warrant, signed and sealed by the assessors. The warrant is addressed to the collector, and he is therein commanded to collect the money. He demands of each person to pay. On refusal or neglect, real or personal estate may be taken and sold ; or, after twelve days, the person may be taken, and committed to jail, by the collector. When the collector has obeyed his warrant, he writes on it a certificate, called a *return*, of what he has done, and carries it back to the assessors, who keep it. The money collected is paid into the town treasury,

whence it goes, either to the use of the town, the county, or the state, according to the purpose for which it was assessed. If to the town, it is paid out according to vote of the inhabitants; if to the county, it goes to the county treasurer; if to the state, it goes to the state treasurer.

77. It sometimes happens that assessors make mistakes; and the error may be, and sometimes is, of such nature as to make the whole proceeding illegal and void. If assessors do so mistake their duty, and do, nevertheless, require the collector to collect the tax, and he does so, the collector and the assessors *may be trespassers*; and every citizen, whose property is taken on an illegal tax, has a remedy at law. No citizen is held to pay any tax that is not lawful in itself, and assessed in a lawful manner. The word *assessor* is a Latin word, and is derived from *assideo*, to sit.

Assessors, among the Romans, were persons selected by some high judicial officer *to sit* with him, and to give their opinions, in the administration of justice. Hence the word *assessment*, which is of the nature of a judicial opinion.

CHAPTER VIII.

The Executive Power.

78. WHEN laws have been properly made, they are to be executed; that is, they are to be applied or put into use, by executive officers. All officers, other than those who make, or act judicially on, the laws, are executive officers; at the head of this branch are the governor, lieutenant-governor, and council, who are called the *executive department*, and who have the power of appointing all inferior executive officers. The word *lieu*, and the word *tenant* (from the French), distinguish an officer who is authorized to take the vacant place of a superior.

79. The governor and lieutenant-governor are chosen by the people, in their town meetings, on the first Monday in April, by those who are qualified to vote. The selectmen and town-clerk of each town make a return of all the votes given in, certified by the clerk of the town, and the selectmen, to be a true copy of record, to the office of the secretary of state. These returns are examined by a joint committee of both branches of the legislature, who report the whole

number of votes given throughout the state. The report is made, first in the Senate, and is acted upon there; and then sent to the House, and is acted upon there; and if both branches concur in the opinion, that any person is chosen, they appoint a committee to wait on him, and notify him of the election. He appears in a convention of both branches, and the president of the Senate administers the oaths of office. If no person is chosen governor by the people, the House chooses two out of the four who have the highest number of votes; the Senate chooses one of these two, and he is, thereupon, the governor. He is 'styled' the 'governor of the commonwealth of Massachusetts.' His title is 'His Excellency.' He has no vote in council.

80. The lieutenant governor is elected and qualified in like manner. His title is 'His Honor.' Nine counsellors are chosen in a convention of both branches, from among the senators. If all, or any of them, decline, the two branches again meet, and choose, from the people at large, the number necessary to fill the vacancies. If those of the Senate who are chosen, accept, or any of them, the remainder of senators, though reduced below the number of forty, constitute the Senate.

81. The powers of the executive are subdivided. To the governor alone belongs the authority of approving or rejecting bills passed by the legislature. He is commander in chief of the military force. But there is, in practice, a committee of the council on military affairs. To him alone belongs the power and duty of nominating to office, in all cases where appointment depends upon the executive. Of this class are all judicial officers, attorney and solicitor general, sheriffs, coroners, registers of probate. It is the governor's duty to nominate, or name to the council, such persons as he thinks proper to fill offices. A nomination remains unacted upon for seven days, during which time the counsellors are supposed to form their opinions. The governor then asks the counsellors whether they approve or not. If a majority of them approve, the appointment is perfected, and the governor issues a commission. If a majority disapproves, the nomination fails, and some other person is to be named. This mode of appointment seems to rest on the supposition, that the governor is not to inform his council of the names of persons whom he intends to nominate. If the governor is to know whether a nomination will be approved before he

makes it, it is rather a joint power of appointment, than a nomination.

The governor, with the consent of council, may pardon all criminals who are under judicial sentence ; and may *reprieve* those who are sentenced to death ; that is, may postpone the execution.

82. The duties of the governor are responsible and important ; and sometimes highly so, in relation to the national government. Many duties are *implied*, as connected with his station ; and the legislature frequently vest in the executive, by law, trusts of much responsibility.

83. The lieutenant governor has no peculiar duty in the presence of the governor. His place is at the council board. He is often at the head of the committees which are appointed in this department. In the event of a vacancy in the office of governor, he succeeds to, and performs all the duties of governor, until a new election occurs. This second officer has been called to perform the duties of the first four times since the adoption of the constitution.

84. The executive department forms a part of the board of overseers of the University at Cambridge ; and the governor, as such, presides at all the meetings of that board.

85. As commander in chief, the governor has around him, personally, certain officers, who are of his own appointment, and who are called, in military phrase, his *staff*. These are the adjutant general and four aids-de-camp. And there may be, though there are not, other officers of the staff. The governor may take on himself more or less of implied duty. The treasury may be considered to be under his supervision.

86. The treasurer is chosen annually by the legislature, and the same person cannot be chosen more than five successive years. He is the treasurer and receiver general of the state. He can pay no money out of the treasury, but on a warrant signed by the governor, with consent of council. The governor can draw no warrant but in virtue of some act of the legislature

87. The secretary of the commonwealth is chosen annually by the legislature, and may be rechosen for any succession of years. His duty is to keep the various documents of the legislative proceedings, and of the executive department. He is the proper officer to certify all commissions issued by the governor. He is the keeper of the great seal of the commonwealth, and the only person who can officially use it. He is

the secretary of the governor and council, and the recorder of their transactions. He is the certifying officer of the state.

88. The secretary and treasurer are on duty, in their offices, throughout the year ; and the governor also. The senators, representatives and counsellors are merely citizens, and have no political power, except when constitutionally assembled. The executive departments are believed to be conducted with perfect order and regularity in this state.

CHAPTER IX.

Judiciary Department.

89. THE administration of justice is twofold ; first, to punish crimes and public offences ; secondly, to compel citizens to do what should be done between themselves, and to make reparation for wrongs. It is the state only which determines, by its legislative department, what act shall be deemed a crime or offence, and provides for its punishment. To commit a crime, is to offend against the state. If the act done be not only such offence, but also a wrong done to an individual, the latter may, in some cases, have a remedy by civil suit against the offender. Justice between citizens is administered in the name of the state ; if each one were left to do justice for himself, the greatest injustice would often be done, and society would be disturbed by contention, violence and crime. Nothing which is seen among men, is more entitled to respect and veneration, than the means of prompt, impartial and peaceable settlement of public and private wrongs. Hence the exercise of power in the judiciary department is far more important to the citizens of the state than in all other departments. There is little probability that mischievous laws will be passed through ignorance ; nor any that they will be passed by design, or continued in force when found to be inexpedient. The remedy by repealing is always in the hands of the people, by choosing more discreet law-makers at the next election. The executive power cannot be seriously perverted. Under occasional excitement, improper persons may be appointed to office ; but, ordinarily, the citizens of an extensive commonwealth have not so deep an interest in such events as to be much affected by them, unless

the appointment happens to touch the purity of the judiciary department.

90. Every citizen is affected by the exercise of judiciary power. If he is not interested in a particular case, the principle on which the case is decided may form a precedent affecting his interests materially. His property, liberty, character and life may be dependent on the result of a trial. If judges are ignorant, prejudiced, or moved by hope or fear, as to the exercise of power in the other branches, the object of government is in great peril of being defeated. No money is paid from the treasury so profitably to the people, as that which is paid in support of the judiciary, in the true spirit of the constitution.

91. Those who framed the constitution well knew the importance of this branch. The people, by accepting this instrument, have declared, that every citizen shall have "right and justice freely, without being obliged to purchase it; completely and without denial, promptly and without delay, conformably to the laws."

"It is not only the best policy, but for the security of the rights of the people, that the judges of the Supreme Judicial Court should hold their offices so long as they behave well: that they should have honorable salaries, ascertained and established by standing laws."

92. Besides the Supreme Court, there are county courts, and courts held by justices of the peace. There are, also, probate courts in each county.

93. There are, at present, fourteen counties in the state, each county having within its limits one or more towns.

94. In one of the towns, and, in some counties, in two towns alternately, the courts are held. If in one town, it is called the *shire town*; if in two, they are called *half shire towns*. *Counties* and *shires* are thus derived:—England was divided into parts, and these put under the government of counts or earls, who appointed *sheriffs* to do certain acts in the chief town. Hence came the territorial division of county and shire town. Names of some counties have the same origin, as *Hampshire*. There is a court-house, a jail, an office of the clerks of courts, a registry of deeds and probate office, in each county; and for county officers, sheriffs, their deputies, and coroners, who have no power out of their respective counties. The latter officers perform the duties of sheriff, when there happens to be a vacancy, or sheriffs are parties interested. They also inquire into the causes of accidental

or violent death, with the aid of a jury, that prosecutions may be made, when the law has been violated. The expenses of maintaining the county are charged upon the polls and estates of the inhabitants of towns within the county; excepting that fines and costs of suit are credited. These expenses relate, almost exclusively, to the administration of justice, county roads and county bridges. When there is need of an expenditure for the use of the county, an estimate is sent to the legislature of the sum wanted. The legislature may grant a tax to be collected in the towns of the county, according to their proportions.

95. The county treasurer, who is chosen by the inhabitants of towns in the county, is to the county what the state treasurer is to the state. Each county builds its jail, courthouse, county offices, and pays its own jurymen, and other county expenses.

96. The most limited judicial power is exercised by justices of the peace, who are nominated by the governor, approved by the council, and commissioned under the seal of the state, to act throughout the counties in which they respectively reside, for the term of seven years. There are three sorts of justices:—1. those above mentioned; 2. justices of the *quorum*, which means a superior magistrate to a mere justice; and when certain acts are to be done by two, they are to be done by two (*quorum*, Latin for) of whom one shall be such superior; 3. justices who are not limited to a county, but who are such throughout the state.

97. They have powers defined by law. Among them are the following:—On a complaint made on oath, they can issue a warrant to take the person accused, and bring him before the justice who issues the warrant, or any other justice in the county. This warrant is a writing, made by the magistrate, and addressed to a sheriff or constable, who is therein commanded to take the person complained of. If the offence be such that the justice can try the accused, and punish him by a fine, he may do so. If the offence is of such a nature that the accused is to be tried in a higher court, the justice commits the accused to jail, to await his trial; or takes a recognizance of the accused and his sureties, for appearance at court to take his trial.

98. A recognizance is an acknowledgment of debt to the commonwealth, in the sum required by the justice, which debt is satisfied, if the party appears and takes his trial. If he does not appear, the debt is good against him and his

sureties ; and, moreover, he is liable to be taken any time afterwards, and tried.

99. 'Bail' is sometimes taken for the appearance of a party at court in criminal or civil cases. A bond is given by the party, with one or more sureties, that the party shall appear at court. The party being under arrest, or in jail, is then bailed, or delivered over to his sureties, who are considered as his keepers. They may let him go at large ; but if they apprehend that he will not appear, they may cause him to be taken, at any time, and imprisoned, and thereby discharge themselves. *Bail* is derived from a French word, which signifies to deliver.

100. Justices have power to try personal actions between citizen and citizen, where the value does not exceed twenty dollars.

101. The duties and powers of justices are very numerous, but all of them arise from laws of the state, or under the common law.

102. No citizen can be lawfully arrested for a crime, unless in virtue of a complaint setting forth his offence, and a warrant thereon, as before stated. But offenders are sometimes seized and carried before a justice, when there is not time to get a warrant, and when there is reason to fear an escape.

CHAPTER X.

Judiciary,—Court of Common Pleas.

103. THERE are four justices of this court. One, only, holds two or more courts in every county of the state, in every year. Either of them may hold a court in any county. They try criminal cases, and pronounce sentence, where the punishment does not go beyond fine, and imprisonment in the common jail ; and they try and give judgment in all civil cases, in which the sum at issue is more than twenty dollars. They try appeals from judgments rendered by justices of the peace in civil actions.

104. An appeal lies from their judgments, in all cases over one hundred dollars value, to the Supreme Judicial Court.

105. A trial is conducted in the most fair and impartial manner possible in the courts of our state. The judges are

independent. They hold their offices during good behavior. Their salaries are fixed, and paid out of the public treasury.

106. No one can be put on trial for a crime, until a grand jury have declared, on oath, that he ought to be tried. A grand jury is thus constituted:—Before every court, the names of some of the inhabitants of the towns, or town, in the county, are drawn out of a box, in which the names of all persons liable to serve are kept. The jury-box is revised once in three years, by the inhabitants in town meeting, who add names, or withdraw them, as they think proper. The persons whose names are drawn out to serve as grand jurors for a term are warned to attend court. They cannot be more than twenty-three, nor less than twelve, in number. They are sworn by the clerk of the court.

107. The grand jurors are thus sworn:—"You shall diligently inquire, and a true presentment make of all such matters and things as shall be given you in charge. The commonwealth's counsel, your fellows', and your own, you shall keep secret. You shall present no man for envy, hatred or malice; neither shall you leave any man unrepresented for love, fear, favor, affection, or hope of reward; but you shall present things truly, as they come to your knowledge, according to the best of your understanding. So help you God."

108. The judge then gives them a charge, wherein he makes known their duty, and the subjects which they are bound to attend to, and defines the crimes which may come under their consideration.

109. They retire to an apartment, and there, assisted by the state's attorney, hear the testimony of sworn witnesses. If twelve of the jurors are of opinion that the accused ought to be tried, the state's attorney draws up an indictment, stating the crime charged. The foreman of the jury signs it in behalf of the jury. This indictment is carried by the jury to the court. The accused, if under recognizance (in which case he ought to be ready in court), is called to be put on trial. If he has never been arrested on this accusation, a warrant issues to take him, and he is brought before the court to be tried. If in prison, he is brought into court. If he does not appear when called, his default is recorded, and his bond or recognizance is forfeited.

110. If tried, it is by a jury, selected in like manner as the grand jurors. The trial is carried on by reading the in-

dictment to the jury. The state's counsel explains the case, and calls witnesses to prove it. In every county there is an attorney for the state, who acts for the state in the Common Pleas. The attorney general and solicitor general are the law officers of the state, and act in the Supreme Judicial Court in state prosecutions. The prisoner, by himself or counsel, states his defence, and calls witnesses to prove it. His counsel argues the case to the jury. The state's counsel closes the argument for the government. The judge then instructs the jury, by stating what the accusation is, the manner in which it has been supported and resisted, and what the law is in such case ; and concludes by telling them, that they are to judge of the weight of evidence, and whom of the witnesses they will believe or disbelieve, if there is contradictory testimony, and to decide, on the whole matter, whether the accused is guilty or not.

111. They are also instructed, that, if they have reasonable doubts of the guilt, these doubts are to weigh in favor of the prisoner ; and that he is not to be found guilty, unless they are satisfied that he is so. If the accused is found not guilty, he is discharged. If guilty, the judge sentences him to such punishment as the law has provided, which may be a fine and imprisonment in the common jail, or a fine only. The Supreme Court can sentence to a certain number of days' solitary imprisonment, and to a certain number of years of hard labor, in the state's prison, as the case may be.

112. Thus every protection for innocence is secured, and all means of defence, consistent with the administration of justice, are permitted. The innocent can hardly be found guilty in any case, though the guilty may sometimes escape.

113. The trials of civil causes are conducted much in the same manner. Civil causes, suits or actions are lawsuits between one citizen and another. They are *civil*, not criminal. They are *causes* for judicial inquiry. They are *actions*, because the complainant is an *actor*. They are *suits* (from the French *suivre*, to follow), because they go on regularly from beginning to end. A *lawsuit* means a complaint by one person against another, to an authority which has power to do justice. The injured party is supposed to complain to the state. The state commands the sheriff to make known this complaint to the party complained of, and to summon him, or take his body, so that he be in court, at the proper day, to answer to the complaint before the judges. The

complaint is made to the state through these means:—The statute laws provide for the forms in which the grounds of complaint may be set forth. These forms are printed, with blank spaces for names of parties, and for stating the facts of each particular case. The clerks of courts provide these printed forms, and put the seal of the court to them, and sign them. The lawyers get them from the clerks. A citizen who has a cause of action, goes to a lawyer, and states his case, or complaint. The lawyer fills up one of these blank forms, according to the nature of the case, and thus makes a *writ*, which he delivers to a sheriff, who finds it to be the command of the commonwealth to him, to do as above stated. The sheriff obeys, and returns the writ to the court, with his certificate thereon of his doings. The judge proceeds on this writ, as the proper evidence that a suit is legally commenced. At the proper day, the parties appear in court, by their attorneys, and the suit goes on. The word *attorney* is from the Latin, and signifies a person who is lawfully authorized to act for and in the name of another. Any one, who has a legal capacity to act for himself, can empower another to act for him, by a written instrument, usually called a *power of attorney*. Lawyers are officially attorneys, and are so considered by the court, without a written authority. The party complained of either admits the truth of the complaint, and submits to judgment; or denies the truth of the complaint generally; or states, in a writing called a *plea*, why the complaint ought not to be sustained.

114. In this way, some question of fact or law is raised upon the whole matter. If it is a question of fact, the jury try the case, hearing witnesses, evidence and arguments on both sides; and find, on the facts submitted to them, for one party or the other; and the court render judgment on their verdict. If the case results in a question of law, the court decide on that, and render judgment. If no appeal is claimed to the Supreme Judicial Court, the successful party is entitled to a writ called an *execution*, which is a command, in the name of the commonwealth, signed by the clerk of the court, and addressed to the sheriff, who is required to execute it. This writ is adapted to the case, and thereon the sheriff is to give possession of land; or to take personal property, and sell it, to pay the debt; or to commit the debtor to jail, if no estate can be found to satisfy the demand; or to do such other act, to execute the judgment, as the precept commands him to do. When a debtor cannot pay, it seer.s

contrary to the laws of humanity to treat him like a criminal, and as though he had forfeited his social rights among his fellow men.

CHAPTER XI.

Supreme Judicial Court.

115. THIS is the highest judicial tribunal in the state. It consists of four judges, who are appointed and commissioned by the governor and council. They hold their offices during good behavior, and receive fixed salaries from the state treasury. One of these magistrates goes, once in every year, into each county of the state, except Duke's county (appeals in this county being tried in the neighboring county of Bristol), to try civil and criminal causes, in the same manner as such causes are tried in the Court of Common Pleas.

116. Criminal and civil causes come before them on appeal from the Common Pleas; except suits in equity, and appeals from the probate courts; and except, also, a small number of cases, which originate in the Supreme Court.

117. The four judges, or a majority of them, hold a court in different parts of the commonwealth, for the several counties (or for some two or more counties, comprised in one jurisdiction for this purpose), once in every year. This session is held for the trial of criminal cases in which the accused may be condemned to death, and for the purpose of deciding those questions which have arisen before one judge, and which have been reserved for the decision of all the judges. Cases are reserved in this manner:—A question of law arises in a jury trial, on which the judge is not prepared to give a decisive opinion. He declares the law to be as it then seems to him; but he may, if he pleases, reserve the question to be more deliberately considered by all the judges. The trial goes on, and the jury find a verdict. The facts found by the jury, and the question of law, are brought before all the judges, and argued by counsel. If the opinion given at the trial is confirmed, judgment is rendered on the verdict; otherwise, a new trial is ordered. Some cases are reserved thus:—The judge having stated the law to the jury, the counsel of either party, who thinks the law to have been erroneously stated, moves the judge to reserve the case for the consideration of all the judges. This is usually done;

and so much of the case as is necessary for the purpose is brought before all the judges, and disposed of in the manner before stated.

Sometimes parties agree on a statement of facts, and put them in writing, and the court hear arguments, and decide thereon, and pronounce such judgment as the case requires. This being the Supreme Court, it has the power, in the proper modes, of revising the proceedings of all inferior judicial tribunals, and of correcting all errors. The judgments rendered at the courts held by all the judges, are those which are made public by a reporter, in printed volumes. These volumes are books of authority; and the cases in them are cited by counsel, in arguing causes, and are referred to by the court, in forming and delivering their judgments. The reporter is appointed by the court, and has a salary (by no means too great for his services) from the state treasury.

118. No other mode of putting a convict to death but that of hanging is provided by the law of this state. Whipping, disfiguring the person, sitting on the gallows, or standing in the pillory, branding, &c., have been abolished many years; and fines, and a longer or a shorter imprisonment, and hard labor, substituted.

119. The duties of the Supreme Court of this state are exceedingly laborious, and highly responsible. They are performed with unsparing diligence and faithfulness, and with eminent ability. While such tribunals are upheld, and faithfully supported by the people, property, character, liberty and life are as safe as human society permits; and safe from all peril but that which the united military strength of the citizens cannot successfully resist.

120. This court exercises judicial powers as a court of equity, or chancery. Equity trials are conducted without the aid of a jury. In most actions in courts of law, except those which are brought to recover possession of real estate, the object is to recover money to compensate for damage done by non-performance of some contract, or for the having done some injury. A *chancery suit* arises where a party seeks to have a trust executed; or a contract performed according to its terms; or to establish that some fraud has been committed, and to obtain relief; or to prevent the doing of some injurious act, until the right at law can be tried; and in many other cases, where there is not a plain and adequate remedy in a court of law. A chancery suit begins by presenting to a court a written complaint, called a *bill in chan-*

cery, which concludes with a prayer, that the party complained of may be summoned into court, and make his answer on oath. A trial may be had on this complaint and answer, and nothing else; or either party may introduce any evidence proper in the case. An argument is had, and the court pronounces a decree, of which the court has power to compel the performance. It is probable that the increase of this sort of trials will make it expedient for the legislature to make some further arrangement for the exercise of judiciary power.

121. The following is a short sketch of A CAPITAL TRIAL. It has been supposed to have been so called, from the Latin word *caput*, which means head, and because the punishment was beheading, as is still practised in Europe, but not in any state of this Union. Its proper meaning is supposed to be derived from using the word *capital* in the sense of highest, or greatest, meaning, that conviction is followed by the highest punishment which can be inflicted, viz., death. Thus banishment was considered by the Romans a capital punishment, because it was held to be a *civil* death, or the loss of life in one's native country.

The prisoner, being in jail, is led therefrom to the court room by officers. He may be secured, if necessary, by irons on his arms and ancles, to prevent escape or violence. But if irons are used, they are taken off before he is placed at "the bar," it being considered improper that a prisoner should be so secured in the presence of the court. The bar is formed like a common pew, except that it is long and narrow. The judges sit on elevated seats, at the side or end of the room. Before them, at a desk, much lower than their seats, sits the clerk. The prisoner is placed at the bar, fronting the judges and the clerk. There are two jury seats, one on each side of the room, on the right and left of the judges. The space between the two jury seats, and between the clerk and the prisoner, is occupied by the prisoner's counsel, and the members of the legal profession.

122. In the profound silence observed in the room, the clerk rises, and, speaking to the prisoner by his name, commands him to hold up his right hand, and to hearken to an indictment found against him by the grand inquest (jury) of the county. The clerk reads the indictment in a slow and clear manner. This solemn accusation being thus made, the clerk demands of the prisoner, "What say you to this indictment? are you guilty, or not guilty?" The prisoner

answers, "Not guilty."—*The clerk*. "How will you be tried?"—*Prisoner*. "By God and my country."—*Clerk*. "God send you a good deliverance!" The word *country* means the laws of the land and a jury. It is a principle of justice, that no one is considered to be guilty until he is proved to be so, or confesses his guilt. The time of trial may be sooner or later, after this "arraignment," as it is called, of the prisoner. *To arraign* means to put in order for trial.

123. When the day of trial comes, the prisoner is brought in, as before, and placed at the bar. The clerk then says, "You are now set to the bar to be tried, and these good men, whom I shall call, are to pass between you and the country. If you would object to any of them, you must do it as they are called, and before they are sworn." The clerk calls a juror, who rises. The clerk says, "Juror, look upon the prisoner. Prisoner, look upon the juror." If objected to by the prisoner, he says, "I challenge," and the juror is set aside, and another is called; and so on, till twelve are selected and sworn. A prisoner may challenge twenty jurors without assigning any reason; and as many more as he can show to be unfit, from prejudice, partiality, kindred, or from having expressed an opinion, or any other cause which the court thinks to be a disqualification. When the jury is thus "impaneled" (a *panel* originally meant a little square of parchment, fitted to write names on), the clerk reads the indictment, in a slow and solemn manner, to the jury, to make known to them what the crime charged is, and when, where, and how committed; and then says, "To this indictment the prisoner has pleaded 'Not guilty;' and for trial has put himself on the country, which country you are. Gentlemen, hearken to your evidence."

124. The attorney or solicitor general then rises, and makes his statement of the law and of the facts, and such remarks thereon as the case requires, to inform the jury of what he expects to prove. The witnesses are then called, sworn and examined.

125. When the government's side of the case, or opening, is done, the junior counsel for the prisoner addresses the jury, and warns them of the solemn duty in which they are engaged, and presents the prisoner's view of the case, and thereby endeavors to controvert the law, or the facts, relied on by the prosecutor. He then calls his witnesses, who are sworn and examined. The senior counsel for the prisoner

then rises, and makes his argument to the jury, in which he strives, by all the talent and eloquence of which he is master, to satisfy the jury that the prisoner is innocent; that the prosecutor has not satisfactorily proved him to be guilty; and that the jury cannot be, and ought not to be, satisfied, on the evidence before them, beyond all reasonable doubt (which they must be to convict), that the crime is proved upon the prisoner. Such is the duty of the prisoner's counsel, although he knows the prisoner to be guilty. The question to be tried and decided is, whether that precise act was done, which the indictment charges to have been done. It can be judicially known that it was done, only by producing legal proof in conformity to the charge. Suppose the charge to be, that the accused committed murder by strangling. The counsel may know that the prisoner committed murder, but not in that manner. He may conscientiously defend against the charge as made, and hold the prosecutor to prove it. The counsel for the prisoner is followed by the attorney or solicitor general, who reviews the whole cause again, and endeavors, by his learning and eloquence, as is his duty, to satisfy the jury of the guilt of the accused, by doing away the arguments in defence.

126. When he has concluded, the judges in succession, or some of them, as they see fit, address the jury, and state what the crime alleged is; what the law thereon is; what evidence, on one side and on the other, has been offered; that, if they believe the evidence as stated, one way or the other, so they are to find the prisoner guilty or not guilty. Then the jury retire, under the care of an officer, sworn to keep them together, and apart from every one. Formerly, no food, or refreshment of any kind, was allowed to a jury during their deliberation; but the modern practice is otherwise, under the permission of the court. While they are preparing their minds for a verdict, the prisoner is taken back to the jail, and the court adjourns. *Verdict* is from the Latin *vere*, true, and *dictum*, saying. The jury are to return a *true saying* on the matter committed to them. Their saying is held to be conclusively true. But, even in a capital case, tried, as it is, with the utmost care and caution, a verdict would be set aside, if it were made to appear, that it would be unjust to hold it to be true.

127. When the court meets again, which is after an interval of one or more hours, the prisoner is again brought into court. The jury resume their place. Their names are

called, and, being all present, the clerk says, "Gentlemen, have you agreed on your verdict?" Some one of the jurors answers that they have, or have not, in which latter case other proceedings arise. The clerk then says, "Who shall speak for you?" Some one of the jury answers, "The foreman." The clerk then says, "Mr. Foreman, what say you? is the prisoner at the bar guilty or not guilty?" The answer settles the fate of the accused. If guilty, the prisoner is taken back to his prison, to await his sentence; if not, he is discharged.

128. If he is to be sentenced, at some day of the term he is brought into court, placed at the bar, and the presiding judge rises, and declares to him the crime whereof he was accused; that he has been tried, and in what manner; and that he has been found guilty; and demands of him, whether he has any thing to offer, why sentence of the law should not be pronounced. This inquiry is merely formal, because, if there be any sufficient cause for arresting the sentence, a motion will have been made by counsel to that effect, before the case comes to this stage. It sometimes happens, that an error in the proceedings, or some matter of fact, is disclosed after verdict, which is a proper ground for such motion. If no such motion has been interposed, the judge proceeds to declare to the prisoner the consequences of his offence against the laws of his Creator and of society; and concludes by condemning him to be taken from the place where he stands, to the prison, and thence to the place of execution, and there to be put to death. The record of the trial is afterwards certified to the governor, who appoints the day, and sends a warrant to the sheriff, commanding him to execute the criminal.

129. What he suffers, whose melancholy case it is to have his life depending on "Guilty," or "Not guilty;" how hope and fear alternately arise in his anxious face; with what intense interest he listens; how earnestly he seizes on all that can cheer him; how intently he gazes on the face of the foreman, who is to answer the last solemn question; and how he shrinks beneath the awful sentence of the law,—can be more easily imagined than described. Death by disease, by accident, or in necessary and lawful war, or even by old age, cannot come without deep concern. Condemnation to death, solemnly declared in the name of justice, and for the reason that the condemned is unfit to live, is an exercise of power, which is the highest and most awful that can be exercised by human authority.

CHAPTER XII.

Probate Courts.—Removal of Judges.

130. In each county there is a judge of probate and a register of probate. The judge holds courts, and the register records the proceedings of the court. The word *probate* is from the Latin tongue. It means proof. Here, it is a word used in the law to signify the act of proving a will, that is, that it is a lawful and valid instrument; but this court settles estates with or without a will.

131. On the decease of any person, who leaves a will, written, signed, sealed and witnessed, according to law, the will is presented to the judge of probate of the county, who causes the witnesses of these acts to come before him. If he is satisfied that the person, whose will it is said to be, was in such a state of mind, when the will was executed, as to be capable of making a legal disposal of his estate, and if the will was executed as the law requires, he approves of it, and allows it to be a will; and the executors therein named take the oath required, and give bonds to execute the will.

132. If there be no will, or one which cannot be legally admitted to be such, an administrator is appointed on the estate of the deceased. If there be a will, and no one is named therein as executor, or if no one named therein as executor will act as such, an administrator is appointed "with the will annexed;" and the will directs the mode in which the testator's property is to be disposed of; and such administrator acts as though he had been originally named as executor. An administrator takes an oath, and gives a bond, with sureties, to proceed according to law. His duty is, to take possession of all the personal estate; to sell it, pay the debts, and cause distribution to be made among those by law entitled to the residue. If the personal estate is insufficient to pay debts, and there is real estate which belonged to the deceased, the law enables an administrator to obtain authority to sell it, and make a good title to a purchaser; and the proceeds of sale are applied to pay debts.

133. If the deceased does not leave estate enough to pay his debts, the creditors share the proceeds among them, according to their respective claims. In this case, the deceased is said to have died *insolvent*. This word is from the Latin, and means, that one is unable to pay all that he owes.

134. All acts done by executors and administrators, in the settlement of estates, appear by rendering accounts to the probate judge ; who, from time to time, makes such orders and decrees as the case requires. In all probate proceedings, interested parties are to be notified, that they may appear in court, and examine for themselves, and make objection, if any error has arisen. The judgments, decrees and orders are recorded by the register ; and any party, who considers himself to be aggrieved, is entitled to an appeal to the Supreme Judicial Court, which is the Supreme Court of Probate for the whole state. In this court the proceedings are re-examined, and corrected if wrong, and returned to the Court of Probate to be further acted on, as the Supreme Court may have ordered, in deciding on the appeal. There are proper provisions when a judge happens to be personally interested.

135. The settlement of the estates of deceased persons involves a great variety of interests, affecting widows, children, heirs, legatees, devisees and creditors. Difficult questions sometimes arise, especially as to the meaning of wills ; and sometimes interested parties are obliged to resort to the Supreme Court to settle their rights. But, with such exceptions, the settlement of estates is effected with promptness and justice ; and with as much economy as can be, consistently with obtaining the right result ; and with less expense and delay than occur in most other governments. Expensive suits often occur between members of the same family, on the meaning of wills. A will can be expounded only from the words in which it is expressed. Want of certainty in its meaning, may occasion great difference of opinion among interested parties. A testator often lays the foundation for bitter contention, where he meant to secure peace. One who puts off the making of a will *because he can do it at any time*, runs some risk of never doing it ; or of having to do it when not in health, but while he is under the visitation of mortal disease ; and the risk, also, of being obliged to rely on a scribe incompetent to such duty, even if there were no call for despatch. Wills should be executed in the presence of respectable witnesses, who have no sort of interest in the testator's estate, nor in his disposal of it.

136. *Removal of Judges.* The constitution properly contemplates the possibility that a judicial officer may become an unfit person to hold his station ; and that the public good may require his removal. There are two modes of removal.

Wherever a case arises, in which a majority of both branches of the legislature concur in an opinion that a judge ought to be removed, they may express that opinion to the governor in the form of an address. The address would set forth the reasons for making it. Such a measure ought not to be resorted to, without having notified the interested party of the intention to pursue it, nor without giving him an opportunity to be heard, in repelling the grounds on which his removal is proposed. If such address be made, and the governor is of opinion that it ought to be complied with, the officer is accordingly removed by the governor, with consent of the council, and the vacant place supplied.

137. The other mode of removal from judicial office is by impeachment by the House of Representatives, and trial before the Senate. This kind of trial is provided for in the state constitution, for all officers of the commonwealth, who are charged, by the House of Representatives, with misconduct and maladministration in their offices. For example, a magistrate receives money for giving a judgment, and condemns the innocent, or acquits the guilty; and thereupon a complaint is made, by petition or memorial, to the House of Representatives. The House choose a committee to inquire into the matter, and if they report that the complaint is well founded, a committee is appointed to prepare an accusation in writing, which is called "Articles of Impeachment." The House chooses, from among their own number (usually), five managers, to conduct the trial. They carry the articles to the Senate, and inform them that the House impeach such an officer, and for such cause, and request the Senate to proceed thereon. The president answers, that proper order will be taken on the subject. The accused is summoned. The senators are organized as a court, by taking the proper oath. A time is fixed for the trial. The House of Representatives attend. The accused is assisted by counsel, and the trial proceeds as in common law courts. If questions arise in which a discussion is necessary among the senators, they retire. When they return to their seats, the question is put to each senator (as, for example, whether evidence proposed, and objected to, shall be received), who answers, Yes, or No, and a majority decides. When the whole matter has been heard, the senators retire and deliberate, as juries do. Having resumed their places, the president asks each senator, as to each article, whether the accused is guilty or not guilty. The question is answered, without giving any reason for the

opinion. If a majority answer, Guilty, on any article, the Senate, by their president, pronounce sentence, which may be suspension from office for a time or for life, or removal from office, and disqualification for life to hold any office. This is the extent of sentence which this court can pronounce. Besides being removed, the accused may be tried for the same offence on indictment, and punished, in a court of justice, if the case be one which demands a punishment beyond that which the Senate can impose. There have been six impeachments since the adoption of the constitution. The results were, 1. removal from office ; 2. suspension one year ; 3. removal and disqualification* for life ; 4. removal from office ; 5. not guilty ; 6. not guilty.

CHAPTER XIII.

The State Governments.

138. ALL the state governments are representative republics. All of them are conducted in conformity to written constitutions, adopted by the people, in each state, excepting in Rhode Island, where the ancient colonial charter is yet in force. The like effects are obtained in each state, by the exercise of political power. Each one has a legislative, executive and judicial branch, and its own modes of exercising power in these several departments. The distinctions existing among the state governments are found in the qualifications of the electors, and of the elected ; in the origin and duration of office ; in the limitation of the powers which may be exercised ; and in peculiar constitutional provisions ; and, especially, in the character of legislation in each state. It is intended to show, in this chapter, the prominent features of each constitution, and the striking peculiarities in each. It would not be expedient, if it could be done, to set forth the interior policy of each state, because this depends on laws which are subject to be amended or repealed. The manner in which republican government is administered in this country, appears from the examination of the Massachusetts constitution, and of the powers exercised under it ; and will fur-

* This disqualification was afterwards removed by the governor, who has this power in cases of impeachment, as well as in all others. In some states, this power (in impeachments) is reserved to the legislature.

ther appear by examining the national constitution. It is supposed that instructors can easily make known to their pupils the manner in which political power is exercised in their respective states. After having noticed, in the mode now proposed, the several constitutions, a short comparative view of them will be added. In the extensive territories of the *West*, new constitutions will be formed, and existing ones will sometimes need amendments; and whatever may have been done, in any state, on the important subject of framing a political system, must be interesting to those who are about to undertake any similar measures. To this consideration may be added, that the people, in each state, are interested to know in what manner those of other states are governed, since the people of all the states are united together for their common security and welfare.

139. *State of MAINE.* The constitution dated in 1819.

Legislature. House of Representatives chosen in towns, in proportion to number of inhabitants. Citizens, who have been such five years, and resident in the state one year, are eligible. Senate of *twelve*, of like qualifications, and twenty-five years of age; chosen in districts, in proportion to the number of inhabitants therein. Annual election. Meeting, first Wednesday of January.

Executive. A governor, chosen annually by the people. Same qualifications as senators, except thirty years of age. A council of seven, chosen in convention of House and Senate. The executive has the power of appointment and pardon, and a qualified negative on legislative acts, as in Massachusetts. Removable by impeachment. President of the Senate acts as governor in case of vacancy.

Judiciary. Supreme Judicial Court, and county courts. Judges appointed and removable as in Massachusetts; disqualified at the age of seventy.

Voters. The qualifications are so inconsiderable, that suffrage may be said to be universal.

Maine is supposed to have derived its name from a province in France. Originally a settlement by itself. United to Massachusetts in 1652; included in Massachusetts colonial charter of 1691. Separated from Massachusetts in 1820, by a law of the state, and a law of Congress. The constitution has a declaration of rights. Religious freedom is provided for; there is no religious test in oaths of office.

[Square miles, 32,000.]

140. *State of NEW HAMPSHIRE.* Constitution adopted in 1792. It has a declaration of rights.

Legislature. Vested in a General Court of two branches, House of Representatives and Senate. Representatives are chosen in towns, in proportion to ratable polls; must have been inhabitants two years; must have estate of £100, half of which is freehold. Senate of *twelve*. Senators must have been residents in the state seven years; must have freehold of £200; must be thirty years of age. They are chosen in districts, in proportion to amount of taxes paid therein. All elections for one year. Meeting, first Wednesday in June.

Executive. A governor. He must have an estate of £500, half of it freehold; like residence as senators. A council of five, chosen by the people. Executive powers and duties the same as in *Maine*. Removable by impeachment. President of the Senate acts as governor in case of vacancy.

Judiciary. The same as in *Maine*.

Electors. Residence and payment of taxes; but, practically, universal suffrage.

Legislature empowered to provide by law for maintenance of religious worship. No religious test.

[Square miles, 9,280.]

141. *State of MASSACHUSETTS.* In this notice of states, some things are added which were omitted in the chapters on this state.

Legislature. Representatives are required to have been resident one year in the town in which they are chosen; and to have a freehold of £100, or a taxable estate of £200. Senators are required to have been resident five years in the district in which they are chosen; and to have a freehold of £300, or taxable estate of £600.

Executive. The governor and lieutenant governor are required to have been seven years resident in the state, and to have a freehold estate of £1000, and to be of the Christian religion, though there is no religious test in oaths of office.

Electors. Residence and payment of taxes; but this is, practically, universal suffrage.

[Square miles, 7,800.]

142. *State of VERMONT.* Constitution adopted in 1793. It has a declaration of rights.

Legislature. Vested in a House of Representatives, styled the General Assembly. Members are qualified by two years'

residence in the state, and one in the town represented. Annual elections. Meeting, second Tuesday of October. No Senate. Legislative acts are subject to the revision of the executive branch, which can propose amendments, and suspend a proposed law till the next legislature.

Executive is vested in a governor, lieutenant governor and council of *twelve*, all chosen by the people for one year. In council, the governor is only presiding officer, with a casting vote.

Judiciary. Judges of the Supreme and county courts may be elected annually by the House of Representatives, in conjunction with the executive branch.

Electors. Their qualifications amount to universal suffrage.

Vermont has its name from two words in another language, meaning *green* and *mountain*. Its bill of rights provides that neither of the branches shall exercise the powers of the other; yet the executive is a concurrent part of the legislature, and the court for the trial of impeachments. Once in seven years, thirteen *censors* are chosen, who examine, during one year, all departments of the government: they have power to order impeachments, and to call a convention of the people. Religious freedom is provided for.

[Square miles, 10,212.]

143. *State of CONNECTICUT.* Constitution adopted in 1818; till which time it was governed under the colonial charter; has a declaration of rights.

Legislature. General Assembly, composed of House of Representatives and Senate of *twelve*. Representatives chosen in towns, according to numbers; senators by general ticket. The citizens are styled in the constitution *electors*; and all white male citizens are such, who are resident citizens for six months, and have a freehold of seven dollars yearly value; or who have done militia duty a year, or paid a tax. Electors are entitled to vote for all officers, and are eligible themselves to any office. All elections annual. Meeting, first Wednesday of May.

Executive. A governor, chosen by the people for one year. No council. Some appointments are made by nomination of governor to the Senate. Governor has negative, as in Massachusetts. Can reprieve, but cannot pardon, that power residing in the legislature. Removable on impeachment. Lieutenant governor is president of the Senate.

Judiciary. Judges chosen by the legislature. Removable as in Massachusetts. Disqualified at seventy.

In this state, entire freedom of religion is secured. There is no religious test in office. The constitution recognizes the existence of a large school fund, and provides for its perpetuity. [Square miles, 4,674.]

144. *State of RHODE ISLAND.* The government of this state has been continued, hitherto, under the charter granted by Charles II. in 1663. The grant was to a company, comprising a governor, deputy governor and council. To this branch has been added a House of Representatives, chosen by the people, in towns; and a judiciary department, the judges of which are chosen annually by the people. The administration of the government is carried on by the legislative and executive departments, according to the construction given to the charter by usage. The powers of the governor are very limited. There is perfect freedom as to religious opinions. No religious test. Suffrage is universal.

[Square miles, 1,360.]

145. *State of NEW YORK.* This state adopted a constitution in 1777, and amended it in 1801. A new constitution was adopted in 1821. The seventh article enumerates rights, and defines powers. This state is divided into counties, and the counties into towns, as in New England.

Legislature. Vested in a House of Representatives, called the Assembly, and in a Senate. The House is limited to the number of one hundred and twenty-eight members. The state is divided into districts, by law, among which these one hundred and twenty-eight are apportioned. The Senate is composed of one fourth of that number (or thirty-two), who are chosen in eight districts, four senators in each. Representatives, and one fourth of senators, chosen annually. The representatives must be citizens resident for a certain term, and the senators also, and the latter must be freeholders. Meeting, first Tuesday in January.

Executive. Vested in a governor, chosen biennially. He must be a native citizen, must be thirty years of age, a freeholder, and resident in the state five years. No council. Governor nominates judicial and executive officers to the Senate; has a qualified negative, and power of pardoning, except in treason.—The governor and lieutenant governor

are chosen in virtue of having the highest number of votes among those voted for, though it be not a majority of the whole. This is called election by *plurality*, from the word *plus*, more ; that is, from having more votes than any other candidate. Removable by impeachment. Lieutenant governor is president of the Senate.

Judiciary. This branch of government comprises many tribunals. It would require more space than can be given to this object, to define the powers of each:—1. The court for the trial of impeachments, and correction of errors, is composed of the lieutenant governor, the senate, the chancellor, the chief justice, and the two justices of the Supreme Court. This court revises the decrees of the chancellor on appeal, and the judgments of the Supreme Court on writs of error.—2. A chancellor, who has jurisdiction throughout the state in equity cases.—3. The Supreme Court of common law jurisdiction is composed of three judges (by the constitution).—4. *Circuit Courts.* The state is divided into eight circuits, in each of which one judge tries common law cases, and exercises chancery power to some extent.—5. There are divers county courts, of civil and criminal jurisdiction.—6. The city of New York has a Superior Court of common law jurisdiction *for the city* ; and, besides its proportion of terms of other courts, in general, it has many tribunals peculiar to itself.—7. Probate courts are held by a *surrogate*, a term borrowed from English law. Anciently, bishops had the exclusive right to settle the estates of the deceased. *Surrogate* means the deputy of the bishop, and is equivalent to *judge of probate*.—8. Justices of the peace are chosen by the people, in their respective towns, to serve for four years. A justice becoming an innholder is thereby disqualified.—Judges are removable on address of two thirds of the Assembly and majority of Senate, and by impeachment, and are disqualified at *sixty* years. The English forms of practice still prevail in this state ; in most other states, they were not adopted, or have been much simplified.

The constitution provides for religious independence. No test oath is required.

Electors. The qualifications required in 1821 were abolished in Nov. 1826 ; and this great and populous state adopted the principle of universal suffrage. Free colored people, only, must be freeholders to be electors.

146. *Further constitutional Provisions.*—1. The truth may

be given in evidence to the jury, in all prosecutions or indictments for libels. If the matter alleged to be libellous is found to be *true*, and to have been published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.—2. A school fund is created out of proceeds of sales of public lands;—3. And another fund for internal improvement, in opening communications between the lakes and the ocean.—4. Lotteries are prohibited.—5. The clergy are incapable of holding civil or military offices.—6. All votes for any elective office, which are given by the legislature or the people for the chancellor, or a justice of the Supreme Court, or circuit judge, during his continuance in office, *are void*.
[Square miles, 46,000.]

147. *State of NEW JERSEY.* The constitution of this state was established the second of July, 1776 (two days before the declaration of independence). It was formed on the supposition that the colony might again be taken under the protection of the British crown. It has continued to the present time, without any amendment, except that of changing the word *colony* for *state*.

Legislature. Vested in a Council and General Assembly. The Council consists of one member from each county, worth at least £1000; and in the Assembly, of three members from each county, worth, at least, £500. Power is given to the legislature to apportion the representatives in counties. Time of meeting, second Tuesday next after the second Tuesday of October annually.

Executive. The governor is chosen by the legislature annually. He presides in the Council, is chancellor, military chief, and surrogate general. Vice president of Council is successor in case of vacancy. The governor and Council are a Court of Appeals. The pardoning power is vested in this body.

Judiciary. Judges of Supreme Court are chosen by the legislature for seven years; other judges by the same, for shorter term. Removable by impeachment.

Voters must be citizens resident one year, and worth £50. Religious freedom, and exemption from taxation for support of worship, established. No bill of rights.

Remarks. This constitution is remarkable for the mingling of different powers in one branch.

[Square miles, 6,900.]

148. *State of PENNSYLVANIA.* This state took its place as a colony in 1682, and its name from *Penn*, its original proprietor. It went through the revolution under its original charter. The present constitution was established in 1790, and has not since been amended. It has a declaration of rights

Legislature. General Assembly, composed of Senate and House of Representatives. Senate is not to be more than one third, nor less than one fourth of the House, chosen in districts apportioned on the number of taxable inhabitants therein. The House to be not less than sixty, nor more than one hundred, chosen in districts on the same ratio as senators. Qualifications are, age of twenty-five years, citizenship and residence. Representatives chosen annually; senators for four years, one fourth renewed annually. Meeting, first Tuesday of December.

Executive. The governor is chosen by the people triennially, and can be chosen only thrice in twelve years. No lieutenant governor. No council. He has the uncontrolled power of appointment of all officers, with remarkably few exceptions. The president of the Senate succeeds on vacancy. The only qualifications required are citizenship, and residence in the state seven years next before election. Pardoning power, except in cases of impeachment.

Judiciary. Vested in Supreme Court, and inferior courts. Judges are appointed by the governor during good behavior. Removable on impeachment, or by address to the governor by two thirds of the legislature. No court of chancery. No court of errors.

Voters. Citizenship, two years' residence, payment of taxes; supposed to be, practically, universal suffrage.

Remarks. The constitution of this state is supposed to be the least complicated of any in the Union. It has no peculiar provisions, except in the importance which is attached to the choice of sheriffs and coroners by the people. The most unqualified religious freedom has prevailed in this state from its earliest settlement.

[Square miles, 43,950.]

149. *State of DELAWARE.* This state acted under the colonial charter till 1792. It then adopted a constitution, which goes much into detail; and which has not been amended, except in one judicial article, adopted in the year 1802. It has a declaration of rights.

Legislature. General Assembly, consisting of Senate and House. The former never less than one third, nor more than one half of the latter. Members of each apportioned on counties, with power in two thirds of each branch, to increase the number in counties. Citizenship, residence and freehold estate required. Senators are chosen for three years; representatives annually. Meeting, first Tuesday of January.

Executive. Governor, chosen by the people for three years; citizenship, and age of thirty-six years; ineligible for more than three years in six. Has the uncontrolled appointment of all officers; and the pardoning power, except in impeachments. He is succeeded by the "speaker" of the Senate, on vacancy.

Judiciary. The constitution provides minutely for the exercise of judicial power. The courts are numerous. Judges are appointed during good behavior. Removable on impeachment, or address of two thirds of both branches. No disqualification by age.

Voters. White citizens; residence and payment of taxes amounting, probably, to universal suffrage.

Further Provisions. Religious freedom. Members of the legislature cannot be appointed to any office created, or the emoluments of which have been increased, while they were such. The governor may be removed for inability, by two thirds of both branches.

[Square miles, 2,068.]

150. *State of MARYLAND.* The constitution of this state was adopted in 1776. It vests in the legislature the power of making amendments by proposed *acts*, which shall be published three months before the meeting of the next legislature, and if confirmed, amendments are thereby effected. This power has been frequently exercised, and the constitution has been amended, and may be further amended in like manner. There is a declaration of rights.

Legislature. Senate and House of Delegates. Senators are chosen for five years, by *electors*, who are chosen in counties. Citizenship, age of twenty-five years, and three years' residence. Delegates, citizenship, and one year's residence. Chosen by the people annually. Meeting, first Monday in December.

Executive. Governor, chosen by the joint ballot of legislative branches for one year; may be chosen three years successively, and is then ineligible for four years; must be

twenty-five years of age, and a resident citizen five years. Succeeded by a member of council in case of vacancy. There is an executive council of five, chosen by the people. Power of pardoning in all cases, except where the laws shall otherwise direct.

The Judiciary. Judges are appointed by governor and council, and removable by address of two thirds of legislature, and by *conviction on indictment* in a court of justice, and not by impeachment.

Voters. Universal suffrage.

Remarks. There are two provisions to be noticed : 1. the power of amending the constitution, independently of the express vote of the people ; 2. the removal of judges on *conviction*. Popular elections are made by *plurality* of votes. Formerly, voting was *viva voce*, or declaration at the place of voting, by the voter, of the person by him voted for. This mode of voting has been abolished in some parts of the state, if not in all. No declaration of religious belief is required, and religious freedom is established.

[Square miles, 10,800.]

151. *State of VIRGINIA.* In 1830, the constitution of this state was amended by the agency of its selected citizens (among whom were two ex-presidents, and the chief justice of the United States), who had many and important interests to adjust and to harmonize. It has a declaration of rights. *The grievances set forth in the Declaration of Independence are recited in a preamble, after the lapse of more than half a century.*

Legislature is called the General Assembly, composed of a House of Delegates, of one hundred and thirty-four members, apportioned in four great districts ; and of a Senate of thirty-two, apportioned in two greater districts. Members of the House are chosen annually by the people ; of the Senate, one fourth are annually renewed by popular election. Members of both branches must be freeholders. Meeting, annual ; constitution does not appoint the day.

Executive. The governor is chosen for three years, by the two branches of the legislature, and is eligible but once in six years. Citizenship, and residence, and age of thirty. A council of three, chosen as the governor is, the senior of whom is lieutenant governor. The council are chosen for three years, but one of their number is annually renewed. The power of pardoning.

Judiciary. Judges and attorney general are chosen by the joint vote of the two branches, during good behavior, and are removable on address, or impeachment.

Voters. White male citizens. The qualifications are specially set forth, and all persons not so qualified are excluded. These qualifications are such that the right of voting comes very near to universal suffrage. All elections are *viva voce*, and not by ballot.

Further Provisions. The clergy are ineligible as legislators. No legislative provision can be made for religious worship: every one is free to believe, and worship, as he pleases; and the relation between the clergy and their parishioners is placed upon the footing of their own will, and on that of any civil contract. The constitution does not disqualify persons for civil office in consequence of having been engaged in a *duel*; but it enables the legislature to make laws to that effect. This power the legislature may be supposed to have had without such provision; it amounts, therefore, only to a recommendation so to legislate.

[Square miles, 64,000.]

152. *State of NORTH CAROLINA.* Constitution adopted in 1776. It has never been amended; and contains no provision for making amendments. It has a declaration of rights. No time of meeting in constitution.

Legislature. The General Assembly is composed of a Senate and House of *Commons*. Each county chooses one senator and two representatives, who must be freeholders, and residents one year.

Executive. The governor must be a freeholder, thirty years of age, and resident five years. He is chosen annually by the legislature, and is ineligible three years out of every six years. A council of seven is annually chosen by the legislature. Power of pardoning. Removable by impeachment, or *presentment of a grand jury*.

Judiciary. Judges chosen by the legislature during good behavior; removable on impeachment or *indictment*.

Voters for senators, must be freeholders, and resident citizens; for members of House of Commons, payment of taxes, and residents one year.

Further Provisions. The clergy are excluded from the legislature and council. Atheists are ineligible to any office. Religious freedom recognized in like manner as in Virginia. Imprisonment for debt, after surrender of all estate, unconsti-

tutional. Schools required to be established, and such salaries to be paid "by the public," as may enable masters to instruct "at low prices."

[Square miles, 43,800.]

153. *State of SOUTH CAROLINA.* Constitution adopted in 1790. It contains a provision, similar to that of Maryland, for amendments. It has been twice amended, once in 1808, and again in 1816.

Legislature is composed of a General Assembly, consisting of Senate and House. One hundred and twenty-four representatives are apportioned in districts, in such manner, that each representative shall represent one sixty-second part of the whole number of white inhabitants, and one sixty-second part of the whole amount of taxes raised by the state. The Senate, of forty-five, are chosen in election districts, which are established for the choice of representatives. Members of House of Representatives chosen for two years; senators for four years, half of them renewed biennially. The former must be resident citizens three years; the latter for five years, and must be also thirty years of age, and freeholders. Meeting, first Monday in November.

Executive. The governor, chosen by the legislature for two years; re-eligible after four years; must be thirty years of age, a citizen resident ten years, and a freeholder. He has no council. Has the power of pardoning. A lieutenant governor, of like qualifications, is chosen, who has no power or duty unless the office of governor becomes vacant. Removable by impeachment.

Judiciary. Judges appointed by joint ballot of the legislature, during good behavior. Removable by impeachment.

Voters. Resident citizens two years, and freehold, or payment of taxes to the amount of *three shillings* sterling, which comes near to universal suffrage.

Other Provisions. Religious freedom established. Clergy ineligible to any civil office.

[Square miles, 30,080.]

154. *State of GEORGIA.* Constitution adopted in 1798. It has been amended in one judicial provision. It has no declaration of rights. It establishes religious freedom.

Legislature. The same organization as in South Carolina. The Senate and House chosen in counties, according to white population, adding thereto two fifths of people of color. Cit-

izenship, residence, age, and freehold or other taxable property. Meeting, second Tuesday of January.

Executive. Governor. No council. Citizenship, age, freehold or taxable property. Qualified negative, as in Massachusetts. Has pardoning power, except in impeachment; power of reprieve in treason and murder, till session of legislature. Removable on impeachment. On vacancy, president of the Senate. Governor is chosen by the legislature biennially. Has a qualified negative, as in Massachusetts.

Judiciary. Superior judges chosen by the legislature for three years. Removable by address and impeachment.

Voters. Qualifications, practically, amount to universal suffrage. [Square miles, 58,200.]

155. *State of KENTUCKY.* Constitution adopted in 1799; has not been amended. Convention necessary to amend. Has declaration of rights.

Legislature. Senate and House of Representatives. Senators chosen for four years; one fourth renewable annually. Whole number twenty-four; may be increased in proportion of one for every three added to the House. Resident citizen six years; age thirty-five. Chosen in districts, in proportion to qualified electors. Representatives must be resident citizens two years; age twenty-four; proportioned on qualified electors. Whole number never less than fifty-eight, nor more than one hundred. Meet annually, first Monday of November.

Executive. Elected by electors as above, for four years; then ineligible for seven. Resident citizen six years; age thirty-five. Power of pardon, except in cases of impeachment; of reprieving in treason, till the legislature are convened. Power of nomination to the Senate to all judicial, and other important offices. Qualified negative, as in Massachusetts. Lieutenant governor, who is president of the Senate. No council.

Judiciary. Tenure of office the same as in Massachusetts, and removable as in that state.

Voters. Universal suffrage.

Other Provisions. Members of legislature disqualified for one year to accept any office created, or any the emoluments of which have been increased during membership. Clergy disqualified for civil office. Legislature empowered to provide by law for the manner of instituting suits against the

state. In all elections, voting is *viva voce*, and not by ballot. *Slaves* not to be emancipated by law, without consent of owners; nor without compensation therefor; nor to be prohibited from being brought into the state by emigrants. Laws shall be passed to permit owners to emancipate on certain conditions, and to prevent slaves from being brought into the state as merchandise. Provisions are made for the enacting of laws requiring humane treatment, and trial by jury for offences. Religious freedom established.

[Square miles, 39,000.]

156. *State of* TENNESSEE. Constitution adopted in 1796. Amendable by convention; has not been amended. Has declaration of rights.

Legislature. Senate and House; both apportioned on taxable inhabitants. House never to exceed forty; Senate never more than half, nor less than one third, of the House. A freehold qualification required in both Houses. Meeting, third Monday in September every second year.

Executive. Governor, chosen by the people, by *plurality* of votes; must be a resident citizen four years, thirty-five years of age, and a freeholder. Elected for two years; ineligible more than six years in eight. Power of pardoning, except in impeachment. A lieutenant governor, chosen at same time; same qualifications; is president of the Senate. No negative; no council. No power of appointment, except in cases of vacancy, is given to the executive.

Judiciary. Chosen by the legislature, during good behavior. Removable by impeachment. No disqualification by age.

Voters. Universal suffrage.

Other Provisions. The clergy are excluded from the legislature. Atheists are disqualified for every civil office. Religious freedom established.

[Square miles, 40,000.]

157. *State of* OHIO. Constitution adopted 1802. Amendable by convention; has not been amended. Has bill of rights.

Legislature. House and Senate. Members of the former, resident citizens one year; age twenty-five; and must have paid taxes; chosen in counties, according to number of white male inhabitants above 21 years of age. Whole num-

ber never less than thirty-six, nor more than seventy-two. Senators, same qualifications; chosen for two years; one half renewed annually; chosen on the same basis as members of the House; and not to be less than a third, nor more than half, of the number of representatives. Meeting, on first Monday in December.

Executive. Governor, chosen by the same electors for two years; eligible six years in eight; must be thirty years of age, and a resident citizen four years. Power of pardoning except in impeachments. Speaker of the Senate is successor. No council; no negative; no power of appointment.

Judiciary. Chosen by joint ballot of two branches of the legislature for seven years. Removable by impeachment.

Voters. Universal suffrage.

Other Provisions. Religious freedom. Slavery prohibited, and provision for ending existing servitude by lapse of time.

[Square miles, 39,000.]

158. *State of INDIANA.* Constitution adopted in 1816. Amendable by convention; has not been amended. Has a bill of rights.

Legislature. Senate and House. Qualifications of members, resident citizens, and payment of tax; basis, numbers of white male inhabitants above twenty-one; chosen in counties and districts. Members of House chosen annually; senators for three years, one third renewable annually. Meeting, on the first Monday of December.

Executive. Governor, chosen by same electors for three years; eligible six years in nine; must be resident citizen five years, and thirty years of age. Power of pardon, as in Ohio; has qualified negative, as in Massachusetts. Nominates all officers (with few exceptions) to the Senate. Lieutenant governor, who is president of the Senate.

Judiciary. The judges hold their offices for seven years. The mode of appointment is peculiar to this state. The judges of the Supreme Court are appointed by the governor, with the consent of the Senate; the presidents of the circuit (or county) courts, by the joint ballot of the two branches of the legislature; and the associate judges of this court are elected by the people. Removable on impeachment.

Voters. Universal suffrage. Election by ballot, with power in the legislature to make it *viva voce*.

Other Provisions. Education liberally provided for. Slavery prohibited. Acts of legislature not in force till "pub-

lished in print." The like provision as to *libels* as in the state of New York. Religious freedom established.

[Square miles, 36,250.]

159. *State of LOUISIANA.* Constitution adopted in 1812 ; has not been amended ; amendable by convention. No bill of rights.

Legislature. House and Senate. Representatives chosen for two years ; must be citizen residents two years, and freeholders ; chosen on the basis of the number of qualified electors ; not less in number than twenty-five, nor more than fifty. Senators, fourteen in number, chosen in districts, for four years ; half renewed biennially. Senators must have been resident citizens four years, twenty-seven years of age, and freeholders of the value of \$1000. Members of either branch can take no office created, or office of which the emoluments were increased, during their membership, unless by popular election. Meeting, first Monday in January.

Executive. The members of the two Houses ballot for one of the two candidates, who have obtained the highest number of votes from the electors qualified to choose these members. The governor is elected for four years ; is ineligible next four years ; must be citizen resident six years, thirty years of age, and freeholder of \$5000 value. Clergymen ineligible ; also members of Congress. Power of pardoning, with the assent of the Senate ; but not in impeachments. President of the Senate, successor. Has a qualified negative, as in Massachusetts. No council. Has the general power of appointment with the consent of the Senate.

Judiciary. Appointed during good behavior ; removable on impeachment or address.

Voters. The provisions exclude none but those who have not paid a tax ; suffrage is, probably, universal.

Remarks. The clergy are excluded from civil office. This constitution is silent as to religion, and education, and slavery.

[Square miles, 48,220.]

160. *State of MISSISSIPPI.* Constitution in 1817. Has a declaration of rights ; amendable by convention ; has not been amended.

Legislature. Senate and House ; members of both chosen by the qualified electors of the state. Members of House of Representatives must be resident citizens two years ; twenty-two years of age, and freeholders of the value of \$500. Whole

number never less than thirty-six nor more than one hundred, chosen for one year. Senators shall never be less than one fourth, nor more than one third, of the number of the House; apportioned on taxable inhabitants, in districts; must be resident citizens four years; twenty-six years of age; freehold, or other estate of \$1000. Similar provision as in Delaware, as to offices created, &c. during membership. Time of meeting, first Monday of November.

Executive. Chosen by same electors; must have been a citizen twenty years, a citizen resident five years, thirty years of age, and a freeholder of the value of \$2000. Has qualified negative, as in Massachusetts. Chosen for two years. Has no power of appointment; no council. Has the power of pardoning, except in cases of treason and impeachment. Lieutenant governor, who is president of the Senate.

Judiciary. Judges are chosen by the legislature, during good behavior. Removable by impeachment or address; disqualified at sixty-five years of age.

Voters. The provisions amount to universal suffrage.

Other Provisions. Clergy excluded from civil office. Legislature shall provide, by law, in what manner and in what courts suits may be brought against the state. Religion and education "shall be forever encouraged in this state." *Slaves*; there is a provision similar to that in the constitution of Kentucky.

[Square miles, 45,350.]

161. *State of ILLINOIS.* This constitution was established in 1818, and is, in general, so much like that of Mississippi, that it is unnecessary to notice anything but the points of difference. Slavery is forbidden in Illinois. The governor and the judges of the Supreme Court, jointly, exercise the qualified negative on legislative acts, which, in some other states, is vested in the governor. First Monday of December, every second year. Voting, *viva voce*.

[Square miles, 59,000.]

162. *State of ALABAMA.* Constitution adopted in 1819. The provisions are so similar to those in the state of Mississippi, that it is unnecessary to describe them. The greatest number of representatives is one hundred. The Senate not less than a fourth, nor more than a third, of that number. Meeting, fourth Monday of October.

[Square miles, 50,800.]

163. *State of Missouri.* Constitution adopted in 1820. This constitution is so much like that of Mississippi, that it is needless to describe it. Meeting of legislature, first Monday every second year. Whole number of representatives never to exceed one hundred.

[Square miles, 60,300.]

164. The states in which *slavery* exists are Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Missouri, Louisiana, Mississippi and Alabama. Michigan Territory [containing 54,000 square miles] will not have slaves within it. In Arkansas Territory [containing 121,000 square miles, about one third more than New England] slavery exists, and will continue to exist. In the District of Columbia [containing 100 square miles] slavery is permitted. This District is subjected to the legislation of Congress. The city of Washington is within its limits. It has a judiciary by act of Congress; an appeal lies to the Supreme Court of the United States. Besides the parts of the United States which have been noticed, there are the North-western Territory, and the Missouri Territory, which are supposed to exceed in square miles one half of all the residue of territory within the United States. It is supposed that *slavery* will not be permitted in any part of these vast regions, unless in that which lies west of the state of Missouri.

165. It will be noticed, that *universal suffrage* is allowed in nearly all the states, the qualifications, citizenship excepted, being little more than nominal. Where constitutions have been revised, the right of voting has been extended to nearly all who are citizens. In constitutions recently formed, the right has been made equally extensive, unless the case of Virginia be an exception. If there be any persons who assert that the universality of suffrage is the *unsound* part of our political theory, they take on themselves to show one of two things, namely, (1.) that a restricted right of suffrage is practicable, and would be more safe; or, (2.) that our forms of government will not endure. The right to vote has been made dependent sometimes on property, or on being a householder, or on maturer years than twenty-one; and sometimes the interposition of electoral bodies has been deemed a security. But it does not appear, that where such provisions have been established, better results have been obtained, either as to the elected, or as to measures. It remains, however, to be

known, what the effect of general suffrage is to be, in a very numerous and dense population. Probably none of the American cities are yet large enough to test the principle in this respect.

166. This comparison of constitutions further shows, that very little seems to depend on the mode in which legislative, executive and judicial powers are brought into action. The great principle of keeping these three powers separate from each other, does not appear to have been strictly adhered to, in all the states; nor does it appear, that any evil has arisen from disregarding it to some extent. The success of our experiment does not seem to depend so much on the exercise of legislative and executive authority, as on that which is judicial. In nearly all the states, the administration of justice, through the agency of juries, grand juries, and learned and independent judges, appears to be duly and justly esteemed and respected. If there should be legislative and executive abuses, which the elective franchise fails to correct, the judicial power offers the only remaining remedy of an orderly and peaceable nature. No instance is recollected of making the judiciary *less* independent, on revising any constitution; but several, where it has been made more so.

167. In some of the states, there is a highly honorable constitutional provision; it is, that the legislature may provide by law for the institution of suits against the state itself. Such a provision in the constitution of the United States, properly carried into effect, would have saved much time and money. Many days are devoted, in each session of Congress (which sits at the expense of at least \$2000 a day), to the settlement of private claims, which could be settled, with little expense comparatively, and with much economy of time, either by a court, or board of commissioners. It is unjust that those who have well founded claims, should have no remedy but petitioning Congress, and attending session after session, awaiting a hearing and a decision, frequently until debate on fruitless motions is ended. The power so exercised is properly judicial, and not legislative. It is believed that Congress have the power to provide such remedies, although the constitution does not expressly give such power.

CHAPTER XIV.

The Constitution of the United States.

168. A BRIEF sketch of the settlement of this country will be useful to the young, to enable them to understand in what manner the national constitution was introduced.

(1.) In 1492, America was first known to Europeans, by the discovery of Columbus. Islands, and parts of the American sea-coast, were taken possession of by those nations of Europe who were engaged in commerce on the ocean. The right which the Europeans set up to America, was, that God had given the earth to those who were blessed with the revelation of Christianity; that the heathen might be lawfully driven out of the lands which their Creator had given to them, or might lawfully be subdued, and made the subjects of Christians. Europeans who came from Catholic countries considered the pope to have the power, as the supreme head of the church, to give the country of the heathen to the faithful. Those who came from Protestant kingdoms considered their respective sovereigns to have the like power. The right, thus founded, was asserted by force, and the dominion was obtained by conquest.

169. (2.) The right to dispossess the Indians has since been asserted on this principle:—The Creator must have intended the greatest good to the human race; that, as each individual regards existence as a benefit, the sum of happiness must be proportioned to the number of persons; that, as a greater number of civilized persons than savages can happily exist on a square mile, the savages may lawfully be driven away, to permit civilized men to exist and enjoy the blessings of life.

170. (3.) On whatever principle the justification of the acts of Christians towards the natives of America may rest (if it can rest on any), the fact has been, that the natives have been destroyed gradually, or thrown back, as white men advanced. This process is likely to go on, until the Indian will be known only in memory and history.

171. That territory which is now the United States (excepting Louisiana and Florida, which have been acquired within the present century) became colonies of Great Britain at different times. The earliest settlement was in Virginia, in 1607: the latest in Georgia, in 1732. Since the latter

time, there were thirteen colonies, down to the time of the revolution. A *colony* means a settlement of persons who go from the parent country to a distant place, but who remain subject to the parent country.

172. The colonies attempted to form some union among themselves at different times. The New England colonies did so in 1643, for some limited purposes. The last attempt at a more general union of the colonies, was in 1754. Dr. Franklin was one of those who had an agency in the attempt, and appears to have been of opinion, "that a union of the colonies was absolutely impossible, or, at least, without being forced by the most grievous tyranny and oppression."*

173. When the measures of Great Britain compelled the colonies to resist, in 1775, they formed the articles of "confederation;" which word signifies a league or union among several distinct states or sovereignties, to do certain acts, which are expressed in the articles of agreement entered into by the parties. The word *fœdus*,† in the Latin language, signifies a league or covenant, and is usually applied to contracts made between sovereigns. The word *sovereign* is from the French *souverain*. It means that power, in an independent state or kingdom, which is superior to all other power within the same. Where kings rule, they are called sovereign; in republics, the people are the sovereign. This government was conducted by a *Congress* (derived from a Latin word, meaning an assembly of persons), which exercised all the powers expressed in the articles. It could make laws, but it could not apply them, nor cause them to be executed. Till 1787, the intelligent men of the country were

* Kent's Comm. I. 193.

† The word *federal* is derived from *fœdus*. There were federal governments in Greece; and at the close of the last century, in Holland; and more recently, in South America. The union of the states, so far as the states are concerned, is federal; so far as the union is a government over one people, it is not. When the constitution was before the people in 1788, for adoption or rejection, there was a difference of opinion. Some were for it, some were against it. Those who were for it, were called *federalists*; those who were against it, were called *anti-federalists*. There were able and honest men on both sides. John Jay, and James Madison, and Alexander Hamilton, joined in a publication in favor of it. Their work is called "The Federalist," and is, and must ever be regarded as, a work of exalted merit. Strong political parties arose on this occasion. Like other parties, they have passed away, to give place to new ones. In popular and other governments, parties must exist. Those are the most dangerous which support men without regard to principle. The most commendable are those which support men, not to gain a benefit to themselves, but to secure the righteous operation of the principles by which the people have consented to be governed. It is no uncommon thing for the former to pass themselves off for the latter.

convinced, that the intercourse between the states, and the relation of the several states to foreign nations, would produce the most serious difficulties. They foresaw that all the good expected from independence was in great peril. It appeared to them that the states might soon wage war among themselves, and might seek foreign alliances to aid them in their contentions. It thus became a most solemn duty to attempt the establishment of such a union as would keep peace, ensure good neighborhood and its benefits, and make the interest of each state, in relation to all foreign states, one and the same, in peace and in war.

174. In 1787, a convention was held in the city of Philadelphia, to form a new and more perfect union. All the states then existing sent delegates, except Rhode Island. The numbers present at the time of final agreement on the form of the constitution were as follows: from New Hampshire, Massachusetts, Connecticut and Georgia, two each; New York, one; New Jersey, four; Pennsylvania, eight; Delaware, five; Maryland, Virginia and North Carolina, three each; South Carolina, four. In this assembly were many high, pure and honorable minds, well worthy of the serious duty in which they had engaged. All of them were eminent men; and some of them have since appeared in the highest offices of trust and honor in the nation. Other members had been present during the session, but had returned home before the business was finished; and their names do not appear as signers of the instrument agreed on.

175. George Washington was the president of this Convention. It appears, from the letters which he wrote to his friends, who had, like himself, hazarded their fortunes and lives in the war, that he considered the union of the states, under a well-balanced form of government, as the only means of preserving civil liberty. If there was good reason for forming the union, there must be good reason for continuing it. If it was feared that the states would fall into contentions among themselves, if not politically united, the same fear would arise if they were to be separated. If it was probable that the states could be saved from dangerous leagues with foreign powers, only by a firm alliance among themselves, that perilous consequence might follow, if this alliance were broken.

176. It would not be reasonable to expect that the operations of a government over so extensive and varied a community as that of the United States, will always be such as to be

entirely satisfactory in every part. There have been, there are, and there will be, causes of dissatisfaction, in some part. Yet can any one doubt that our lot, as a nation, is a far better one than that of any equal number of persons elsewhere in the world? The people of the United States have not the means of comparing their country, its institutions and advantages, and themselves, politically and socially, with the rest of the world. If this could be done, there would be far less of complaint, and a more common expression of thankfulness.

CHAPTER XV.

Constitution of the United States—continued.

177. THREE things deserve notice ; first, that an assembly collected from the whole extent of the states, from New Hampshire to Georgia, representing so many and such varied interests, should have been able to agree on any system of government ; secondly, that the system which was agreed on, and which was submitted to the critical examination and patriotic jealousy of conventions, in all the states, acting separately and independently of each other, and at different times, should have obtained assent, absolutely irrevocable, unless by the will of a majority of the whole people ; thirdly, that the system adopted should have been found, on actual experiment of forty years, to be fully competent to all the purposes for which it was designed. It has proved to be capable of adapting itself to all the changes which an increasing, thriving and expanding nation was to undergo, and to any number of members in an extending confederacy. The framers of this system are entitled to the gratitude of their countrymen ; and the people who adopted their work well deserve to be honored by their fortunate descendants.

178. This remarkable contract has been differently understood by different and intelligent minds. It has been held to be, (1.) a contract between sovereign states, to establish and maintain a government for the common good of the states, and the inhabitants of the states ; (2.) a contract, between each state and all the other states, to establish and maintain a government to the same ends ; and that each state reserved to itself the right of judging of the meaning of the contract

and whether it had been kept or broken ; (3.) a contract, between each citizen dwelling within the United States and all other citizens, to establish and maintain a government for the good of the whole, with limited and defined powers ; and providing that all powers not expressly given, or necessarily flowing from those which are so given, are reserved to the states, or to the people ; with authority in the government, so created, to expound its own powers.

179. In this latter sense, the constitution is now understood by the most eminent men in our country, and is so understood by the high authority of the Supreme Court of the United States, which, in the last resort, is to expound the constitution, and the laws made under its authority.*

180. It will be seen, in the examination of this instrument, that the state governments are required to do some acts in relation to the general government ; but these acts are not done in the nature of acts of sovereignty of the states, but as acts so agreed by the people to be done by the aid of forms, which were previously existing, and in familiar use.

181. The people of each one of the United States had declared in each state in what manner they would be governed, and they had made this declaration by a written constitution. They were living under their respective constitutions, and under the articles of confederation, when they took into view the establishment of a new form of government for the whole people. Conventions were held, and proposed measures discussed, according to forms familiar in the states. In our own state, the inhabitants of towns were assembled in the common mode ; the choice of delegates to the convention was made and certified as in other elections.

182. The conventions did not represent the state, but the people dwelling within the state, as part of the people of the United States. The constitution was not adopted by the state, but by the people dwelling in the state. The people thus agreed, that certain powers, which before that time had been exercised by the state government and the Congress, under the articles of confederation, should, thereafter, be exercised by persons to be chosen to administer the national constitution ; that is, to exercise the powers expressly given, and necessarily implied, and none others.

183. The constitution does not, and could not, descend to

* So decided in the Supreme Court of the United States, in *Harrison vs. Hunter's lessee*. The opinion pronounced by Judge Story.—1 *Wheaton's Rep.* 323.

every minute particular : it is general in its terms, and provides in itself for the manner in which those terms shall be expounded and applied. It does this with as much security as is possible in the nature of things, by reserving to the people the return of power at stated periods, when they can judge whether authority shall be continued in the same hands, or transferred to others.

184. Thus it will be found, that, while the state governments continue to exercise various powers, according to the will of the people in each state, and in the manner which their peculiar circumstances require,—the general government exercises other and distinct powers, for the general welfare of the whole nation, in those matters in which the whole nation have a common interest.

185. If it be asked, What is to be done, if the national rulers abuse their power? the answer is, If it be a case in which one or more public officers can be impeached and tried, that is the remedy : if it be a case which is regularly cognizable before the judiciary tribunals, a remedy is found there. Suppose that the legislative and executive powers should unite in making a tyrannical law, and that no remedy could be had by impeachment or judicial trial ; or suppose a state, as such, puts itself in avowed hostility to the national government ; what is to be done? Such cases are not to be supposed, and consequently are not provided for. If they happen, consequences must take care of themselves. No law was found in the code of Athens, to punish a son for killing his father, because the making of such a law might be an admission that such a crime *could* be committed. The powers in the national constitution are of like nature with those of the states. They comprise the making of laws, judging of, and executing them.

CHAPTER XVI.

Legislative Power.

186. THERE is, first, a law-making authority vested in Congress, which consists of a House of Representatives and Senate, each of which branches can dissent from or agree to the acts of the other ; the concurrence of both being necessary, as in the state governments, to the making of a law.

When a bill has passed both branches, and has been copied on parchment (which is called *engrossing*), and is signed by the presiding officers, it is sent to the president. If he signs it, it becomes a law. If he will not sign it, he sends it back with his reasons. If two thirds of both branches concur, it becomes a law, without the president's signature. The rolls of parchment containing the laws, are deposited in the office of the secretary of state, who is the certifying officer of the nation.

187. The House of Representatives can never have a greater number of members than one for every thirty thousand inhabitants; but Congress have the power, once in every ten years, to determine by law on the number of inhabitants entitled to have one representative.

188. The manner of computing the numbers is different in the slave-holding states from what it is in the others. Representation and taxation go together. In the slave-holding states, the white population and the slaves are numbered. The number of white persons, and three fifths of the slave population, make the numbers on which the right of sending representatives is founded. Thus, suppose a state to have 640,000 white persons, and 425,000 slaves; three fifths of the latter are to be added to the former, making 895,000; and on this number such state sends representatives. If a state has 640,000 white persons, and no slaves, it sends representatives apportioned on 640,000 only.

189. Thus citizens of the slave-holding states have more representatives in Congress than an equal number of white persons in other states; but then they are liable to a greater tax in proportion, when taxes are raised by direct assessment. Practically, this liability to taxation is of little importance, as direct taxes on property have rarely been laid, and seem, at present, not likely to be more resorted to in time to come. A greater proportion of representatives is always had by the slave-holding citizens; but this is part of the national contract, and is as binding on all the nation as any other part of it. This provision may be considered in another light, namely: If it be assumed that all the human beings in the United States are the basis of representation, two fifths of all persons not free are unrepresented. In this view, free states are the gainers. It may be doubtful whether colored population was regarded as persons, or as property.

190. The number of inhabitants in the Union is known once in ten years, by taking a *census*. This word is from

the Latin, and was used among the Romans to signify the valuation of any man's estate ; the registering of one's self, one's years, one's family, and servants. In the United States, it means simply an enumeration of the people, though Congress might make it to include a classification of employments, and some other objects.

191. The apportionment aimed at in fixing the number for one representative, is to keep the House of Representatives always as near the number of two hundred as may be. The number is not constitutionally limited, but depends on a law of Congress.

192. Representatives are chosen once in two years, by the people of the states, at such time, and in such manner, as each state by law determines. States are usually divided into districts, comprising the number of inhabitants entitled to one representative. A state may not so divide itself, but may order the whole number, which it is entitled to send, to be voted for on one ticket, throughout the state. No person can be a representative, who is not twenty-five years old, and who has not been a citizen seven years, and who is not resident in the state in which he is chosen. The House of Representatives has a speaker, who presides, and a clerk as recording officer. Massachusetts, and some other states, provide by law, that a representative shall be an inhabitant of the district in which he is chosen. It is doubtful whether the constitution of the United States authorizes this provision ; but a question on this point can hardly arise.

193. The Senate of the United States is composed of two senators from each state. They are chosen by the state legislature, for six years. No person can be a senator, who is not thirty years of age, or who has not been a citizen nine years, and who is not an inhabitant of the state in which he is chosen. The places of one third of the Senate are vacated at the end of two years, and new elections take place.

194. The Senate act in three capacities : (1.) as one branch of the legislature ; (2.) as a judicial court for the trial of impeachments ; (3.) as part of the executive power, for the purpose of approving or disapproving, by a vote of the majority, of the appointments made by the president. When a treaty is made with any foreign power, it is submitted to the Senate by the president. Two thirds of the Senate must approve of it, to make it valid. The House of Representatives have no concern with making treaties.

195. The vice president of the United States presides in the Senate. Their secretary is the recording officer.

196. Congress have power to make laws on such subjects only as concern the safety, support and general welfare of the nation, as defined in the constitution. Congress are, therefore, to provide for the common defence; for the payment of the public debt; for the regulation of commerce and foreign intercourse; for the manner in which aliens may become citizens; for a uniform system of bankruptcy; for the coining of money; for fixing the value of foreign coin; for a standard of weights and measures; for securing, for limited times, to authors and inventors, an exclusive right in writings and discoveries; for post-offices and post-roads; for the punishment of crimes against the United States; for the support of the army and navy; and for dock-yards, forts, arsenals, and other means of defence; for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions; and for organizing, arming and disciplining the militia. Congress may also establish such judicial courts as are necessary, to take cognizance of all breaches of the laws, which it is empowered to make. All powers necessarily implied in those expressly given, or by fair interpretation of the terms used, are also granted.

197. The regulation of the moneyed currency is among the highest powers of sovereignty, and includes coining. The word *coin* is from the French language, and signifies a stamp. Our gold, silver and copper money is thus derived:—Congress establishes the proportions of pure metal and of alloy, and the weight of the mixture, which makes any piece of money. The treasury of the United States buys the metal, causes it to be tried at the mint, and prepared in the circular form in which we see it. The pieces are then placed under the action of powerful machinery to be coined or stamped. The money is paid out by the treasury, and so gets into circulation. Banks and individuals may have bullion (any uncoined gold or silver) coined at the mint.

Of certain Powers vested in Congress.

198. *Naturalization.* Congress have power to provide by law for the mode in which persons who were born in other countries, may become citizens of the United States. Such persons are required to make a written declaration, before a court, that they have the intention to become citizens. If

they continue to reside in the country two years (as the law now is), and then apply to be admitted as citizens, the former declaration is produced to the court. Witnesses, to prove residence, and the fitness of the applicant to become a citizen, as to moral character, and attachment to the constitution, are examined. The applicant is required to make oath that he renounces all allegiance to his former sovereign, and that he will bear true faith and allegiance to the United States. He may then be admitted by the court to be a citizen, with all the rights and duties of a native citizen. If the applicant has a title of nobility, he must renounce that; if he never had such a title, he must swear that he has never been of any order of nobility.

199. *Bankruptcy.* The meaning of this word is defined in a subsequent page. Congress have power to establish a uniform system of bankruptcy. This power was exercised in April, 1800, by passing a general bankrupt law. This law was repealed in December, 1803. Since that time, many unsuccessful attempts have been made in Congress to carry this power into effect. The intent of a bankrupt law is, that the estate and effects of an insolvent person may be taken from him, by the act of commissioners, or of some court, and assigned to persons chosen by the creditors of the insolvent, to be by them distributed among the creditors, according to the amount of their respective debts; the insolvent to be thereupon discharged from all claims on him, if a defined portion, in number and value of the creditors, assent thereto. Such a measure seems so reasonable, that the refusal of Congress to adopt it, has been much regretted in some parts of the United States. The principle of a bankrupt law is not objected to, but a majority of Congress have not agreed on the details. The omission to exercise this power has led some of the states to make insolvent laws. This power may be exercised by the states, in a modified manner. (See note, on this subject, at the end of the volume.)

200. *Patents.* Congress have the power, and have exercised it, of securing to the authors of new and useful inventions and discoveries, and of improvements on those which are known, an exclusive right of making, using and selling, &c. for the term of fourteen years. This object is effected by petitioning for a patent, and sending with the petition a description of the invention, discovery or improvement. The application is submitted to the attorney general of the United States; and, if he finds no objection, a patent is issued by the

president, under the seal of the United States. A patent is a writing on parchment, setting forth the patentee's right and exclusive privilege. *Patent* was originally used to distinguish an *open letter* from a closed or sealed one; but by usage it has become a substantive, instead of an adjective. Every inventor is required to swear, or affirm, before he can receive a patent, that he is the true inventor, or discoverer, of the art, machine, or improvement, for which he solicits a patent. A patent, unless it be for a frivolous, or obviously useless object, is always granted when applied for; the patentee takes it for what it is worth, and must maintain his right under it, against all persons who choose to dispute with him as to the originality, or other fitness of the object patented to have been so exclusively secured to him. When suits arise on patent rights, they are tried in the courts of the United States, although the parties are citizens of the same state.

201. Congress have also the power, and have exercised it, of securing to the authors of books, maps, &c., an exclusive right to print and sell them during fourteen years; and, under certain circumstances, for a further and like term next following the end of the first. This right is secured by filing the title page of the book with the clerk of the District Court, who makes a record, and gives a copy of it, which the applicant is required to publish in a newspaper. This may be done by the author, or proprietor of the work; who is also required, within six months from the publishing thereof, to cause a copy of the same to be delivered to the secretary of state of the United States, to be preserved in his office. Infringement of this right may be the subject of suit in the United States' courts. Patents and copy-rights may be assigned and transferred to others; and the assignees have all the rights which the original parties had. The number of patents issued in thirteen years next preceding 1829, was 3289. Patent rights are sometimes called *monopolies*, but improperly so. There cannot be a monopoly in this country, though it is not uncommon in Europe. This means an exclusive right of selling something, in virtue of a public grant, and is derived from two Greek words, which signify *only* and *seller*.

202. *Public Debt.* Congress have power, and have frequently exercised it, of borrowing money, and making the United States debtor therefor. This is done by an act of Congress, which authorizes the secretary of the treasury (or any other person, as the act may express) to borrow money, and issue certificates for the sums borrowed. The act ex-

presses the whole sum to be borrowed, the amount of interest to be paid, and the time when the principal is to be paid. Books of subscription are opened in the principal cities, and any person, who chooses to lend, subscribes. Each lender receives a certificate that he is a creditor of the United States for the sum by him loaned, which certificate conforms to the act authorizing the loan. Of these certificates a registry is made at some one of the branch banks of the United States, as the practice now is; formerly there were loan-offices. Any person, who is the owner of a certificate, can sell it; and in such case, he assigns his certificate to the purchaser. That certificate is produced at the bank (the place of its registry), and a new certificate is issued to the purchaser. Such transfers are made whenever, and as often as, the owner chooses to transfer, and without any expense to the owner. The interest is paid quarterly at the bank, to the person there registered as owner. This public debt is known by the general name of *stocks*. It always has a market value, sometimes above, and sometimes below, the nominal value. It is a subject of speculation, as anything else may be, which is bought to be sold on the expectation of profit. Most of the nations of Europe have such stocks. Speculations are carried on in them to a surprising amount. Fortunes are won and lost in a day. Political circumstances affect their value so sensitively, that the rise and fall of stocks in the market, is the measure of hope and fear, as to political changes, just as the thermometer measures the state of the atmosphere. The present public debt of the United States is less than five cents to each inhabitant of the United States; while the public debt of Great Britain, at present, is something more than twenty-five cents to each inhabitant of the whole world.

203. *Post-Office*. This public convenience is exclusively under the direction of the government of the United States. It is established and regulated by law. The word *post* is said to be thus derived: Horses were placed (*positi*, in Latin) at certain stations on the road, for the use of the messengers (*courriers*, meaning runners in French) employed to carry letters. These messengers acquired the name of *posts*, from their connexion with the horses *positi*, or placed, for their use. The place of depositing and delivering letters acquired the name of *post-office*. The word *office*, now in common use, is from *officina*, which signifies a place in which work is done. That which a *post* carries (whether in a carriage or otherwise) is now called the *mail*; which is derived from

the French word *mallier*, which means a pack-horse ; or from *malle*, which means a trunk or box. The postmaster-general, who is resident at the seat of government, contracts for the carrying of the mails throughout the United States, and appoints the postmasters everywhere as his deputies. Every letter, paper, pamphlet, &c., is charged at a rate established by law, according to weight and distance. The postage is paid either at the place of deposit or delivery. The postmaster-general has a fixed salary. The compensation of deputies is a certain sum on the amount received by them for postage. Civil officers at the seat of government, and members of Congress, while in session, and for sixty days before and after, receive letters free of postage, and may free the letters they send from postage, by "franking" them, which is done by writing their own names and office on the outside. The revenue derived from the postage of letters, has generally been equal to maintaining the post-office establishment. In the year 1828, the number of post-offices was 7530 ; amount of postage received, \$1,659,915 ; amount paid to postmasters, \$548,049 ; mail carried over 1,086,313 miles. Since 1828, the number of post-offices has increased, it is said, to 8000 ; and the number of miles over which the mail is carried is annually increasing.*

204. *Regulation of Commerce.* This power is vested in Congress. It embraces a wide field. Great difference of opinion has arisen, in and out of Congress, as to the extent and objects of this power. There were, undoubtedly, two great objects in view ; the one, that the intercourse of the citizens with foreign nations, from all ports of the United States, should proceed under rules common to all ; the other, to raise a revenue from commerce, by rules applicable to all. To go further in this notice, would be to enter into the discussion, which involves great principles, and the application of them, on which subject there is great difference of opinion in the United States.

205. *Weights and Measures.* The power of regulating these belongs to Congress. This power is necessarily vested in that body, because the revenue from commerce is connect-

* The progress of this country is best shown by taking insulated facts, at distant points of time. It is within the recollection of persons now living, that the mail was sent, between Boston and New York, only once a fortnight. The same carrier came all the way on horseback, and brought the letters in saddle-bags. At this time (1830), less than forty-eight hours are sufficient, and, during two thirds of the year, less than twenty-four hours are sufficient, for communication between the two cities, as well for travellers as for letters.

ed with weighing and measuring most of the imported articles. Weights and measures affect all citizens of the United States in their dealings; and there ought to be a common standard throughout the country. Some very able reports have been made on this subject, but Congress has not exercised its power in this respect.

CHAPTER XVII.

Revenue and Expenditure of the United States.

206. It is obvious that, to do its duty, Congress must have the command of money. Wherefore the power is given to Congress to raise money by taxes, imposts, duties and excises. Since the adoption of the national government, Congress have caused the treasury to be supplied, two or three times, by direct tax on landed property, throughout the United States; and by laying a tax on spirits distilled in the United States, and on pleasure carriages.

207. The income derived from the post-office, the sale of public lands, and from the duty laid on importations of foreign merchandise, has been found fully sufficient to pay all the charges incurred on account of the nation, in time of peace, and to diminish rapidly the public debt, incurred in time of war.

208. The duty on importations is thus laid and collected:—All ships and vessels that belong to citizens of the United States, are named, measured as to tonnage, and registered or enrolled in the custom-houses established in the seaports. These vessels always carry with them papers, signed by the proper officers of the United States, showing what they are, to what port they belong, and whose property they are. When they depart from a port, they must have a certificate of clearance from the custom-house; when they return to any port of the United States, the master, if he comes from a foreign port, makes an exact statement in writing, and on oath, of all the property laden on board his vessel. This loading, or cargo, is liable to pay a certain sum of money fixed by law of Congress. Every article which can be imported, is mentioned in the law; and the sum also with which it is chargeable (unless exempted, as some few articles are) is fixed by the same law. The captain's statement is called a *manifest*,

from the Latin *manifesto*, to make plain or clear. It contains the names of persons that send the goods, who are called *consignors*, and the names of persons to whom sent, who are called *consignees*. Consignees appear at the custom-house, and claim such of the goods mentioned in the manifest, as belong to them; make a list of them, and swear to the truth of its conformity to the manifest, and to the loading of the vessel, which act is called an *entry*. The amount of duties thereon being ascertained, the consignees give bond therefor, with sureties, to the United States, payable some months afterwards. These debts are to be paid in preference to all other debts, in case the debtors on these bonds become insolvent; and no one, who has become insolvent, can assign his property to creditors, to the exclusion of the claims of the government on these bonds. The laws of the United States, which regulate the payment of duties, are called *tariff* laws. *Tariff* is of uncertain origin; it is said to have meant *the book of rates*. When these bonds are given at the custom-house, the proper officer gives to the consignee a written *permit* to receive the goods from the vessel, under the inspection of an officer, whose duty it is to see that the goods agree with the permit. Violations of these provisions subject the vessel and its loading to condemnation, on trial in the courts of the United States. The custom-house, as it is called, where this business is done, has in its service many persons who hold offices, and perform duties required by law.

209. Attempts are sometimes made to avoid the payment of duties by getting goods on shore secretly, which is called *smuggling*. If the attempt is detected, prosecutions ensue; and forfeitures, and penalties by fine, may be inflicted. When an oath is required, and perjury is committed, prosecution follows for this cause. The laws relating to the collection of duties necessarily contain a great many provisions.

210. All moneys raised under the laws of the United States, are accounted for and paid into the treasury of the United States. No money goes from the treasury but in virtue of a law of Congress. The prominent subjects of expenditure are the following:—

211. (1.) The salaries of all executive officers, from the president down to the lowest.

(2.) The salaries of all judicial officers, and the expenses of administering justice.

(3.) The payment of members of Congress, who receive eight dollars a day, and the expenses of going and returning,

computing twenty miles as one day. They decide by law how much they are to be paid.

(4.) The expenses of the army.

(5.) The expenses of the navy, including ship-building materials, dock-yards, and payment of all officers and men, and naval stores of all sorts.

(6.) The salaries of all ministers and diplomatic officers sent to foreign countries.

(7.) Expenses incident to the intercourse, treaties and contracts with the Indians.

(8.) The expenses of printing for the government.

(9.) The expenses drawn forth by national improvements.

(10.) The public buildings at Washington and other places.

(11.) The post-office establishment, which has heretofore been able to pay more than it has demanded.

(12.) Light-houses, revenue-boats, and all charges incident to the collection of duties in the custom-house.

There are many other expenditures, which appear in the appropriation bills, as passed at each session of Congress.

212. The House of Representatives is empowered to impeach officers of the United States, who, in such case, are tried by the Senate, in the same mode as in the state of Massachusetts.

213. Congress has the power to continue its session as long as it thinks the public service requires. Every new Congress must assemble on the first Monday of December, unless some other day be appointed by law; and it may sit from that day till twelve o'clock at night on the third of March, which finishes the two years. Its authority ends then, as a new election will in the mean time have taken place.

214. It is a common opinion, that the sittings of Congress are unnecessarily long; that day after day is spent in unprofitable debate. It is a rare occurrence in the British parliament, for the members of the House of Commons (more than twice as numerous as the United States' House of Representatives) to leave their seats until the subject under debate is finally disposed of. It is no uncommon thing for a debate in Congress to last for days, and weeks. Some of the long speeches, which are printed, are said to be delivered to an inattentive audience. It must be admitted, however, that in popular governments, ample discussion is more necessary than in those in which discussion may not have much effect on the final result; or, rather, where the result is usually as well known before as after the debate.

CHAPTER XVIII.

The Executive of the United States.

215. THE executive power of the United States is vested in a president, who is chosen for four years, commencing on the fourth day of March; and in certain executive departments.

216. The president is chosen by *electors*, who are in each state the same in number as the number of senators and representatives. Electors are chosen in each state in such manner as its legislature may direct.

217. Three modes have been used; (1.) by the state legislatures; (2.) by having the candidates for the office of elector borne on one ticket, and voted for throughout the state; (3.) to have one elector chosen in one congressional district; or two or three electors in one district; and to have two electors voted for throughout the state. The practice is different in different states, and varies, from time to time, in the same state.

218. The constitution, as amended, as to the choice of electors and election of president, now stands thus:—"The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and, in distinct ballots, the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the House of Representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation

from each state having one vote. A quorum* for this purpose shall consist of a member, or members, from two thirds of the states; and a majority from all the states shall be necessary to a choice. And if the House of Representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

“(2.) The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the vice president. A quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

“(3.) But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.”†

219. The president's compensation is fixed by Congress. It has always been \$25,000 a year. On entering office, he takes an oath to perform the duties of president, and that he will preserve, protect and defend the constitution of the United States. These duties are complicated and various. Many of them arise by implication. Those expressed in the constitution are, that he shall command the army and the navy; and the militia, when called into actual service of the United States. He may grant pardons and reprieves, except in cases of impeachment. He nominates all officers, civil and military, to the Senate, except some inferior ones otherwise appointed, and the assent of the Senate is necessary to the appointment. The most important of these exceptions is the appointment of deputy postmasters, some of whom have very lucrative offices. He may make treaties, by the agency of persons authorized by him, with all foreign powers; and, if the Senate concur, treaties become the supreme law, and binding on all other branches of the government, and on the states. He fills offices when the Senate are not sitting, who may dissent when they meet. Such appointments are void

* *Quorum* means this:—The whole body being a certain number, a portion of the whole, being present, may act. Thus, if the whole be 100, 70, *quorum*, that is, *of whom*, shall have power to do the act required.

† See Art. 2d, Sec. 1st, clause 3d.

at the end of the next session of Congress, if a nomination be not made to, and confirmed by, the Senate. It is the president's duty to inform Congress, by speech or message, of the state of the Union. He receives foreign ambassadors. He commissions all officers of the United States. If the two branches of Congress disagree as to the time of adjournment, he may adjourn them to such time as he thinks proper. Congress vests in him particular powers and duties, from time to time, by law. No civil officer, nor member of either branch of Congress, nor secretary of any department, nor even the president, is Honorable or Excellent, by the constitution. All the titles usually given, are merely by courtesy.

CHAPTER XIX.

Heads of Department.

220. THE constitution does not provide expressly for the establishment of executive departments; but it recognizes such departments, and also that there may be appointments to office by "the heads of departments." The several departments now existing are established by law. These are, (1.) of state; (2.) of the treasury; (3.) of the navy; (4.) of war. Others may be established. Officers are appointed in each department, by nomination of the president and approval by the Senate, who are called secretaries. The performance of duty by law required in these departments, is distributed among many officers, of whom the secretary is the chief or head.

221. The president may call on those secretaries for written opinions relating to the subjects which are under their management, respectively. By the aid of subordinate officers, and numerous clerks, exact records are kept of the transactions of these departments.

222. The secretaries of the treasury, of the army, and of the navy, make an official statement of the affairs of their departments, which is laid before Congress, at the first session. The statement contains an account of the acts done, and such as, in the opinion of these officers, should be done. Affairs relating to the Indians belong to the department of the secretary at war. The secretaries are frequently required by the House, and by the Senate, to furnish information

from the records and documents kept in their offices. The secretaries are usually called "heads of departments." There is a board of commissioners for the navy, a recent establishment by law.

223. A law officer resides at the seat of government, who is called the "attorney general of the United States." His duties are to attend, in the Supreme Court, to all cases in which the United States is a party, or interested; to give legal opinions on the construction of the laws; to examine all claims for the issuing of patents for inventions, and to allow patents, if in his opinion the claim is well founded. Other duties, express and implied, are performed by him; and special duties may be required, by law of Congress. He is not restricted from engaging as counsel in causes in which the United States are not a party, or interested.

224. The secretary of state is the official organ of communication with all ministers and agents sent to the United States by foreign governments. He corresponds with American ministers and agents resident abroad. His duties bring him into intimate connexion with the president, who is presumed to know in what manner he performs them. The president expresses his official opinions, in all diplomatic intercourse, through this officer.

225. *Diplomacy* signifies the communications which are made between independent nations, by their respective ministers or agents. The Latin word *diploma* means a charter, or writing; and *diplomacy* is supposed to be derived from the kind of written credential which such agents bear, authenticated by the national seal; which seal is the admitted evidence of facts certified under its authority.

226. The secretaries, attorney general, and all officers and clerks, are paid fixed salaries, which are provided for in the appropriation bill, or law of Congress, passed at every session. This bill includes all the ordinary expenditures of government, and provides for all payments to be made in behalf of the nation, excepting where a special act is proper.

227. Excepting that the constitution authorizes the president to require the written opinion of the heads of departments, on any subject relating to the duties of their respective offices, he has no council. He acts on his individual responsibility. The attorney general is frequently called on (though not so provided for in the constitution) for his opinion, by the president.

228. It is understood that General Washington availed

himself of the written opinion of the secretaries, and of the attorney general ; but that he decided for himself, with the light derived from these sources. He construed the constitution to mean, that the president may obtain information and advice as he may see fit ; but that he alone is answerable to the people for his acts, and their consequences. How far the same course has been followed by his successors, is not generally known.

229. The four secretaries, and the attorney general, are spoken of as "the cabinet," or private council, of the president.

230. The vice president has no official relation to the executive department. He is known only as the presiding officer in the Senate.

231. It is the opinion of many intelligent persons, that the labors of conducting the government could be more easily and correctly performed, by the establishment of a Home Department ; in other words, a further division of executive labors. Some duties would be taken from each of the existing departments, and concentrated in a home department. The affairs of this country are become so extensive and complicated, as to make such an amendment of the system almost indispensable. Those who think so, are not agreed on the mode of doing it.

CHAPTER XX.

Judicial Power.

232. EVERY state in the Union constitutes one, or is divided into two, judicial districts of the United States. There is, in each, a *district* judge, nominated by the president, and approved by the Senate, and commissioned by the president. His powers relate to causes arising under the laws made for the collection of duties ; to seizures of goods, alleged to be forfeited ; to penalties and forfeitures, under the United States' laws ; to certain cases where aliens and foreign consuls are parties ; and to certain crimes, of inferior grade, committed against the laws of the United States, whether on land or sea. Trials arising on contracts for seamen's wages are had in the District Court. In some cases, the judge proceeds with a jury, and in others without, according to the nature

of the case. In each district, there is a law officer, called the "district attorney." His duty is to institute suits for the United States, and to conduct all prosecutions and trials on indictment. There is also in every district a marshal, whose duty is similar to that of a sheriff.

233. The United States are divided into circuits. Two or more states comprise a circuit. For example, Maine, New Hampshire, Massachusetts and Rhode Island are the first circuit. Each of these states is a district. The judge of the Supreme Court, residing within this circuit, holds a court in each district, called a Circuit Court, together with the judge of the district in which the court is held.

234. The Circuit Court tries causes between citizens of different states, between aliens and citizens, and cases in which the United States is a party. It receives an appeal in some cases from the District Court. This court sits in four different capacities:—1st, as a court of common law; 2d, as a court of equity, otherwise called a "court of chancery," in which there is no trial by jury, but the party complaining states his complaint in a bill of equity, and the party complained of makes his defence in a written answer, which is among the very few cases, in the administration of justice, wherein that which a party says for himself, is evidence; 3d, as a maritime court, that is, a court trying matters relating to affairs on the high seas; in time of war, it tries all cases of prizes, on appeal from District Courts, and proceeds to condemnation of the property captured; 4th, as a court for the punishment of crimes against the laws of the United States.

235. It is the court of the highest power known under the laws of the United States, in criminal cases. It proceeds with a grand jury and petit jury. It has power to try all offences punishable with death; as murder, in forts, arsenals, and places ceded by the states to the United States, for national uses, and on board ships of war in time of peace, and when not within the body of a county, or harbor; and piracy, which is robbing on the high seas. Piracy includes also, by the law of the United States, carrying on the slave trade; which means going to the coast of Africa, and buying the natives of that country, and transporting them over sea, to be sold as slaves. This provision first appeared in the law of this country. In short, all crimes prohibited by the laws of the United States, are tried and punished in this court, except the inferior ones, which the district judge tries.

236. The proceedings of this court are revised by the Supreme Court of the United States, either by appeal or writ of error ; or where a case goes up on difference of opinion between the two judges.

237. The jurisdiction of this court is not exclusive, in some civil causes. An alien has his election to sue in the Circuit Court or state court. A citizen may sue an alien, or citizen of another state, in either ; such defendants may transfer the case into the Circuit Court. The Circuit Court cannot, in any case, require a citizen to appear, and submit to its jurisdiction, unless he is a citizen of the state in which the court is held, or is found in that state when the suit is instituted.

238. The Supreme Court of the United States is composed, at present, of seven judges, who are the same judges who hold the Circuit Courts before mentioned, and who convene at the city of Washington, annually, in the month of January, and sit six or eight weeks. This court has original jurisdiction in some few and rare cases, and among them those in which a foreign ambassador is party. Its principal employment is to rejudge cases which come up from the Circuit Courts.

239. When the constitution or laws of the United States come in question, in the highest court in a state, and are there judged of, a writ of error may be brought, whereby the case is transferred to the Supreme Court of the United States, and the decision of the state court may be affirmed or reversed. This provision is a necessary one, that the constitution and laws of the Union may be finally judged of in one tribunal, and that there may not be discordant judgments in the like matters. When the Supreme Court reverses the judgment of a state court, it issues a mandate or command to the state court to conform its judgment to that of the Supreme Court. But the Supreme Court of the state, it is presumed, would, on receiving such mandate or command, examine for itself, whether this high power had been constitutionally exercised ; since no one court can command another, but in virtue of a constitutional authority legally applied.

240. The cases in the Supreme Court are argued with solemnity and ability. They are usually of great importance as to value and principle. They receive the most faithful deliberation, and are pronounced upon with eminent dignity and learning. They are made public by an annual volume of Reports, which are books of high authority.

CHAPTER XXI.

The Army, Navy, and Militia.

241. AMONG all civilized nations, it is an established principle, that each nation is sovereign within its own territory. The form of government, and the internal policy, are the concern of each nation, and not that of any other. It is only in the acts of nations, their citizens or subjects, affecting other nations, their citizens or subjects, that nations are considered as interested. But this principle does not prevent one nation from attempting, by force, to compel another to do or yield something ; much less does it prevent one nation from attempting, with or without justifiable cause, to conquer, and to extend its empire over, another.

242. The controversies which thus arise between nations, and which are carried on by armed force and violence, and in which each strives to inflict on the other all the sufferings which are practicable, by destruction of life, and the destruction or seizure of property, public or private, are called wars.

243. As nations have not agreed on any mode of settling national quarrels, otherwise than by force, each nation considers itself to be under the necessity of providing the means of vindicating its rights, and of defending itself against all attacks which may be made on it. These means consist in having armies and navies, or in having the population of the country armed and disciplined as soldiers, or in having all these means at the same time.

244. The practice in our country is, to keep a certain number of officers and soldiers (at present about six thousand) as an army. They are distributed among all the forts and arsenals, and are consequently few in any one place. The naval establishment is held to be indispensable, from our extensive sea-coast ; and it is the wise policy of our government gradually to strengthen it, by the addition of ships, the establishment of dock-yards, and the increase of materials, to be used as occasions may require. A standing army is not so much a favorite with the people of this country as a navy. Armies have sometimes been turned to subdue those whom they were organized to protect, and thence arises a natural jealousy. But a navy is less adapted to aid the views of

usurpation. Neither is it likely, in any probable circumstances of our country, to be used in subverting our freedom.

Minors sometimes enlist in the army. A contract for such service, like most other contracts made by minors, is void. A minor, so enlisted, may be freed by a writ of *habeas corpus*. Anciently, all writs were in the Latin language. This writ has its name from the two words above mentioned, which were used therein. Any person, illegally deprived of his liberty, may petition to a court, or to a judge, and state his cause of complaint. A writ may thereupon be ordered, addressed to the party complained of, who is therein commanded to have the body (in Latin, *habeas corpus*) of the person confined, before the court or judge. This writ being obeyed, the court, or judge, inquires into the cause of confinement, and grants relief, if it ought to be granted. In the case of an enlisted minor, his father, or any friend, may petition in his behalf for such writ. If, on inquiry, he is found to be a minor, and held against his will, or that of his father, he is discharged from his enlistment, by order of the court, or judge.

245. The framers of the constitution appear to have considered, that the natural and cheap defence of our country is to be found in the militia. They have, therefore, provided for the existence of such a power, in a manner designed to effect the intended purpose, but carefully avoiding the use of it for improper purposes. The Convention of 1787 must have found the adjustment of the various interests embraced in this subject, a delicate and difficult duty. No constitution would have been adopted by the people, which placed the armed citizens of the country under the military orders of the national rulers. On the other hand, the best use could not be made of this power, for the common defence of the country, if it were not placed, to some extent, under such orders. The middle course adopted was, to make partition of the power, and to vest a part of it in the national government, and to secure a part to the state government.

246. To the United States belongs the power of organizing, arming, and disciplining the militia, and of governing such part of it as may be called into the national service. To the states, respectively, belong the appointment of officers, and the training of the militia, according to the discipline prescribed by Congress. When not in the actual service of the nation, the militia is commanded by the governors of

states, and subordinate officers. *Organizing* means, the formation into bodies of men, and the denomination and rank of officers. *Arming* means, prescribing the sort of arms which are to be used by the infantry, cavalry, artillery, and other descriptions of force. *Disciplining* means the mode in which the armed and organized bodies shall be instructed, and required to use their arms. It cannot be objected to, in principle, that, when the militia are called into actual service, they shall be governed by the rules which Congress has prescribed for the government of the troops of the United States. It is possible that this power, like all other powers, may be misapplied, or abused; but that it may so be, is not a reasonable ground of jealousy.

247. There is a balancing power against usurpation and abuse, in reserving to the states the appointment of officers, and in the training of the militia under such officers, according to state laws, though in conformity to the discipline prescribed by Congress.

What may be the practical result of the system, in possible events, must be left to time to disclose. But hitherto no experience has shown, that the system itself could have been more wisely ordered.

248. The power reserved to the states is exercised, in Massachusetts, by electing the generals of divisions of militia (of which there are seven in the state), by concurrent vote of the two branches of the legislature. Divisions are composed of two or more brigades. Generals of brigade are elected by the written votes of field officers; that is, colonels, lieutenant-colonels, and majors of regiments. Field officers are elected by the written votes of the captains, lieutenants and ensigns of the companies in each regiment; and the latter, by written votes of the members of companies. All these officers are commissioned by the governor, and sworn to the faithful performance of their duty.

249. Some persons think it would be wiser for us to depend on the standing troops of the United States, or to believe and act as though there never could be any call for defence. Others think, that those who have property and families, but who are incapable of defending, or who can purchase exemption, and those who can and will defend, should be held to some just equalization of the charges and labors of defence. Which of such persons are right, well deserves the consideration of those who have the good sense to know what the value of their possessions and privileges is; and of those

also, who are intrusted with the power of providing for the common safety. It is true, that the present militia system in Massachusetts does not hold that place, in general respect and esteem, which naturally belongs to the honor and dignity of self-defence, and to the power of maintaining, against any force, the highest order of political blessings which human society has experienced.

CHAPTER XXII.

The Laws of Nations.

250. It is a common opinion, that the laws of nations can be understood only by lawyers, judges and statesmen. This may have arisen from the circumstance, that the subject has been treated of by eminent men in so extensive and learned a manner, that their works are not adapted to common use. It is believed that this branch of law can be understood by any youth, who can understand the nature and force of moral, political, or religious law.

251. Both natural and revealed law forbid that man should destroy the life of man ; and also that any injustice should be done between man and man, concerning property, liberty and fame. Human law defines the law of nature and of revelation, and annexes the earthly penalty and consequence, and establishes tribunals to apply this law to cases as they arise. There are commands and prohibitions in natural and revealed law, which human tribunals cannot enforce. These laws enjoin benevolence, kindness, charity, decency, &c. For the breach of these laws, called by writers *imperfect obligations*, no action can be brought into courts of justice. If one says of another, that he is a liar, that he is avaricious, that he is injurious in his dealings, the offended party has no remedy, but that which he can get by calling on the offender to take back what he has said ; or by his own conduct and character, to show that the assertion is untrue ; or taking vengeance into his own hands, and committing a crime by personal violence. Among vulgar persons, the result is an assault ; among those who govern themselves by what they call the laws of honor, the result is a duel, in which the one party or the other, or both, may be killed.

252. Nations hold much the same sort of relation to each other, which individuals in society hold towards each other,

as to those duties which are not noticed in courts of justice. There are no courts for the settlement of national crimes or claims. Each nation, whether great or small, powerful or weak, is entirely independent of every other; and when national quarrels arise, the offended party must get justice as it can, or go without it, or have recourse to violence, that is, to war. Nations resort to the laws of honor, and may be said to fight duels. Most of the wars which have happened, are as absurd and wicked as duels between individuals usually are.

253. That which the learned writers on national law have done, is, to discuss the principles on which national law rests. Those who are most approved, consider national law to be the law of nature, applied to the affairs of nations in their dealings with each other. Their works consist of opinions, enforced and illustrated by thousands of historical events. They describe what has been, and what ought to be, among nations. But when two or more nations have a quarrel on hand, they regard these opinions as little as two angry and embittered individuals regard the precepts of natural and revealed law. Nations attend, in such cases, to the sense of self-respect, to their own interests, and to the consequences of war; individuals have an eye to public opinion and courts of justice, if they have no worthier restraint.

254. The law of nations may be divided, for our present purpose, into three kinds:—First, matters of opinion, as above stated.

Secondly, usages, or customs, which have been so long observed, that all civilized nations are considered as bound by them; just as honest, well-behaved persons are understood to mean to be governed by established rules of conduct, in their intercourse with each other.

The third kind of national law consists of positive contracts, or treaties.

255. (1.) Matters of opinion. To explain this, let us suppose that the states had not been united, or that the Union were dissolved, and that New Hampshire had declared war against Rhode Island. May New Hampshire send an army through Massachusetts? This question may be divided, and subdivided, and argued. An octavo volume might be written on it: but it would contain opinions and reasonings only, which the interested parties might, or might not, respect. It is obvious, that there cannot be any court of justice, in which

rights, duties or claims, arising in such case, can be settled, or inquired into.

256. (2.) Customary law or usage. On this it may be remarked, that, as the true spirit of Christianity has been more and more diffused and understood, usage has become more and more liberal and humane. Commerce has had a powerful effect in disclosing to nations their true interests. Society grows better and better, as men become more and more temperate, honest, industrious and intelligent. So nations become more and more improved, as they facilitate intercourse, and promote each other's welfare, in all things consistent with their own.

257. Mutual convenience or utility is the foundation of the customary law of nations. One nation may be supposed to say to another, I will do so and so, if you will do the like. Long-continued usage settles, that the proposition has been thus mutually agreed to.

258. Thus it is the universal practice of each civilized nation to send one of its subjects or citizens, in time of peace, to reside at the seat of government of other nations. This person is sometimes called *ambassador*. The original meaning of that word is traced in several languages. It is supposed to have meant service, or waiting. An ambassador represents the sovereign or country that sends him. He is received by the sovereign he goes to, and speaks, and is spoken to, as such representative, in all matters of form or business. He is privileged from accountability to the sovereign to whom he is sent. He is to be respected as his own sovereign would be, if he were personally present, instead of his representative.

259. He cannot be made answerable in any court of justice. If he commit murder, he cannot be punished, but by his own sovereign; and the course is, to send him home, and demand that he shall be punished. But if he conspire with others to overturn the sovereign he is sent to, it is said that he may be treated as a traitor, and punished accordingly; and that his own sovereign might be treated in like manner, if he had committed the like offence. On this point all are not agreed.

260. An ambassador is to find out, and send to his government, everything that he can, as to the policy, designs and secrets of the sovereign he is sent to, and of the ambassadors of other powers, whom he meets with at the place of

his residence. His letters are confidential and secret, and sometimes written in characters, or marks agreed to be used, instead of the alphabet, so that, if discovered, they may not be understood. It may readily be supposed, that, in the governments of princes, and where selfishness, intrigue and favoritism manage the secret springs, an ambassador's letters may be very amusing. Such letters rarely come to light, though enough of them have appeared to show what they are.

261. An *envoy* is another sort of diplomatic agent. This denomination comes from a French word, signifying to send. He is a person *sent* to represent his sovereign, on some particular occasion; for example, to demand satisfaction for a wrong done, or to make satisfaction for one; and to prevent the necessity of resorting to force, for the purpose of avenging an insult or injury.

262. A *plenipotentiary* is a person whose title is derived from two Latin words, signifying full power. This sort of public agent is usually sent to make a treaty at the close of a war; or to prevent a war when one is threatened; or to negotiate on some highly important national matter, arising out of treaties, or otherwise.

263. The United States generally send a diplomatic agent under the name of *minister*. His powers and duties depend on the instructions that are given to him. Usually his business is to reside at the foreign court as the representative of the United States; and to keep his own government informed of what is going on there. If a case arises requiring it, he takes care of the interests of his fellow citizens, in the country where he is. He speaks and acts for them, and claims redress for their wrongs. To his ordinary power may be added special commissions, as when a treaty is to be made. Our ministers receive an outfit of \$9000, and an annual salary of \$9000. One of the most approved writers on the law of nations classes public ministers thus:—

1st Class. Legates of the pope; nuncios of the pope; ambassadors.

2d Class. Envoys; plenipotentiaries; internuncios of the pope.

3d Class. Ministers; ministers resident; ministers *chargés d'affaires*; consuls with diplomatic powers; *chargés d'affaires*.

Many of the American ministers abroad are of the last mentioned description; the name is French, and means a

person *charged with* the management of the diplomatic *affair* of his nation.

264. (3.) It has long been the practice of civilized nations to settle their relations to each other by treaties. A treaty is a bargain made between two nations on any matter which concerns them. It may relate to the commercial or other privileges which the subjects or citizens of each may enjoy in the other's country ; or to the settlement of disputed boundaries ; or to the manner in which they will conduct themselves towards each other in case either should be engaged in war with other powers. Treaties sometimes provide as to what shall be done, in case war should break out between the contracting parties ; sometimes the object is to make reparations for wrongs, or to settle the terms on which peace shall be established at the conclusion of a war, or to provide for acts to be done by one, or each party, at some future time.

265. When a treaty is to be made, the ministers of each party meet, confer and agree. They put their agreement in writing. Two exact copies are made ; both are signed by both parties, and their seals are affixed to the signatures ; one of these copies is sent to each of the respective sovereigns, who accept and ratify this contract, or reject it. If either rejects it, there is no treaty, and the parties remain where they were. Crowned heads accept or reject, as they see fit, on their sole authority. Whether the president of the United States can, or cannot, reject a treaty, without consulting the Senate, is no otherwise settled, than that, in one instance, a president did so reject. However this may be, the president and two thirds of the Senate must concur, in adopting and ratifying a treaty. When a treaty is thus constitutionally ratified, it becomes a supreme law of the land. Every state, court of justice, and every citizen of the United States, must so regard it.

266. *Consuls* (from the Latin word *consulo*, to consult) were the highest officers in the Roman republic. That term is now used to denote commercial agents, who are sent to reside in foreign seaports. They carry a certificate of their appointment, and must be acknowledged as consuls, by the government within whose sovereignty they reside, before they can act as such. Their business is to render any assistance which merchants and shipmasters of their own country may need. They grant all certificates which are required by commercial regulations, or by treaty. They have certain powers and duties in relation to seamen of their own country.

They are the proper persons to apply to the minister of their own country, residing at the court of the sovereign, when his agency is needed. Some consuls are paid by a salary, others depend on the fees of office. They may, or may not, be merchants themselves. There is this difference between a consul and a minister, that the powers of the former may be annulled by the sovereign of the country where he is, while those of the latter can only be annulled by the authority that sent him. When a consul is received, and recognized as such, by the government to which he is sent, it issues to him an official writing, which is called an *exequatur*. This comes from the Latin word *exæquatur*, meaning, *is considered equal*. In the sense here understood, it means a proposition assented to; and that the government to which a consul is sent, agrees to regard him in that character. An *exequatur* may be annulled by the authority from which it proceeds; and is so, when the conduct of this officer requires such a measure.

CHAPTER XXIII.

The Law of War.

267. THE part of the law of nations which is most sensibly felt by all classes of persons in a community, is that which is connected with war. When we consider how essentially war affects the products of labor, how costly it is, how many lives must be given to it, what inconsolable sorrow may visit innocent hearts, what a monster an army, considered as a moral agent, is, and how uncertain the end of a war may be,—those who can, and who do not prevent it, assume a deep responsibility. Yet a war may be as much a duty in a nation, as it would be in an individual to resist oppression, or contend against lawless violence.

268. War is offensive or defensive. The former arises when a nation seeks to recover that which has been unjustly taken, or which is unjustly withheld; or when the honor or independence of a nation is assailed. The latter arises when a nation defends itself against the unjust demands, and forcible attempts of another, to despoil it of its lawful rights or possessions. If wars had been always undertaken from such motives only, many pages of history which we peruse on the subject of war, would not have been written.

269. Anciently, wars were more barbarous and cruel than they are in modern days. Every mode of annoyance and destruction, which human ingenuity could invent, was practised. Every sort of fraud, using poison on weapons, poisoning springs and wells, and assassinating chiefs, were common modes of warfare. But now, such acts would be considered as crimes. The spirit of modern war is, or is pretended to be, that which Tacitus, justly or unjustly, declared the spirit of Roman warfare to be:—"The Roman people sought vengeance on their enemies, neither secretly, nor by deception; but openly, and in arms."*

270. Ancient warfare consisted of battle in the field, and in cities; and sometimes in small vessels on the sea. The conquered, who survived the battle, were slaves. Their captors might put them to death when they pleased, hold them in the hope of ransom, sell them, or exact the severest labor. One of the splendid buildings in Rome, which is now visited as a monument of Roman grandeur, was erected about seventeen hundred years ago, by the labor of ten thousand captive Jews.† But now, captives are prisoners of war, and it would be odious to kill them in cold blood. They are kept with as much humanity as circumstances will permit, and exchanged during the war, or given up at the end of it.

271. The barbarities and cruelties of war were seen in the most aggravated character in the besieging of cities. Sufferings and miseries were in such case extended beyond those who bore arms; they reached the young and the old, women and infants, and involved the whole in one common ruin. But now, cities are seldom besieged; and if taken, they are not demolished, nor plundered; nor are the captives put to death, or enslaved. The wars of the Jews afford many shocking examples.

272. Since the invention of gunpowder, about the middle of the fifteenth century, the fate of a war is settled in great battles in the field. The battle begins, sometimes with light troops sent in advance; sometimes with artillery, which breaks the lines, and opens the way for advantageous use of infantry

* "Non fraude, neque occultis, sed palam et armatum, populum Romanum hostes suos ulcisci," &c. &c. *An. I.* § 88.

† The Coliseum; of which an ancient writer says, "As long as the Coliseum stands, Rome shall stand; when the Coliseum falls, Rome will fall; and when Rome falls, the world will fall." The *Coliseum* is said to be so called from a colossal statue of Nero, placed therein. *Colossus* was a name borrowed from the brazen figure of a man, 105 feet high, that stood at the mouth of the port at Rhodes. Ships passed between its legs. It was called *Colossus*; whence we say, "colossal statues," meaning figures larger than life.

and cavalry ; and ends with throwing in powerful bodies of reserved troops, who come fresh to the conflict. If one can imagine 100,000 men engaged for some hours, in a space of three miles square, in the work of destruction, and can also imagine what he would see and hear if he walked over the field when the conflict is over, and when one third are dead or wounded, he may have some idea of a modern battle.

273. War on the ocean is carried on by national ships, duly commissioned, and which meet singly, or in fleets, with the like ships of the enemy. The battle consists in an unceasing discharge of heavy guns ; and, when near enough, in the use of small arms ; and sometimes in running one ship against another, and attacking with swords, pistols and pikes, and passing the crew into the enemy's ship, and contending for victory hand to hand. - This they call *boarding* the enemy. The battle ceases when the flag of the vanquished is *struck*, or hauled down : the ship is then said to be taken.

274. Besides national ships, there are war ships belonging to private citizens, called *privateers*. Any one or more persons may fit out such vessels, and get a commission from the government, and go on the high seas, and capture and bring into port any enemy's vessel, public or private, or any merchant ship, whether it be armed or not. All that they thus get is their own, when judicially condemned.

275. When a *prize* (which word comes from a French word signifying to seize or take) is brought into a port of the United States, the captors cause a writing, called a *libel*, to be filed in the District Court, setting forth the facts of the capture, and praying condemnation, which follows of course, if the prize appears to be enemy's property ; and the whole is then sold, and the proceeds divided among the captors, according to their respective rights. This mode of acquiring property is held, by some persons, to be barbarous. They say it is, at best, licensed robbery. Attempts have been made to abolish it, as a right of war ; but such a change is not likely to take place.

276. Nations engaged in war, are called *belligerents*. This word is compounded of two Latin words, *bellum*, war, and *gero*, to carry on. Belligerents, as such, have certain acknowledged rights, in respect to nations not engaged in the war, who are called *neutrals*, that is, who are on neither side of the war. Many embarrassing questions arise out of the relation of belligerent and neutral ; and frequently the right

of the former is exercised in a vexatious and insulting manner towards the latter.

277. It is considered that neutrals cannot carry the goods of the enemy from port to port without being liable to seizure by the belligerent. It is lawful to capture, and carry into port, any neutral vessel, and libel her in a court, and allege that her cargo is enemy's property, and proceed to try the cause. All that can be proved to be enemy's property is subject to condemnation.

278. This liability leads to many ingenious contrivances to cover and preserve the property which is carried in neutral vessels. The evidence of ownership is found in the papers which every vessel must carry, accompanying the property, and in the letters found on board. This evidence is sifted and examined, and other evidence may be introduced. Thus war extends itself to neutrals, and sometimes occasions great and remediless vexation. If there is any probable cause for the capture, however unjust it may be, the neutral has no compensation for the wrong, loss and delay.

279. Another belligerent right is, to blockade the ports of an enemy; that is, to station ships of war at the entrance of such ports, and to prevent all vessels from coming out or going in. In such case, a neutral vessel, attempting to enter or depart, is subject to seizure and condemnation. *Blockade* means only blocked up, so that there can be no passing to or from. From the operation of this right, many difficult questions arise; as, for example, what is notice to a neutral that a blockade exists; how far it extends; what is a force competent to maintain and keep up a lawful blockade; and many similar questions, which are fruitful in disputes.

280. Another source of difficulty is the question, whether a particular trade is lawful or not. Articles useful in prosecuting a war cannot be carried by a neutral to an enemy, without liability to forfeiture. Nations have agreed by usage, that certain articles are of this description; as to others, it is doubtful whether they are so or not. From this cause capture and litigation frequently arise. The word *contraband*, which word is of Italian origin, and is equivalent to *prohibited*, is applied to articles, or goods, which neutrals cannot carry to an enemy, without subjecting, not only the goods, but the vessel, to condemnation.

281. Another difficult question sometimes arises; that is, what conduct in a neutral shall be deemed a departure from

neutral character, and subject him to be treated as an enemy, and as a party in the war. If one nation is under treaty with another, to furnish troops, or ships, or money, to aid in a war, performance of this contract is not a violation of neutral duty, if a war happens, and performance of the treaty is demanded.

282. Again ; has a nation, engaged in war, a right to take its native subjects, who have become naturalized or adopted, in a neutral country, out of vessels belonging to that country on the high seas? This right is asserted on the principle that, in time of war, every nation may command the services of its own subjects. It is denied on the principle that it is a natural right to change one's country ; and that such taking of the person is an insult to the sovereignty of the adopted country ; and that, if such taking of the person were justifiable, it might lead to abuse in taking those who are sailing under their native flag. It is very possible that some of the young may live to see this question to be one of great interest, as some who have gone before them have done.

Many more of the like points might be stated ; but as it is only intended to show how such matters are part of the law of nations, we need go no farther in this respect.

283. Since the practice of making treaties has become common, nations have had the good sense to define, in many cases, what shall be regarded, between the contracting parties, as belligerent and neutral rights. To relieve from neutral vexation, it has been attempted to establish, generally, that "free ships shall make free goods ;" that is, the neutral vessel shall not be subject to visitation, search, and capture. This attempt has been hitherto unsuccessful. The courts in which questions arising on the law of nations are tried, are any courts, of any country, when the parties, and the subject matter of suit, are properly within their jurisdiction. This word (*jurisdiction*) is made out of two Latin words, which signify the right and power of judging between the parties, and on the matter which is the subject of the suit. No court has jurisdiction beyond the territorial limits of the government under whose authority it acts. When a suit is pending in a court which has jurisdiction, and a judgment of a foreign court is offered in evidence, such judgment is not in itself conclusive, but may be inquired into, to know whether the parties, and the matter of the suit, were properly before the court, and whether the judgment is in such form as to bind them. There is one sort of judgment, called a *sentence*, which is considered as conclusive, to the extent to which it

expressly goes, in whatever court it is admissible as evidence. These are sentences of condemnation, pronounced against vessels and cargoes, (or either) as prize, or for some breach of the acknowledged laws of war. This is a sentence against *the thing* in controversy, and not against any *person*. It is a principle universally admitted, that in all prosecutions to obtain the condemnation of *a thing* (usually called a process *in rem*), all persons interested are parties, and bound by the sentence. This principle is supported on sound reason. It has, however, been reluctantly assented to, especially in cases where the sentence came from courts established in colonies. Sentences are pronounced in *admiralty* courts. Anciently, the admiral (the superior officer of the naval force) exercised a judicial authority, civil and criminal, in matters relating to the sea. This authority has been transferred, long since, to regular courts, which retain the ancient name.

284. Anciently, war commenced by sending heralds to declare it. In modern times, wars begin by sending troops into the enemy's country, or attacking his ships on the ocean. But usually a *manifesto*, that is, a public declaration of the causes of the war, appears. In the United States, there cannot be a lawful war, otherwise than in virtue of a law of Congress. In this body the right of declaring war is vested; so that a majority of both branches, and the president, must concur, to throw the country into this serious condition.

From what has been stated, the youthful student may infer:—

285. *First*, that each nation is, as to all other nations, a moral agent, or person, bound by the law of nature to act justly, and with good faith, towards all. This law is enforced and sanctioned by the divine law.

286. *Second*, that each nation has the right, and that it is each nation's duty, to preserve its own independence, and to secure itself against the injustice and the violence of all others.

287. *Third*, that nations are bound, by the law of justice and mutual convenience, to hold to and maintain all the customary laws which the good sense of nations has adopted.

288. *Fourth*, that, treaties being contracts of great solemnity, and made with peculiar deliberation, they ought to be faithfully and truly performed; and the more so, because there is no court of justice to appeal to, nor any remedy, but the dreadful one of public war.

CHAPTER XXIV.

Property.

289. ONE of the most material purposes for which government is instituted, is, to secure the right of acquiring property, and of making a reasonable use of it. Property is either real or personal. Real property consists of land and buildings. Personal property is everything not fixed to, and resting on, the land, but which is movable from place to place. Fruit, grain, and all growing vegetables, trees, minerals, &c., are part of the real estate, until separated and made movable, and then they are personal estate.

290. The most absolute property which can be had in real estate, is, the right to the exclusive use of it, with power to sell it and to give it away; and to declare by whom, and in what manner, it shall be held, owned and used after the proprietor's decease. The next degree of such property is, the right to hold it and use it during one's life. The two first sorts of property are called *freeholds*. The word *freehold* often occurs in our laws. For example, freeholders only are competent to appraise real estate when set off on execution, in satisfaction of debt. The being a freeholder is a qualification for being an elector, under some of the state constitutions; and for being eligible to office, under others of them. The next degree is the right to hold and to use real estate for one or more years. An estate for any number of years, even 1000, is held, in law, to be inferior to an estate for life. The lowest degree of property is the holding and using real estate during the pleasure of the absolute owner. Real estate may be owned by one man absolutely, but may be subjected to some right of the owner of an adjoining or other real estate. Of this nature is the right which one man has to pass over the land of another; the right to have a drain through another man's land; the right to have windows overlooking another's land; and many similar rights, which are called *easements* or *servitudes*.

291. The absolute owner of real estate may not only part with it during his life, but he may direct, by his will, properly made and proved, who shall have it after he has deceased. He may also declare by his will, whether his devisee, or donee, shall have the estate absolutely, or for life, or for years;

and may prescribe any conditions on which it shall be owned and used.

292. No man can be absolute and exclusive owner of real estate, but (1.) under a continued possession of forty years ; or (2.) by showing a writing made by one who had a lawful right to make it, called a *deed*, signed, sealed, acknowledged and recorded in the public registry ; or (3.) by showing that the estate was lawfully taken in satisfaction of debt ; or (4.) by showing heirship, by descent from an ancestor ; or (5.) by showing a gift under a will. The word *factum*, in Latin, signifies an act done ; a *deed* means, in law, the most solemn act which can be done as evidence of intention to part with property. The deed itself is not the alienation of the property, for that is effected by the agreement of the parties ; but it is the evidence of the act done.

293. It is a general rule, that personal estate is to be considered to belong to the possessor of it. But the right of property is frequently in one person, and the right of possession in another ; as when the owner agrees that another shall possess and use it. Sometimes personal property is in possession of another, against the will of the owner ; in which case the owner has a remedy for the wrong done, in the courts of justice.

294. Everything known by the name of property, and one's time, or labor, or service, may be the subject of a contract. A contract is an agreement between two or more persons, whereby one party becomes bound to another, to pay money, or to do, or not to do, some act. Every person who has common sense, and who is twenty-one years of age, and upwards, and who is not a married woman, may make a *contract*. This word is derived from *con*, with, or together, and *traho*, to draw, and signifies, that the contracting parties are drawn together by their agreement.

295. A contract is express or implied. It is express, when the parties previously agree on all the particulars of the contract ; as, if the agreement be, that a certain article shall be delivered at a certain time, and so much money paid for it, it is an express contract. It is implied, when some acts are done which show, that the parties, in natural justice, must have intended to contract ; as, if one calls a physician, orders goods, or employs one to work, and nothing is said of payment, the law is, that the party would not have done so, without intending to pay what the property ordered may be

worth, or as much money as the physician or laborer reasonably deserves to have. A contract is void, if not made for a legal consideration ; that is, if one claims of another performance of a contract, he must show that the engagement was entered into in consideration of his engaging to do, or not to do, something. If one man promises *to give* another a sum of money, this is no contract ; because the party to whom the promise is made, parts with nothing, and does not bind himself in any way. In honor and conscience, such promises are binding, but not according to law.

296. Whether a contract was made, or not, is differently regarded in a moral view from what it is in a legal view. Morally, every man ought to perform a contract, although he who claims the benefit of it has no proof that the contract exists. A man must prove by other evidence than his own declaration, that a contract was made ; or must prove, otherwise than by what he says himself, the facts, from which the law infers that a contract was made : he must prove all that is required otherwise than by his own word, because no man is allowed to be a witness or a judge in his own case.

297. The law does not settle what contracts may be made. It only pronounces, that some contracts shall *not* be made. It says that no contract shall be made for any dishonest, immoral, or fraudulent purpose ; and all such are void. As to contracts which the law permits, it carefully settles what evidence shall be competent to prove them.

298. When two or more persons enter into a contract, there is necessarily a communication by words, either spoken or written, whatever the subject of the contract may be. If the bargaining relates to real estate, personal estate, or labor, the parties speak or write themselves, or by the agency of those whom they employ.

299. But there is an important distinction between a contract, and what shall be legal evidence that a contract has been made. If a man promises to pay money for goods, one credible witness, who can prove the promise, is sufficient. If a man promises to pay the debt of another, or if the promise is to do some act after a year has elapsed (and in some other cases), the evidence must be in writing, and signed by the party making the promise. If two persons should contract for the lease of a farm for more than seven years, by words, the contract would be morally binding ; but to be a legal contract, for all purposes, it should be in writing, signed,

sealed, acknowledged and recorded. This distinction, as to the mode in which contracts must be proved, is founded in good sense. If, for example, contracts concerning real estate were left entirely to the memory of witnesses, they may be absent or dead when needed to prove them ; or, if present, they may have forgotten, or may state erroneously, though honestly, what they believe the facts to have been. But the principal object, which the law has in view, in such case, is, to shut out all temptation to fraud and perjury ; and this can best be done by making all such contracts void, when not proved by proper writings.

300. As to all contracts other than those whereof the proof must be by deed, or writings, for the reason above stated, they may be proved by writings, if the contract was reduced to writing, or by competent witnesses, who can prove that the contract was made, or that the party charged therewith, has admitted that it was made.

301. The partial or total failure of justice often arises from the defect of evidence. When a bargain is made, the parties think they perfectly understand each other ; or they trust that each one of them will do what is right ; or one party may have evidence, which, if uncontradicted, or uncontrolled, may show a case sufficient for his purpose, though it does not show the real case.

302. Many important contracts are made, trusting to memory. The parties exchange no writings, they call no witnesses. When the question arises, what the contract was, or whether there was any, or whether it has been rightly performed, or whether it ought to be performed, the parties may honestly have very different views ; each one may find it difficult to prove what he thinks to be the true state of the case. From such causes expensive lawsuits arise, more frequently than from any other. But controversies also arise from the difficulty of foreseeing the consequences of one's acts ; or from the change of circumstances after the contract is made ; or from the absence or loss of evidence ; or from the substantial embarrassment of not knowing what justice requires, in doubtful and peculiar cases.

303. When interested parties disagree, there are different modes of settling their difficulties. If they cannot agree between themselves, they may resort to the judgment of friends, or of disinterested arbitrators. The last resort is to the courts of justice. The cases are very few, in which a man

is permitted to administer justice to himself against another ; nor are there any, where in doing it he necessarily disturbs the public peace.

CHAPTER XXV.

Banking, Promissory Notes, Bills of Exchange, Notaries.

304. BANKS are, and are likely to be, an interesting subject to the citizens of this and of neighboring states. Banks are supposed to derive their name from the kind of seat, or bench, on which the Jews sat as money-dealers in the market-places of cities in the East. When a Jew failed, or was discredited, his bench was broken or destroyed ; from whence is supposed to be derived the word *bankrupt*, now so commonly understood in commercial countries. There are different sorts of banks ;—(1.) banks of deposit (from *depono*, to leave, or intrust a thing to be kept) ; (2.) banks of deposit and discount ; (3.) banks of deposit, discount and circulation.

305. A *Bank of Deposit* is merely a place for the safe keeping of money. If any one man in a town or city should make such a place, and it should become a place of general deposit, the owner of the deposit might give his creditor an order on the banker to pay the bearer of the order. The order, being worth the money it expressed, might pass from hand to hand as money : thus the necessity of counting and carrying from place to place, and the danger of losing, would be avoided. This is supposed to have been the sort of public bank that first came into use. The oldest bank was at Venice, about the year 1170, and is said to have been established as a place of deposit for those who engaged in the wars for the recovery of the Holy Land.

306. *Bank of Deposit and Discount.* This comprises the sort of bank already described ; but, in addition thereto, the banker, having the custody of money, *discounts*, that is, advances money on written promises given to pay money at some time, then future. Thus a holder of a written promise to pay money, which will be due after some days or months to come, wants the money immediately. A banker takes the written promise as his own, and pays the sum mentioned in it, taking out of the whole sum the interest thereon from the time of advancing the money to the time when the money is

to be paid, according to the written promise. This is called *discounting*. When the money is due, the banker receives it, and gives up the written promise to the maker of it, and is thus repaid.

307. *Bank of Deposit, Discount and Circulation*. This is the sort of bank in use in this country. It comprises the two first, but adds thereto, that, when a written promise to pay money, or, as usually called, a *note of hand*, or promissory note, is discounted, the bank does not pay in gold or silver coin, but in its own bills; that is, in its own promises to pay money on demand. In Massachusetts, the way in which banks are enabled so to do, is this:—

308. An act of the legislature, passed in 1799, prohibited all banks, not established by law, under severe penalties. No bank can now exist but by public law. When a number of persons want a bank, they petition to be incorporated. If the legislature see fit, they make a law, enabling the petitioners to have a bank, usually for a certain number of years. The capital, or sum of money to be paid in, to constitute the fund on which the bank is to do business, is mentioned in the act; also the number of shares into which this capital is divided. The petitioners and their associates, or owners of shares, are enabled by the act to be a corporation, by the name of the "President, Directors and Company of the ——— Bank." The owners of shares, or stockholders, are empowered to meet, and choose directors. The directors choose a president from their own number. The president and directors choose a cashier and clerks, and get a banking-house. The act authorizes this corporation to issue its own promissory writings, or bank bills, signed by the president and cashier. Supposing every stockholder, or owner of shares, to have paid in his proportion of the capital, the bank would have in its vaults, in gold and silver, the whole amount of its capital, deducting the charges of establishing the bank, of which charges the cost of the banking-house would be part, if the bank owned the house in which the business is transacted. The bank being thus prepared to do business, notes are discounted; or, in other words, the bank loans money, and pays, not in gold and silver coin, but in its own bank bills, which are written promises to pay the bearer thereof, on demand, the sum therein expressed. This promise of the bank circulates as cash, because the bearer of it can turn it into cash whenever he pleases, by carrying it to the bank. A bank may derive from its operations of lending, or discounting, a profit

above or below six per cent. (the lawful rate of interest) on its capital. The law allows a bank to issue, in bills, double the amount of its capital, and to discount notes to double the amount of its capital. If there were but one bank, and it used its privileges to its full extent, it would get twelve per cent. on its capital, from which are to be deducted the expenses of carrying on the institution. But in practice, owing to the great number of banks, and consequent division of business, and the speedy return of their bills for cash, and the check which banks have on each other, a bank rarely has in circulation one half, and some of them not one fourth, of the amount of its capital in bills, and rarely has owing to it much more than the amount of its capital, and one third of the capital in addition thereto. That which is owed to banks is intended to be always, and usually is, owed by trustworthy persons.

309. When a bank issues more bills than it can redeem,—which sometimes arises from having taken notes which prove to be bad, and sometimes in consequence of mismanagement,—it is said to fail, or be broken. The holders of notes are the losers of so much as the bank cannot pay, unless the stockholders are able to pay the difference. The law makes them personally liable, not exceeding the amount of their respective shares, when the loss arises from the official mismanagement of the directors. When the act of incorporation expires, the holders of shares are liable, personally, for the redemption of all bills issued by the bank, which then remain unpaid, in proportion to the stock which they respectively hold.

310. Banks are subject to an annual tax of one per cent. on the amount of their capitals, one half of which tax is to be paid, within ten days after each semi-annual dividend, into the state treasury. It is said by some persons, that such a tax is not a reasonable one, and that, if any tax be laid on banks, it should be on the amount of dividends, and not on capital. *Dividends* are the half-yearly division of the interest money, among owners of shares, acquired by lending. Shares are bought and sold. The owner holds a certificate, issued by the corporation, signed by the president and cashier, stating that he is proprietor.

311. Banks take money to keep for any one who requests it, without charge for keeping. This is called *depositing*. One who has money in a bank, draws it out as he pleases, by writing a short order to the cashier to “pay —— dollars to

— or bearer." This is called a *check*. Once a month, the bank and the depositor settle an account, and the checks are given up. The balance remaining to the depositor, is carried to his credit in new account, and is the fund for future checks. A depositor adds to this fund during the month, as he pleases.

312. *Promissory Notes*. These are written promises, made by one man to another, to pay to him, or to him *or his order*, a sum of money. If in the latter form, the note is *negotiable*, and the person to whom the promise is made (who is called the *promisee*) may order the money to be paid to any person, by writing his own name on the back of the note, which act is called an *indorsement*, from a Latin word signifying *back*. Such indorsement and delivery of the note, is an authority to the *indorsee* (as he is called to whom the note is transferred) to write an order (over the indorser's name) to pay the money to himself. The indorsee may transfer the note, by writing his name on the back of it, and so become an indorser himself. Thus a note may pass through many hands. The usual practice is, to write the names merely, on the back, and not to write the order thereon; and when once indorsed, a note may go through any number of hands, like a bank bill, with or without any further indorsement. The engagement of the promiser is, to pay the money to any person who holds the note, when it becomes due. The engagement of each indorser is, that he will pay the note, if payment be punctually demanded of the promiser, and if the indorser be duly notified of non payment. The indorser is entitled to such notice, that he may enforce payment from the promiser to himself, since he has become liable from the promiser's inability or neglect to pay.

313. *Bills of Exchange*. These are like indorsed notes, and subject to exactly the same legal rules. A bill of exchange is an order drawn by A on B, to pay to C, or his order, a sum of money. C, or the person to whom C indorses, must present the bill to B for acceptance. When accepted, it is like an indorsed note; because the promiser of a note, and the acceptor of a bill, stand in the same relation as to all other parties. Bills of exchange are not used between persons who dwell in the same place, as notes are; but the principal use of them is, between merchants who dwell in different cities. An American merchant, for example, has money in the hands of a merchant in Europe. The American draws his bill in favor of any one, who wants money in the place

where the American's money awaits his order ; the purchaser of this bill sends it to be presented to the European, to be accepted. If not accepted, or if accepted, but not paid, it returns to the American, who must pay it ; if he does not pay, any indorser, who has been duly notified of such non-payment, is liable to pay. The convenience of the commercial world has made it necessary, that there should be public agents, whose certificate of the presentment of bills of exchange for acceptance or payment, and of refusal to accept or pay, should be legal evidence of such fact, *everywhere*. This certificate is called a *protest*, the literal meaning of which is, *for proof*.

314. These agents are found, in all commercial countries, under the name of *notaries public*. They are appointed by the government, and sworn, and authorized to use an official seal. In some countries, as in France, they exercise a very extensive authority. They take memoranda, or notes (*nota*, in Latin), of contracts, and reduce them to form, and record them ; and their certificate of copies, from their own records, is legal evidence of the contract. Their name is derived from the above-mentioned Latin word. Notaries are empowered to receive declarations from masters of vessels and their mariners, of accidents, damage and losses, occurring in a voyage, and reduce them to writing, and administer an oath as to the truth thereof, and make a record of such declaration. This act is called a *protest*. The act done on the first application to a notary, in such case, is called *noting a protest* ; when the notary has written out the declaration, and it is prepared for signature and oath, and is so verified, it is called *extending a protest*. In the United States, no act of a notary is legal evidence in court, except in the case of protests for non-acceptance of bills of exchange, and for non-payment thereof. Protests relating to voyages are sometimes admitted as evidence, by consent of parties. When the master, or mariners, are called as witnesses, a protest made at their request may be used to show, that the story therein told, and that sworn to by them as witnesses, do not agree. This is nothing but an application of the common rule, that any discordant statement of the same matter, made by a witness, at any other time, may be offered to discredit him. In all cases, except those before mentioned, as to bills of exchange, a notarial certificate is of no more legal force, in the United States, than a certificate made by any other citizen. Yet, in many cases, it is expedient to employ notaries, where evi-

dence is to be preserved, because they are accurate, in general, in what they do ; and are stationary, and easily found, when wanted as witnesses.

315. *Insurance Companies* are corporations established by law. A fund is created by stockholders. There are shares, officers, and a place of business, just as banks have. The ship-owner insures his ship in this manner :—He applies to the president of the company, and informs him what ship it is, where bound, how laden, and what the moneyed value of the whole is. It is then agreed, that for every hundred dollars insured, the ship-owner shall pay one, or more dollars to the company ; and the company take on themselves to pay the ship-owner, the amount insured on the ship and lading, if they are lost at sea by storm, fire, piracy, or any other disaster, which the company insure against. The profit of an insurance company arises thus :—Suppose one hundred ships are insured, each one valued (for example) at \$1000. If the company receive three dollars for every \$100 insured, they would receive \$3000, and have the risk of \$100,000. If one ship is lost, the gain is diminished to \$2000 ; if two ships are lost, to \$1000 ; if three ships are lost, there is no gain ; if four or more ships are lost, the company must pay out of its capital. The average of losses for many years, and the amount of money paid for insurance (which money is called the *premium*, or price of insurance), are comparatively such, that, after paying all losses out of the premiums, there remains a sum of money to be divided among stockholders, which gives them more or less per cent. annual gain on the capital ; but it may also happen, that the losses are so great, as to make it a losing concern.

316. In like manner, buildings may be insured against fire. There may be also a *mutual insurance company*, which is thus formed :—A number of persons agree that their buildings shall be valued ; that each one shall pay into the company's treasury so many dollars for every hundred of the value. This makes a fund. If a building is burnt, it is paid for out of the fund. If the fund is expended, and there is more to pay, members of the company may be assessed. In practice, the whole number of buildings insured is so great, and the payment into the treasury so great, in proportion to losses, that one may, and commonly does, receive back, at the end of seven years, a large part of the sum paid as his contribution to the treasury fund.

317. Insurance may be made on the risk or hazard of the

duration of *human life*. Any person, who wants an insurance of this nature, applies to an insurance company, and states such circumstances as are proper to be taken into consideration in estimating the risk. The party who wants insurance pays to the company a sum agreed on, and the company engage to pay to the heirs, or other representatives of the insured, a far greater sum, if he should happen to die within the number of years for which the contract is to run. If the insured live through the number of years, the company keep the money paid to them, and are discharged from all liability to pay. Insurance of this nature is sometimes made by persons who have an annual income while they live, but which ceases at their death. By such insurance, they may secure a sum of money for their families. If the payment of a debt is supposed by a creditor to depend on the continuance of the debtor's life, the creditor may cause insurance to be made on the debtor's life. In all cases where insurance is made, the insured must disclose all circumstances which ought to come from him, and which are necessary to a fair estimate of the risk. Any fraud, in this respect, avoids the contract.

CHAPTER XXVI.

Persons—their Capacities, and Incapacities.

318. ALL persons dwelling in the United States may be divided into two classes:—(1.) those who are *under*, (2.) those who are *above*, twenty-one years of age.

The first class includes both sexes, and all persons, from birth up to full age; that is, twenty-one years. In the language of the law, all these persons are considered as being in the state of *infancy*. A youth of twenty years, and a child of twenty months, are, *in law*, infants. The first class are also known in the law as *minors*. The word *minor*, in Latin, means smaller; the word *natus*, born, is implied or understood to be joined with it, when applied to age. These two words, so joined, mean *younger* than a certain age. As used in the United States, *minor* means a person younger than twenty-one; in some other countries, than twenty-five.

319. The second class includes all persons above twenty-one, who are called *adults*, which term is derived from a Latin

word which means to grow up, and has the meaning of grown up. Adults are male or female, single or married.

320. Infants are under the natural guardianship of parents, or under appointed guardians (and then they are called *wards*), or under no guardianship. In Massachusetts, and, it is supposed, in all the other states, a guardian has the same power over his ward, that a parent has over his child, and has the custody of his person, and may require his residence to be in any particular place. Infants have the right to choose their guardians after the age of fourteen. A minor cannot make a contract, except to become apprentice, or for necessary food and clothing; and for instruction, and necessary medicine; or for something which the law considers necessary, and for his benefit.

321. Minors who contract debts, will be held to pay them, if they promise to do so, after they come of age. They may be witnesses at the age of ten or twelve years, and even younger, if they show, on examination, that they are sensible of the obligation of an oath.

322. They are answerable for crimes, and may be indicted and tried. Instances have occurred of trials, and punishments by death, at an early age. In England, a boy was executed, in 1748, for a heinous murder, at the age of ten, on the opinion of the twelve judges. At the age of sixteen, a male person is considered taxable for his poll; and liable to be enrolled in the militia at the age of eighteen.

323. Minors may own real or personal estate, by inheritance or gift. Their earnings belong to the father, because he is liable for their support; but not to their mother, for she is not so liable. A minor cannot make a will of real estate, but may of personal estate. In Massachusetts, a male infant of fourteen may dispose of personal estate by will. Such appears to be the law in England; and that a female there may make such will at twelve. It does not appear that the same rule, as to females, has been admitted here, or that the question has arisen.

324. A minor, whose time is given to him by his father, may contract for his own benefit; and though he may sue for earnings in the name of a guardian or friend who is of age, he is not liable to be sued. If his father is not living, he is entitled to his own earnings.

325. A minor comes of age the first minute of that day on which his twenty-first year is completed. Both males and females are of age at twenty-one.

326. Males may be bound to apprenticeship till twenty-one ; females, till eighteen, or till marriage before eighteen. Both sexes may be bound out till fourteen, without their consent ; and after fourteen, by the father, without their consent ; if there be no father living, the mother or guardian may bind them, with their consent, as apprentices. A minor over fourteen years of age, who has no father, mother, or guardian, may bind himself, with the approbation of the selectmen. When minors are improperly treated by their masters, the remedy is, to complain to the Court of Common Pleas, who may order that the minor be discharged from his apprenticeship.

327. Male adults have all the rights, and are subject to all the duties, of citizens ; except that, after forty-five years of age, they are not liable to military duty, nor to serve on juries after seventy years.

328. By marriage, the husband acquires a right, absolutely, to all the personal estate owned by the wife, when the marriage took place, and to all that falls to her after marriage. He has the right to use, manage, and dispose of all her real estate, while the marriage life continues ; and may use the wife's real estate for his life, if the wife dies first, and if there be any children of the marriage ; otherwise not, and it goes to her heirs. As a wife is considered as having no property in her own right, except as hereafter mentioned, she cannot make a will.

329. A father is the natural guardian of his children, and is bound to support and educate them, and is consequently entitled to obedience. He has the power to enforce obedience. If a father's conduct towards his children should be severe and cruel, it may be punished as a public offence.

330. A wife is held to be subject to the reasonable will of the husband. The right of deciding where, and how he will live, is vested in him, and the members of his family must conform to his will. If a husband does not provide for his wife reasonably, and according to his ability, she may provide for herself, and may cause him to be made debtor therefor. Whether the supplies are such as will bind the husband, is a matter which the creditor must look to.

331. Husbands and wives have no remedy for ill treatment between themselves, until conduct becomes criminal. They must bear their wrongs as they can, the policy of the law leaving them to themselves until one or the other is so aggrieved, as to be able to make oath, before a magistrate, of

fear of personal violence, in which case bonds may be required from the party complained of, to keep the peace.

332. They may be separated, on the complaint of either, by decree of court, for extreme cruelty, though they continue, in such case, to be husband and wife.

The marriage may be dissolved by a decree of the Supreme Judicial Court, on the complaint of either, for causes enumerated in the law.

It is found, in most of those melancholy cases, which are heard in court, that the original cause of the misery disclosed, was intemperance.

333. A female, while single, and of full age, may be the owner, by inheritance or gift, and by her own act, of any property, real or personal. She has the full power, as a man of full age has, to make any contract concerning property. She may buy, sell, make deeds, make a will, or give away, as she pleases. She has no civil rights but those of protection, nor any duties but those of obedience. Her property, but not her poll, or faculty of acquiring, is subject to taxation.

334. If a woman under age marries, she is still a minor, and can do no act which a minor cannot do; but her husband acquires the absolute ownership of her personal estate, whether she was over or under twenty-one, at the time of marriage; and the right to use, manage, and dispose of her real estate, in either case.

335. While she is married, and owner of real estate, her husband cannot convey it away, for a time longer than the married life; or, if they have children, for his own life. The husband and wife may, by joining in the same deed, convey away absolutely her real estate, and the money obtained for it becomes his money. She may bar herself of her right of dower, by joining in a deed with her husband; but cannot do it by a separate, after-made deed.

336. A husband, dying in the lifetime of his wife, may, by will, cut her off from all his estate but a right of dower; that is, the right to have for life the use of one third of all the real estate, which he owned during the marriage, and whereof she has not barred herself by joining with him in a deed. The law has provided a mode for assigning to the widow her dower in the husband's estate, whether she marries again or not.

337. On the decease of a person, debts are first to be paid, in all cases. If a man dies without leaving a will, or widow,

or children, his heirs at law inherit his estate. If there be a widow and children, but no will, the personal estate is divided into thirds, of which the widow takes one, and the children two. If there be a widow only, she takes half the personal estate, and the heirs at law of the husband take the other half. If there be no heirs at law of the husband, the widow takes all the personal estate. A widow is entitled to dower in all cases, unless provided for, by the will of the husband, to her acceptance. If the deceased left no will, nor kindred capable of inheriting, his estate *escheats* (from a French word meaning to fall, or happen to) to the commonwealth, or state. No such right can accrue to the United States. If there be a widow, all but her dower, in such case, escheats. The right of the state to take, is founded in this:—By the ancient law, every subject held his estate, in land, in some way, from his sovereign. When the tenant died, leaving no one to take his place, and perform duties to the sovereign, in connexion with the estate, the sovereign took the estate to himself, to make a new tenant. The right to take continues, though the reason for taking has long since ceased.

338. The judge of probate is authorized, by law, to make an allowance, out of the personal estate, to a widow of an intestate, whether her husband died insolvent, or not. This allowance depends on circumstances, on which the judge is to decide. This is a reasonable and humane provision of the law, as a widow might, otherwise, be utterly destitute, in some cases, though with a family to take care of.

339. If one dies, leaving a will, he is said to die *testate*; that is, he leaves proof, or testament (*testis* is a Latin word, meaning witness), of his will; if he dies without leaving a will, he dies *intestate*. If the first case, his testament disposes of his estate: in the other, the law orders (1.) payment of debts; (2.) the distribution of residue of personal estate, as before stated; (3.) assignment of dower; (4.) the real estate, and reversion of the widow's dower, descend in equal shares to the children. *Reversion* means the right to have the land, after the estate for life, vested in a widow or other person, ends; that is, the land then *reverts*, or returns, to the heir. If a child dies in the lifetime of the intestate, leaving a child, such grand-child takes the share of the intestate's estate, which its parent would have taken, if living.

340. A female who owns real or personal estate, or both, and who is about to be married, may secure to herself a part, or all of her property, and put it, with the consent of her in-

tended husband, beyond his control, and beyond the reach of his creditors, and hold it, for all purposes of security and use, as her own. This is done by a written contract, in which the woman is one party, her intended husband another, and one or more trustees, the third. The right of property is vested in the third party, but for the purpose of paying over to the wife all or some of the income, interest and profits. When the money comes to her hand, she may do with it as she pleases.

341. The contract which is called a *marriage settlement*, may contain any provisions which the parties see fit to establish; and, among others, that the wife may make a will, to the same effect as though she were an unmarried woman.

342. A widow is entitled to be administratrix of a deceased husband, and take on herself the settlement of his estate; and she may be appointed guardian of her children, if she pleases; but it is not usual to appoint a widow to both these offices.

343. It is one of the most striking defects in our system of education, that females are so generally uninstructed in the substance and forms of business. Much precious time is devoted, in early life, to some accomplishments, which are neglected and forgotten amidst the cares of married life. It would be far more useful to devote that time to make women intelligent, in those affairs which concern them deeply, as mothers, widows and guardians, and in the character of executrix and administratrix; and frequently in other employments, which require a familiarity with the forms of business. In Europe, it is not uncommon for females to have the chief management of important business establishments. They are sometimes members of mercantile houses. It is not to be desired that employments of this nature should be common among the American ladies: they can be much better employed. But, considering the frequent and sudden changes in our country, we may, perhaps, be permitted to say, that to know well the nature of contracts, and the forms in which they should appear, and to be able to keep accounts accurately, and to know the general principles of law by which their interests are affected, may be as useful, as to be able to speak Italian or French, to paint flowers and landscapes, or converse well on the comparative merits of poets and novelists. Not that accomplishments of this nature are overvalued. Everything that tends to enlarge and adorn the female mind, is a positive advantage to society; and no sensible man doubts that his own happiness depends on refinement; and that re-

finement depends on the degree of moral, intellectual, and polished acquirement to which women attain. Yet, why should not females be instructed also in their social rights, and in the means of preserving what is their own? and why should they be deprived of the benefit of knowing that they can protect themselves against the barbarism of laws which crept into the social system when women were slaves, and not, as now happily they are, the friends, companions and counsellors of the other sex?

CHAPTER XXVII.

Classification of Persons.

344. THE benefits which arise from disciplining the bodily powers, the moral sense, and the intellectual faculties, consist in this—that the human being is thereby enabled to obtain necessaries, and independence, and comfort, and luxuries. These results are got at by devoting one's self to some one of the departments of labor, which arise in society. These departments may be classed, and the classes subdivided almost indefinitely. The subdivisions are more or less numerous, in proportion to the density of population, and the state of the arts and sciences which are known, and in use.

345. The people of any nation fall under some one of these classes. First, those who live by muscular exertion, or simple labor, whose time is their fortune, and who may be said to sell their time, or to exert their bodily powers, in a certain way, for one or more hours, days, months, or years; and who are to be paid therefor an agreed sum, under the name of wages. This class part with nothing in the nature of property. They receive property, that is, money, or its equivalent, for the service which they render to other persons, or for the time and labor which they expend on the property of others. This class of persons is a large one throughout the world; in proportion, more numerous in the old world than in America. It is divisible into other classes, but the distinction which includes all, and separates all from all other classes, is, that they dispose of time for wages.

346. The second class are those, who use bodily powers by means of mechanical instruments, in changing the materials which come from the hand of nature, into such forms,

and fitness for use, as the wants of mankind require. These materials proceed from the surface, or the bowels of the earth; or from its waters; or from animals, which man is permitted to subdue or hold in servitude. This class includes all who are engaged in the mechanic arts. It comprises many and various classes; and, taken collectively, calls (generally speaking) for the exertion of all the faculties, and qualities, and knowledge, and science, which men have, or can attain to.

347. Without intending to go into minute particulars, we may find in this department, (1.) The knowledge of material substances, their qualities, their adaptation to use; the modes of applying them to use; the effect of combinations of two or more; the changes which art can effect on them; whence and how they originate; in what quantities; how obtained; and through what changes they must pass, to be put in a condition for final use, or consumption.

348. (2.) The application of the abstract rules of art and science, in operating on these natural substances, to bring about the desired purposes. It is hardly necessary to say, that common school attainments are indispensable. To these may be added, all the rules of proportion, or comparative measurements, mathematical calculations and estimates; the whole round of natural and practical philosophy, that is, the action of matter upon matter, in its thousands of forms; the inventions of human genius in overcoming the state of rest, or power of attraction or gravitation to the earth; or in giving to action the desired force, or in preventing it, controlling it, or modifying it, by means of the screw, lever, wedge, pulley rope, inclined plane, and the endless variety of mechanical inventions, in which these original powers are used. To illustrate these general terms, we may trace one of the manufacturing operations, in which the course of labor, the mechanical operation, and the use of its product, may be discerned.

349. A landholder, dwelling in a suitable climate, raises cotton, by the labor of persons to whom he pays wages, or whose labor he can command. By a certain course of culture, the cotton grows, ripens, and is made fit for market. The planter sells it to the manufacturer, and receives for it money, which will be either more or less than enough to cover all the charges and expenses incurred in carrying on the plantation; and enough to live upon, according to his style, and to give him a rent or profit, on the cost of his

plantation, implements, machinery, cattle, &c. &c. If he receive more than enough for these purposes, he is thriving; if less, he is not growing, at least for that season, wealthier, perhaps less wealthy; which may be caused by the diminished or injured state of the crop, by the fall of prices, by the excess of the article above the demand for it, or by political changes. The result, however produced, is, that he takes the sum agreed on between him and the manufacturer, whether he gain or lose by the bargain. There may be, and usually are, many intermediate holders of the article, between the planter and such buyer. The manufacturer, by water or land, or both, places the cotton in his factory. Its cost to him there, is the original and all intervening cost. It is then submitted to the changes which the raw material must go through; as picking, cleaning, carding, spinning, weaving, bleaching, dyeing, printing or stamping, pressing, &c. &c., until it comes forth from this multifarious process, a beautiful, soft, variegated cloth, which, in Queen Elizabeth's time, would have been deemed a luxury of apparel in her sumptuous court. The manufacturer passes it to the hands of the class of persons next after mentioned, for a sum which will cover all that he paid out in the original purchase, and all that he has afterwards expended, and a rent or profit on the whole cost of his manufacturing establishment, comprising all labor, and a great variety of materials necessarily used up in the process. It then passes, probably, through many hands, each one adding something to the cost, until it comes to be a garment, the wearer of which pays the whole cost, from the moment when the cotton seed was put into the ground, up to the time when the garment is put to use, and when all charges, by which profit or loss arises, end. It performs its service, and then goes into the fragment basket, reserved for the paper manufacturer. Here it takes a new start, and becomes an original material in a new process, and re-appears in a sheet of paper.

350. The same theory applies to all processes by which the products of nature are converted, by art, labor, and machinery, into articles for use. It is obvious, that this department of industry must be divided into very many. But the distinguishing characteristic of this class, is, that it operates by the application of bodily power, under that of the mind, to modify, by mechanical implements and machinery, material substances, for human use, comfort, or luxury.

351. (3.) The third class is that very numerous one, who

deal in the products of nature and of art ; who receive these products, by purchase, for the purpose of exchanging them for money, or other products, at a profit. No change is made in these products, while in their possession. They buy to sell again, either in the place of purchase, or in other, and even distant climes and countries. It is this class, who traverse the earth and the ocean.

They are *merchants* ; which name is derived from the Latin *mercator*, one who buys and sells, or trades. This class is divided into many, and includes the retailer of the village, who gathers in his place of business all the articles which are adapted to supply the wants of his neighborhood. The word *merchant* is used to distinguish those who are engaged in commerce with foreign countries, and who deal in wholesale quantities ; and the word *trader*, those who retail, or sell in small ones. If the articles which are contained in a trader's store, were examined and traced to their origin, one would learn, thereby, something of most of the mechanic arts by which men gain their bread. Such a store may be a source of instruction to a youthful inquirer. He will be surprised to find how many human beings have labored on the articles within his view.

352. The merchant who imports a ship-load of teas, silks, sugars, or china, from the other side of the globe, sells it in large quantities ; the purchasers sell in lesser quantities ; and thus the distribution is made, through successive dealers, until the consumer takes it, who pays, in the price he gives, the original cost, and all the intermediate charges and profits.

353. (4.) The fourth class is that which deals in no product of nature, or of the arts, but whose employments indirectly relate to all of them, and to the rules which govern them ; and to the sources of political, social, moral, and religious order in the community. Their stock, or capital, is not money, nor property. It is the fruit of long-continued labor and study, which constitutes an intellectual stock or capital. This is to be used for the convenience and benefit of the community, while it gives to the possessors of it a title to compensation for the service which they render. In this class are found teachers of schools, professors in the various branches of science ; physicians and surgeons ; those who act in the administration of justice, whether on the bench or at the bar ; the instructors in piety, morality and religion ; and those who may assume to be statesmen.

354. It is apparent, that a community may have a dispro-

portion of some of these classes, compared with its whole number ; in which case, some may find it difficult to obtain full employment. It may happen, too, from changes wholly unexpected, that some of the subordinate classes may be partially unemployed. Sometimes political changes, as wars and other calamities, affect and distress whole communities ; sometimes business is, from unforeseen causes, less vigorous ; but it revives again, or industry seeks and finds for itself new channels. A free and intelligent people, dwelling in an extensive and productive country, will discover and avail themselves of the means of prosperity, and adapt themselves to an ascertained state of things.

355. The last, though not the least, class, are the cultivators of the earth. Those who raise one single article, as cotton, coffee, sugar, rice, are subject to reverses, from accidental causes. Political events, the state of the seasons, and the changes in trade, even in distant countries, may affect them. But those who live in more temperate latitudes, and whose labor produces a variety of necessaries, are not so materially affected by changes in moneyed prices. This class is distinguishable from all others in this, that the number of its individuals, however much increased, does not destroy, nor materially impair, their relative independence. The same union of nature and art, which exhibits, on two hundred acres, cattle, grain, vegetables, fruits and homes, will permit the same appearances on millions of acres. Each cultivator, who is contented with the products of his own soil and labor, may be independent of all others of the same class, and of most other classes of the community. To be comfortable, however, he must be able to convert some of the products of his labor into the measure of all things—money—with which to satisfy some demands and wants, which are to be no otherwise satisfied.

CHAPTER XXVIII.

Choice of Employments.

356. WHEN a youth has received a school education, he is to devote himself to some one of the divisions of labor. Which of them he shall choose, is of such importance, that

his welfare for life may depend on it. The discretion of parents and of friends, peculiar circumstances, qualities, faculties, and inclinations, must have their influence in directing the choice. Such guides, although the best to be had, are not infallible. Hence we sometimes see sad disappointments in life; and that individuals fail entirely, in a chosen pursuit, who might have been respectable, or perhaps eminent, in some other. There is no general rule. The nearest that one can come to it, is to choose carefully, and to *persevere*. Sometimes a peculiar adaptation appears late in life, and should undoubtedly be followed. One of the ablest generals of the French revolution was a lawyer till the age of thirty-five. One of the most eloquent lawyers of the English bar, and who rose to be lord chancellor, was a navy officer till he was forty. One of the most renowned admirals of the British navy was never on shipboard till he was fifty. Many similar cases could be pointed out in our own country.

357. A farmer's life is one of labor and of care. It is an honorable life; and, when pursued with diligence and good sense, is as little subjected to unfortunate changes as any one that can be mentioned. It has greatly improved, in late years, by means of agricultural societies. Such institutions eminently prove the utility of social communion, and the benefits which arise from comparing opinions, and making the fruits of individual experience a common stock. A farmer has his hours of quiet and of rest, and can participate with the learned in the pleasures and advantages of intellectual pursuits. To know how these hours may be most profitably spent, is much to be desired. There is no want of books; but in this, as in other walks of life, it is not well known in what estimation, comparatively, books should be held, nor which of them should be read in preference to others.*

358. If the destination be to some one of the mechanical divisions of labor, it is not enough to depend on the slow process of experience and habit. There are books, in most of

* It may be pardonable to remark, that, although the dwelling-places of New England farmers are gradually assuming an air of neatness and of comfort, one does not, in general, see around them the beautiful ornament of flowering vines, and similar products, which might be cultivated with little care, and without expense. The English farm-house is indebted, in no small degree, to such ornaments, for the smile of pleasure which the passenger bestows. Everything which tends to make one's home cheerful and pleasant, has something in it of moral fitness and elevating sentiment. Such things concern the young, and belong, especially, to the department of female taste.

them, which would essentially aid in a particular branch of business, and satisfy an inquiring mind as to the reasons or principles of the action to which life is to be devoted.

359. There is a degree of learning, to which all need to attain, in the department of buying and selling, on whatsoever scale that business is conducted. In some of its branches, a most comprehensive knowledge of facts, past and present, and the most enlightened view which can be taken as to events expected, may settle the fate, favorably or otherwise, of one's fortunes, for a while, and, perhaps, for life. It would not come within the limits of this volume to set forth what should be a merchant's attainments, if the ability to do it could be pretended to. But it is obvious, that a merchant must be informed of the legal nature of contracts; that he must be familiar with geographical divisions; with climates, and their products; with the modes in which value is measured everywhere; with real money, and money of account, in different countries; with the habits and wants of different nations. He must know well the relation between principal and agent; he must be familiar with maritime transactions; that is, with the law and practice as to carrying by sea. He must also be able to discern and calculate the changes and chances which are dependent on political events, in his own and other countries, and especially on the vexatious effects of frequent legislation in matters which affect trade and commerce. The abstruse and difficult science of political economy may be ranked among those things which merchants should know, rather than among those the knowledge of which belongs to other departments in society. Provision for mercantile education is far short of the demand for it. The philosophy of exchanging products throughout the world, is one which enters deeply into the welfare of our community. Its practical application ought to appear, in legislative halls, from those who deal in merchandise, and who are the best able to disclose what measures are, and what are not, adapted to promote the general prosperity.

360. Among the classes who are properly called *professors*, or the learned, including all of the fourth class, there is a fixed mode of education. In these vocations, a youth, prepared therefor at school, enters a college (that is, he becomes one of a collection of persons), or a university, a seminary in which all the arts and faculties are studied. He goes through a prescribed course of studies and of lectures, and lays the

foundation whereon to place the professional studies to which he may devote himself. During collegiate life, the choice of a profession is to be made. This is a serious call, on the youth, and on his friends, to consider his qualities and preferable fitness for one department rather than another. It is probable that the same diligence which secures an approach to what is respectable in one pursuit, might, in some cases, make superiority in another.

361. There are prescribed rules, which must be observed, to enable one to become a member of the learned professions. They are founded in good sense, and are meant for the common good. A man ought not to take upon himself the responsible duty of expounding the Scriptures, and of bringing home to the human heart, busied and estranged as it sometimes may be, by the cares of the world, an awakening sense of moral right and wrong, unless he carries unquestionable credentials of his fitness for his vocation. It is not enough that he is fit; those who listen should feel assured that he is so. It is wisely and properly required, that there should be an authority somewhere, enabled to grant the necessary credentials. The schools of divinity, and the learned who reside there, have the authority to grant them.

362. In the medical department, the same probation is required. Certainly no one should be trusted with the serious responsibility of attempting to arrest the ravages of disease, or to insert his professional instruments among the veins, arteries, muscles and nerves of the human frame, who is not prepared, by a course of study, observation and experience, to make his previous plan with science, and to carry it into effect with skill. It is for the common interest of society, to discountenance unfounded pretension, and to call upon and confide in those who are certified, by competent judges, to be trustworthy and honorable men.

363. In the administration of justice, there are also prescribed rules, which must be observed, to qualify one to assume the practice of the law. A course of collegiate study, or an equivalent course, and a number of years devoted to the science of the law, and collateral studies, are properly held to be indispensable. When a student is qualified to be received into the courts, he takes a solemn oath, prescribed by a law of the commonwealth,—“that he will do no falsehood, nor consent to the doing of any in court; that he will not, wittingly or willingly, pursue or promote any false, ground-

less or unlawful suit ; that he will delay no man, for lucre or malice ; that he will conduct himself with all good fidelity as well to the courts as his clients."

364. He thus becomes an officer of the courts, and is recorded as such ; and is liable to be stricken from the record, and disqualified to appear as counsel, if he proves to be unworthy. All these provisions are of the greatest importance to the community ; since it is from this class of men, that the judges of constitutional law, of the rights of the people, of property, liberty, character and life, are selected.

365. An eminent citizen, who has been throughout his honorable life a faithful guardian of the common welfare, has lately established a professorship of law at the University at Cambridge. There is also a professorship on another foundation, as a department in the university. The two professors are united in their labors, and have a numerous school of pupils, gathered from most of the states in the Union. This professional seminary is conducted in a manner eminently adapted to secure to the community the benefits of such an institution.

CHAPTER XXIX.

Religion.

366. THE bill of rights, prefixed to our state constitution, requires, as one of the means of securing "the blessings of life," "the support and maintenance of public *Protestant teachers of piety, religion and morality,*" but does not require the support of any others. It authorizes taxation of real and personal estate for these purposes. What, then, is meant by *Protestant teachers*? To answer this question fully, would require a review of the history of Christianity. As this is a subject of importance, it may be useful to give a general outline, which may assist those who choose to extend their knowledge beyond the limits intended for the present occasion.

367. Religion is defined to be, "that worship or homage, which is due to God, as Creator and Preserver of the world." It is divided into natural and revealed. The former means that sentiment, which mankind have by the force of reason, of the existence of the Deity, and of their relations and du-

ties to him. The latter means the Deity's revelation of himself, of his providence and will, as contained in the Bible.

368. The Bible, then, is the foundation of Christian faith. The word *Bible* is from the Greek word βιβλιον (*biblion*), meaning book, and, as applied to the Bible, means, *The Book*, or the *Book of Books*.

369. The contents of the Bible, so far as is necessary to be noticed on this occasion, are the *Pentateuch*, or five books written by Moses. The name is derived from two Greek words, meaning five, and volume, or roll. The ancient writings, before printing was known, in the year 1444, were on large sheets of paper, or vellum, which were kept in rolls. Time is computed, according to the Mosaic account, from the beginning of the world, or from that time when the earth was fitted for human abode, and man was created, down to the time of the Savior, which comprises 4004 years. Thus we say, that the deluge happened in the year of the world 1057; that Moses was born in the year 2433, and died in the year 2553, of the world. The usual mode of computing is, to count backwards; that is, to such a year before Christ. For example, Moses died in the year 1451 *before Christ*.

370. The *year of our Lord* means the succession of years from our Savior's time, which does not begin from his birth, in the year of the world 3999, but begins four years and six days afterwards, that is, in the year of the world 4004. Thus the supposed length of time, from the creation to the present, is the number of years of the Christian era added to 4004 years. These five books of Moses comprise all history known to us, for the first 2500 years. After this time, the people whom Moses led, are known as *the Jews*. At the time of his death, they took possession of the territory lying eastwardly of the Mediterranean Sea, and which is spoken of, in these days, by the name of *Palestine*, or the *Holy Land*.

371. The Jews continued to dwell in this region, from the death of Moses, with the most remarkable variety of fortune, till the final destruction of Jerusalem by Titus, son of the Roman emperor Vespasian, in the seventieth year of the Christian era; since which time they have been scattered through all nations, but everywhere preserving their distinction from all other people, and fully believing that the Messiah is yet to come, and is to reëstablish them in far more than their former glory.

372. From Moses, there was a regular succession of inspired writers, whose works are contained in the Old Testa-

ment. This continued about one thousand and fifty years, beginning with Joshua, and ending with Malachi, nearly four hundred years before the commencement of the Christian era. These writings are both historical and prophetic. Their peculiar title to reverence, in the estimation of Christians, is, that they show why the Messiah was to be expected; that he would come; in what manner he would come; the events of his life; his sufferings and death;—all of which prophecies are known, not only from the New Testament, but from other history of the same time, to have been precisely fulfilled. This agreement between prophecy and events long after arising, is among the unanswerable proofs, to all reasonable minds, of the truth of the Christian dispensation.

373. Besides the books of inspired historians, there are a number of others, usually printed in the large editions of the Bible, but which are not considered as sacred or inspired writings.

They are called the *Apocrypha*. “They are so denominated, from a Greek word, which is expressive of the uncertainty, or concealed nature, of their original.” What should, or should not, be regarded as part of the Old Testament, appears to have been decided, necessarily, by the Jews, and not by the Christians; that is, the Christians took those books to be the Old Testament, which the Jews considered such, at and before the time of the destruction of Jerusalem. But this does not prevent critical examination, by Christians, into the authority of these books. The Old Testament (exclusive of the Apocrypha, which Protestant Christians do not consider to be part of the Old Testament) is understood to have been written in Hebrew, except a small part of Daniel and Ezra, which was in the Chaldee language.

374. Of the New Testament, the four Gospels were undoubtedly written by the four apostles whose names they bear. It is supposed, by some, that all of them were written in the Greek language. All the other books of the New Testament are supposed to have been written by persons who were living at the time our Savior was on earth, and by persons who were known to him, with the exception of St. Paul, who is supposed to have been living within that time; but his conversion occurred after the crucifixion, and his writings are placed at some time between that event and the destruction of Jerusalem. The last book in the New Testament is commonly supposed to have been written by St. John, soon

after the fall of Jerusalem. It is a circumstance which adds much to the evidence of the truth of these books, that they were written by persons who were the witnesses of the facts which are related.

375. The translation of the Bible, now in general use wherever the English language is spoken, is that which appeared under the patronage of James I. of England. It was begun in 1607, and appeared in 1611. It is remarkable that a king, who is remembered with as little respect as any one who preceded or followed him, should have conferred this benefit on the Christian community.

There are several editions of the New Testament in use. Two, in particular, are in high esteem among the learned. One of them appeared at the close of the last century (1797), and is preferred to any other, by some Christians. The second appeared about eight years later, and is preferred by others. It is said that the latter is the result of thirty years' labor; and that, during this time, one hundred and thirty thousand different copies of the Testament were examined and compared. No opinion is intended to be expressed on their comparative merits, as a comparison can be properly made by those only, who are qualified to judge.

376. The Founder of Christianity assumed no power of a civil nature. He taught how human life should be passed; how liberty of thought and action could best be directed; how worldly possessions could best be used. The simple and beautiful morality contained in his teaching, was alike suited to the splendor of the throne, and the humility of the cottage, the thronged city, and the solitary abode. As his doctrines reprov'd and denounced the pomp, luxury and depravities of the age, they called down upon the professors of them a general hatred, and punishment by civil power. During the three first centuries, Christians were subjected to all manner of indignity, to proscription, and frequently to cruel death.

377. In the beginning of the fourth century, the seat of the Roman empire was at Constantinople, which is now the seat of the Turkish empire. The emperor Constantine, who was the founder of this splendid city, took the Christians into his keeping; and was, or pretended to be, a convert to their faith. This was the beginning of that union between church and state, which has, ever since that time, existed in the world, and which has been the cause of no small portion of human sufferings. At this time Christianity had spread

over a considerable part of the Roman empire, which comprised most of the civilized world. There were societies, and churches, and extensive districts of country, over which bishops had a spiritual authority. The word *bishop* is from the Greek *ἐπίσκοπος* (*episcopos*), and is of equivalent meaning to *overseer*. The name of a numerous class of Christians—Episcopalians—is of the same origin.

378. The bishops of Rome gradually assumed a dominion over all other bishops and churches, and finally held, exclusively, the name of *pope*, a word signifying *father*; which name had been common to all bishops. The pope of Rome claimed to be, and was admitted to be, the apostolic successor of St. Peter, with the right to exercise a very enlarged construction of the power confided to that apostle.

379. Near the end of the fourth century, schisms had arisen between the church of Constantinople and that of Rome. They ended in a division. The former became the Greek, or Eastern church; the latter became the Latin, or Western church. The countries now known as Greece, and Turkey, and western Asia, belonged to the Greek church, and it afterwards extended into Russia, where it now prevails. The Western church became that which is now known as the Roman Catholic, and extended westwardly, from the limits of the Greek church, over all Europe. It was about the end of the fifth century, that the Roman church asserted its supremacy over all the western dominions. It soon became absolute, and so continued to be for about one thousand years. During this long lapse of time, there was but one faith throughout this extensive region, wherein were comprised states, kingdoms and empires. We are informed by history, that crowned princes acknowledged that they held their thrones at the will of the pope; and that his threat to excommunicate them from the church, and discharge their subjects from allegiance, was more terrible than an overwhelming army.

380. In 1517, Martin Luther, who had been in one of the monastic orders of this church, opposed himself to the papal authority, for reasons which are contained in the history of that time. He soon found himself strengthened by many supporters; and the result of these movements was, that a portion of the churches, and their people, and several ruling powers in Europe, separated from the church of Rome, and followed the doctrines taught by Luther. This event is known, in history, by the name of the REFORMATION. There

is a numerous class of Christians, at this day, known by the name of Lutherans.

381. Those who had thus withdrawn from the Roman church, being at liberty to judge for themselves, and to form any creed, and to follow any modes of worship, soon fell into divisions and sects. Difference of opinion in matters of faith, and in mere modes of worship, grew into the bitterest hostility. One party or the other always had the political power on its side; and thence it followed, that, for about one hundred and fifty years after Martin Luther's interference, the sufferings of Christians, on account of matters of faith and worship, were greater than they have ever been, before or since, for any other cause. The events involved in the Reformation, show human nature in a very odious light; but they teach this very sober lesson, in the most authoritative manner;—that religion is one thing, and political power another; that both must exist at the same time; that, while separate and independent, they secure social happiness; and that, whenever they are united, they may destroy it.

382. In 1541, John Calvin, of Geneva, appeared, who differed in some respects from Martin Luther, in his religious creed. He established another division of Christians. Calvin's opinions have prevailed; very generally, in the Christian churches. There is a numerous class, in Europe and in this country, who adhere, with more or less strictness, to his views of the Christian system, and are thence called Calvinists.

383. In 1560, James Arminius, of Holland, founded another sect, differing in some essential points from both the former. This person was most severely persecuted for his opinions. There are at this day a great many societies and individuals, who are Arminians, according to the doctrines of this teacher.

384. In 1532, Henry VIII., of England, withdrew from the Roman church, and made himself head of the church in his own dominions. By this act, the church and state were firmly united in the land of our ancestors, and have so continued to be to the present day. The religious divisions in England present a mournful example of tyrannical persecution in matters of opinion, which are not of human cognizance. Out of them arose the denomination of Puritans, many of whom left their native country to escape persecution, and settled in this country in 1620. They were the first settlers in New England. The name of Puritans is founded in

this ; they rejected, with equal abhorrence, the ceremonies of the Roman church and those required by the English church. They held to a simple form of worship, *purified* from what they considered to be the errors of both those churches. Their adversaries gave them the name of Puritans, as a mark of derision ; but their descendants have held it to be a name of honor.

385. This short outline opens the way to explain what is intended, in the Massachusetts bill of rights, by *Protestant teachers*. Many German princes, and the delegates of free cities in Germany, had asserted the right to manage ecclesiastical matters as they might think best in their several churches. By *ecclesiastical* (from *ecclesia*, the Greek word for church) is meant, things pertaining to faith, doctrines and forms of worship. This right had been recognized in a diet or convention, held at the city of Spire (near the borders of France, and near the west bank of the Rhine) in 1526. In 1529, the emperor Charles V. assembled a new diet in this city, which revoked that liberty, until a general council should be held. Against this decree the elector of Saxony, and many other German princes, *protested*. The name *Protestant* became common to all who revolted, in Luther's time, and since, from the church of Rome ; so that Christians, at this day, may be considered as divided into three classes, namely, Christians of the Greek church, Roman Catholics and Protestants.

386. Since the Reformation, numerous sects have arisen, in Europe and America. In every country in Europe, there is an established, or state religion. In many of them, other sects are tolerated or permitted ; in some, not, as in Spain and Italy. In England, there are several sects, differing in creed and worship from the established church. They are known under the general name of Dissenters. They were formerly under many disabilities, in their civil relations. These have been gradually relaxed, and mostly removed.

387. In the United States, there is no established, or required, form of religion. Every one is at liberty to believe and worship as he finds to be right ; being, in this respect, accountable to no earthly authority. Every denomination is governed by such doctrines and discipline, as it may see fit to approve of. There are not less than twenty-two different denominations of Christians in this country.

388. The citizens of the United States cannot be too grateful that religious controversy can derive no aid from

civil power among them. While controversy relies on reason and eloquence, whether coming from the lips or the press, and on no other means, it threatens no permanent evil. On the contrary, it is the more probable, that truth, whatever that may be, and wherever it may be, will come forth, and prevail. There is another subject of congratulation in this, that, whatever may be the modes of faith, discipline and government, among the sects, they all agree in one thing, that is, in the morality taught by the gospel. There can be no good ground to fear, that any sect will attempt to exercise dominion over others, contrary to the gospel precepts; nor any, that such attempt will be successful, while the means of general education are as much respected and promoted as at present they are.

389. That there is no established religion in this country, is one of the strongest reasons possible, why religious instruction should be part of the education of every member of the community. All our duties, public and private, have some relation to that sense of accountableness, of which a religious conscience is the keeper.

390. If it be of any importance to us, that public agents should be faithful in their trust; that justice should be rightly administered; that the members of society should be charitable, benevolent and kind neighbors,—the morality of the gospel must be relied on. For, whatever protection the public law may place around property, character, liberty and life, it can give no assurance, that many of the duties, which secure social happiness, shall be observed. He who contemplates the commission of a crime, and who believes that he can effect his purpose unseen and undetected, would not be restrained by any law of man's making.

391. Such sentiments appear to have had their influence with those who framed our constitution. They did not interfere with any man's conscience. They prescribed to no one a form of belief. They knew that human power had been, and could be, exercised to make men say and do many things, through fear, or the hope of gain; but they knew, also, that no human power can make one believe against his own opinion. In subjecting property of unbelievers to taxation for religious instruction, a benefit is conferred on them. If they are not Christians themselves, they are the more secure, and fare the better, if those around them are such. Whether the requisitions of the constitution have been rightly understood, at all times, by the legislature; and whether

there are such laws in being, as the people intended by that instrument, is not a matter to be discussed on this occasion. One thing may be inferred from existing laws, that, if public Protestant teaching of piety, religion and morality is kept up, it will be so because the people choose to have it so. If the people so choose, it will be because the young come into life with impressions adapted to that end. Hitherto the value of such teaching, in the public estimation, has made the ministerial office highly respectable, and eminently useful. It has attracted the first talents in our country into its employment. Whether this will continue to be so, will not, apparently, depend on legislative acts, but on the voluntary liberality of the people, and on their sense of the value of such teaching.

392. There is now no civil and religious union in this state, otherwise than that it is the duty of the legislature to provide for religious instruction. That this duty should be performed, may be shown in many ways, and, among others, in this:—Every military and civil officer, legislator, judge, lawyer, juror, witness, town officer, and many others, who take on themselves special trusts and duties, are required to bind themselves by the solemnity of an oath. In all these cases, the agents are required to appeal to HIM, from whom no secrets are hid; and to submit themselves to his just judgment, if they do not *that*, which, in his presence, they undertake to do. An oath supposes, that he who takes it believes, that there is a God, who will, in a future life, reward the worthy, and punish the wicked. It is therefore held, by divine and human law, to be a crime of the deepest dye, to speak as true that which is false, when under the obligation of an oath; and when those spoken to cannot know what is true, otherwise than by believing that the speaker would not dare to deceive men, in the presence of that Being who cannot be deceived.

393. This legislative duty may be also shown in this:—None but those who are duly impressed with religious sentiment, respect the Sabbath. We are taught, among other reasons for respecting that day, especially, these two:—*First*, that it is the proper time to lay aside the cares of the world, and to abstain from all unnecessary business; that it is a time set apart for self-examination, for considering the certainty of death, and the uncertainty of the hour of its coming, and for realizing the awful responsibility which is comprised in the single word *eternity*. *Secondly*; we are also taught, that the

Sabbath is to be respected for its beneficial effects in our social relations. On this day, the garments of labor are laid aside, and those of neatness and comeliness are put on. We meet in the places of social worship, each one observing the decencies which the occasion calls for; and each one paying due reverence to age; and each one being careful of his own self-respect, as the best title to respect from others. We are further taught, that there is a tranquillity and rational pleasure in being engaged in duties, which the wise and the virtuous have agreed to regard and honor, as among the first and the highest, which men can perform. No one ever yet regretted that his early days had been given to these duties; but many have lamented, in the decline of life, that they were not. Attending public worship, IN YOUTH, is the foundation of a habit, which becomes stronger and stronger, as life goes on; till, at length, one is ill at ease with himself, who attempts to disregard it. But there is a rational limit in all things. Though the Sabbath is a day of rest, and of pious duty, it should be, also, a welcome and a grateful day. Surely, to the *young*, it ought not to be a day of severity and privation, and consequently of disgust.

394. The commands of the constitution, and obedience on the part of the legislature, extend to taxing property for religious purposes; to the entire protection of those who engage in public worship, from all interruption; to the closing of all places of public resort, for spending time and money, and all places of ordinary business, on the Sabbath. How much farther the legislature may go, must depend on public sentiment; for this is a law-making power greater than that of the legislature. If there should be still other marks of respect for this day, it must depend on common consent; and this must depend on making deep and rational impressions in early life.

395. *Parishes*; from the Latin *parochia*. It is supposed that this word was not in use among the Romans; but that *parish* is derived from two Saxon words, which meant the territorial division wherein a priest had the spiritual care. It is believed, that all the religious societies in the United States may be thus classed:—(1.) *Territorial Parishes*. In the New England states, anciently, every town was a parish, or was divided into two or more parishes. Each parish was a corporation, in virtue of general statutes, for the purpose of maintaining public worship; and, to this end, all property within the limits of each parish was taxable. But, every

citizen residing within the parish limits, and who worshipped with some Protestant sect, of a denomination different from that established in the parish, might require that the tax assessed on him, should be applied to the support of his own teacher ; and this teacher might recover the amount of the tax, in an action at law. As the law now is, every one has the right to have his taxes applied to his own teacher's support, of whatever denomination ; and to be exempt from all parish taxes, if he has filed the certificate, required by law, that he belongs to some religious society other than that of the parish.

396. (2.) *Poll Parishes.* These have become very common. In large towns, there are none others. They consist of voluntary associations of individuals, to maintain religious worship. They are of all denominations. When they have certain officers, duly chosen, they are considered as having corporate powers, and are held to be corporations in law, for the purposes of their association. They have their legal rights and duties, in virtue of public laws, which apply equally to all. Such societies usually have a place of public worship, which is built at joint expense of proprietors. Pews are sold, subject to taxation for the support of pastors. The property in the building, and land, and church estate, is in the society ; the property in pews is in each pew-owner. They make such contracts as they see fit, as a religious society, which are considered as legal contracts.

397. (3.) *Incorporated Societies.* There are many such societies, which are strictly corporations, created by special acts of the legislature ; and which have such rights, powers and duties, as the incorporating act provides for. Such acts are asked for and obtained, in general, for the more convenient management of the property, or common concerns of the members. Contracts of such corporations are made in conformity to the authority given ; and, in this respect, they are subject to the law which governs incorporated bodies. It is supposed, that, throughout the United States, the formation of religious societies is left to the will of the citizens ; that each state does, or does not, legislate on this subject, as it thinks proper. Whether there are statutes, in this respect, in all the states, and what they are, cannot be accurately stated without much labor.

CHAPTER XXX.

Education.

398. THE word *education* is derived from the Latin *e*, from, or out of, and *duco*, to lead, or bring forth. It means the bringing forth, by discipline, the physical, moral and intellectual qualities of the human being. Education has been compared to the action of the sculptor on his block of marble. As the qualities of his marble are, as the character of his action is, so will be the figure disclosed to the eye. Education has been more happily compared to the cultivation of the earth. As the soil is by nature, as the melioration of it is by labor, as the cultivation of it is by art and science, so will be its productions. Soil, originally rude and unprofitable, may be made to yield food, and to furnish the means of pleasure to the senses, and to become a subject of rational satisfaction. The Creator has allowed to man, and to no other created being, a sense of dominion over the earth. This sense connects him with time that was, when he was not, and with time that will be, when he is not. To minds capable of the perception, the beautifully cultivated earth teaches them

“To look through nature up to nature’s God.”

399. There is a striking analogy between education and the cultivation of the earth. We may suppose a person to have received the highest gifts of nature, and the greatest improvements from education; that such a person would appear in an erect and dignified form, habituated to strong, pleasing and graceful action; that he would use,—rightly for himself, his associates, and the community,—a discriminating sense of right and wrong; that he would secure to himself respect, esteem and confidence, by the exercise of intellectual power. If such a person were habitually governed by a sense of gratitude for the benefit of existence, and of accountability for the use of talents intrusted to him, there would not be any thing to add to his worth. To this standard all men cannot attain; but all men may make some approaches towards it; and every man is bound to exert himself to this end, in proportion to the gifts of nature, and of his opportunities to improve them.

400. The word *physical* is taken from a Greek word (of nearly the same sound) which means *nature*. Every object

is physical, which can be perceived by the senses ; nothing is so called which is spiritual, or pertaining to the mind. The physical part of man is known, also, as the *material* part ; which word is said to be derived from *matter*, and that from *mater* (the Latin for *mother*), because matter, from which every thing is made, acts, in the formation of bodies, like a mother.

The word *moral* has many meanings. It is derived from the Latin *mos*, manner ; and the plural of that word, *mores*, furnishes the phrase *moral sense*, by which we distinguish between right and wrong ; and from these come virtue and vice. That intuitive judgment, which is made, either from the natural moral sense, or from the cultivation of that sense, or from both, is the act of *conscience*.

Intellectual is from *intelligo*, to understand. *Intellect*, *understanding* and *mind*, are common names for the same quality, or power.

401. All that can be thought and felt, as to one's self, and one's own ; and as to others, and their own ; and as to knowledge, opinion and speculation, is communicated from one to another by muscular action and expression ; and is perceptible through the senses, and no otherwise. As human life is a series of actions, from the cradle to the grave, most of which actions are of daily recurrence, all persons acquire *habits* in performing them. To these habits the name of *manners* is given ; and when one's manners are spoken of, his habitual muscular action and expression are intended. Every one's manners are more or less pleasing, or more or less disagreeable, to others. As every one is supposed to have the power to form his own manners, and, consequently, to please or displease thereby, manners have acquired the name of *minor morals*. This implies a moral duty so to conduct, as to render one's manners agreeable to others ; and though, by common consent, manners are regarded as of much importance in society, they are not entitled to the name of *virtues*, however excellent they may be ; nor to the name of *vices*, however disagreeable they may be.

402. Human beings are so bound together, by common interest, by sympathy, by propensity to imitate, and by sensibility to common opinion, that no community is so low, as not to have some standard of manners. In the societies which are called the most refined, the most perfect standard is to be sought. Either some societies, which are so denominated, are miscalled, or their standard is, in some re-

spects, irreconcilable with good sense. *Fashion* is the standard in that which is said to be "the best company." This word is derived from words in several languages, of like meaning, which signify *to make* or *to form a model to be imitated*. If this were the practical meaning of *fashion*, it would deserve great respect. But, in truth, its dominion is as absurd as it is tyrannical. In some countries, and among some persons, it is most implicitly obeyed; and in our own, for a young republic, we have abundant proofs of its power.

403. The present is not an occasion which calls for a disquisition on this subject; but, for the use of the young, it may be permitted to remark on that department of fashion which regulates personal decoration. Dress is the outward covering of manners. Certainly, it is our duty to ourselves and to others, to be dressed in a decent and becoming mode; but dress deserves, with rational and well informed persons, no greater care. Those, then, who think that life can have no higher aim, than the adorning of themselves, *externally*, are the slaves of a worthless vanity. This degrades them below the people of the forest. When the chase is over, and the war club is laid aside, the men and the women of the wigwam may adorn themselves, since their savage life denies to them worthier objects for the love of distinction. In societies which assume to be morally and intellectually refined, this misdirected passion secures to those who show it, that rank, which such persons choose for themselves.

404. It is not beneath the dignity of education, to discipline the young, of both sexes, to the attainment of habitual action and expression, which will make them easy, and satisfied with themselves, and pleasing to others. Mere discipline, to this effect, is the business of those who profess to understand and apply it. It may be assumed, that as every human being must act, it is worth while to act well; and that everything that is worth doing, is worth doing in the best way. It is said that every one is sought and esteemed, according to his amiable and attractive qualities.

405. Good manners are said to flow from good principles, and worthy motives; and it is, therefore, objected to habitual kindness and complaisance, that they must often be shown when no corresponding sentiment is felt. It is true that one's feelings towards others are not of his own choosing; but deportment may be. Nor is there anything false, or unworthy in this, unless the intention be to deceive. If every one expressed, at all times, just what he felt, society would

be intolerable. The feeling may be unavoidable ; but will prudence and propriety allow the expression of it? Those blunt, honest persons, who, from principle, "say what they think," find themselves at variance with all around them, and are generally in the wrong. The good order and decency of society, demand that there should be common rules of conduct, and that they should be faithfully observed. These rules are known under the common names of *courtesy*, *complaisance* and *politeness*. The observance of them strengthens, and even generates, the sentiments which that observance professes ; and if one has no other principle in deportment than his own interest, he will find that interest to be best promoted by conforming himself to these rules.

406. Persons of true moral and intellectual worth, are sometimes embarrassed by a fear of deviating from *fashionable* rules. This fear would not, probably, be felt, if such men saw the world as it is. It is believed, that in our own country, where no birthright distinctions are recognized, good manners are to be formed on these simple truths :—

First. All persons are by nature equal. No one has a right to assert any claim to deference and superiority, unless from official station ; nor can any one release himself from a decent and becoming complaisance towards others.

Second. Official station absolves no one from the like complaisance towards those whom he has to deal with, unless public opinion, the execution of the laws of the land, or the preservation of order, or the exaction of obedience, necessarily prescribe some other rules. Arrogance in official station is more intolerable than it is in private life. In the former, prudence often compels one to submit to it in silence. In the latter, one may show that he is disgusted with it, or may keep out of its reach.

Third. Forms, usages and ceremonies are established for general convenience and comfort, and are to be respected and observed, so far as they are founded in reason ; and even when not so founded, if they are innocent, and commonly observed.

Fourth. Those who know what such forms, usages and ceremonies are, forfeit their right to respect and consideration, when they treat those *contemptuously*, who have not been as fortunate as themselves in obtaining knowledge.

Fifth. Modest self-respect ; the power to be respectably quiet ; the suggestions of common sense, in the existing case ; and doing as one would be done by,—are safe guides in personal deportment. If more be required (which can only be

in unessential things), the example of those who are fit to be examples, furnishes the only guide.

Sixth. The morals of Christianity, and the rules of genuine politeness, are the same, with this difference: the former are of divine command, the latter are founded in social utility. The exact performance of all duties to one's self; respect for the rights, feelings, comforts and well-being of others; charity and silence, as to faults, errors and follies, when no duty calls for expression,—are among the divine precepts. The self-respecting, polished *citizen* governs himself by rules, which lead to the same results.

407. Philosophers, moralists and politicians think of, and treat of mankind collectively; that is, as though one sensitive, receptive and intellectual power, existed among the whole number of persons; or as though all who make up the unity, constituted one being. Politicians, civil and military, must so think and act; and when power raises any one so high, that he can no longer distinguish the individuals who compose the mass, society falls into two parts, in his view; all but himself make one,—*himself*, the other. If this person take up with him a fine, well-kept moral sense, so much the better for both parties. But there is no *generalizing* as to manners. Be distinction or contrast what it may among members of society, manners are ever an affair between man and man. No one can be so low, or so high, as not to feel that he is in the world, and has a place in it. Certainly man must look up to man; and many, sometimes, to one; but no one of the many ever forgets that he is a man, or feels that he looks up to *that* which is more than human. Distinctions, founded in nature or acquirement, are admitted and respected, and must be so; but nature never gave, nor can any natural or incidental circumstances give, to any man, the right to vaunt himself of his superiority. The doing so, is an unpardonable affront to self-love; and when it takes the form of contempt for others, it is always insufferable. Except those acts which public justice notices, and deals with as crimes, *contempt* is that wound which darts the deepest, and heals the latest, of any that can strike the human heart. Never did this offence come unprovoked, from any heart, that was not, in its own nature, *ignoble*. It is not to be denied, that high power, of whatever cast, confers sovereignty on the possessor; but manners and morals are the constitutional principle which makes that sovereignty tolerable. Whenever the consciousness of having lost respect and esteem through bad manners,

and bad motives, unite with the feeling of power, that union ever did, and ever will, make *tyranny*. Tyrants are great and small, public and private. The acts of small tyrants are plotting, pitiful and cruel; those of great ones, indiscriminating, capricious and terrible.

408. *The Moral Sense.* No part of character is more important than this, whether considered in behalf of the individual himself, or in his dealings with others. There is a natural sense of right and wrong. It is more or less operative in every human being. The tendency to worthy conduct may be easily diverted, or may be cultivated till it becomes firm and strong enough to resist all temptations. The motives to cultivate this sense rest on these principles:—*first*, utility to the moral agent, and to those with whom he is socially connected; *secondly*, because the strict observance of moral rules is conformity to the will of the Creator. As this subject is treated of in the Appendix, it will be noticed further, in this place, for one purpose only.

409. From the time that the sacred volume was written, *slander*, whether malicious or thoughtless, has been considered, by all moral teachers, as one of the most reprehensible of the vices of society. Social beings have an interest in knowing the truth concerning those whom they must trust, confide in, or believe. They may pursue any fair and reasonable measure to arrive at that knowledge; and no one is blamable who speaks the truth of others, when the duty of doing so arises. It is the publication of truth maliciously, and when it answers no useful purpose, that moral teachers condemn; and that which such teachers reprobate is, the publication as true, that which is false, and truth so discolored and distorted that it amounts to falsehood. It is (to the reproach of human nature) a common pleasure to strip one's associate of every virtue, and to attribute to him vices, errors and follies. It is one of the deplorable truths of the day, that the press frequently devotes its powerful machinery to this malevolent work. In private life, the mischief is done in whispers and in secrecy; and even the gratified listener is weak enough to suppose, that his entertainer will not make him *the subject* with his next listener. If one who has been spoken of in the most reproachful manner, in a back-biting company, should unexpectedly come into it, the most prominent of his slanderers would probably be that one who would rise to receive him with the most obsequious respect. The real evil in all this is, that social intercourse is made to be

false and hollow, and utterly unworthy of rational and moral beings.

410. It is believed that the only remedy is, for every one to adopt the rule of doing as he would that others should do to him. If one is unwilling to confide his character to curious and misrepresenting gossips, he should not rank himself among that tribe. When one is sure that no just judgment which can be pronounced, on his manners, moral agency and intellectual rank, will depreciate him below his desired seeming to the world, he may venture to ascend to the judgment seat, as to others. A sense of justice towards others is but a feeble restraint. Justice towards one's self may be an efficient one. If education can so inform the moral sense, as to make one feel that he degrades himself when he condescends to listen to the slanderous commentaries of others, and that he forfeits his own respect when he retails the poison of gossips, something might be effected towards a remedy. If no one said *of* another, that which he would not say *to* him, when no duty called for the observance of a different rule, men would be nearer to what they pretend to be—honest and fair-dealing members of society; and the young would rise into the social ranks with far more exalted sentiments of human dignity.

411. *Intellectual Power.* Of this, as has been said, we can know nothing but from its operations. Some writers have defined intellectual qualities in this manner:—*Intellect* is the general term which includes all qualities, and comprises acuteness of observation, accuracy of judgment, originality of conception. *Genius* is born with the individual. The term is derived from a Greek word which signifies to be born. It is a particular bent of the intellect, which distinguishes a man from every other individual. Thus poets, painters, sculptors, and consummate generals are men of genius. *Talent* is a peculiar modification of intellect, or power to accomplish some peculiar thing; as a talent for humor, or imitation. *Faculty* is a permanent quality or specific power directed to some single object. *Ability* is the power of doing. The power to see and hear are *faculties*. Health, strength and fortune are *abilities*.

412. Whether these terms are rightly defined or not, they are not always understood and used in conformity to these definitions. They are too abstract for common use, and do not discriminate between natural and acquired power. Obscurity must always rest on this subject, until some means are discovered of distinguishing, among the qualities which con-

stitute a human being, those of them which nature gave, from those of them which have been acquired. It is believed, that all human beings, who have not natural or accidental defects, have the faculty of receiving impressions from external objects, and that also of receiving suggestions which come from their own organization. This natural faculty is probably varied, in some respects, in each individual, and is differently cultivated, through design or accident, in each. Here nature and acquirement are soon confounded.

413. Every one has the power of retaining, and of employing his mind upon, these impressions. This power is as much varied in different persons as the original faculty of receiving impressions is. Here, again, the distinction between the natural powers of the mind, in managing its own materials, and the acquired habits of the mind, is made with difficulty, if it can be made. Every person makes use of the knowledge which is thus stored up in the mind, in his accustomed employments, as to men and things. This makes *action*, which is the product of physical, moral and intellectual power, and by which men are distinguished and contrasted. How much of this action is to be referred to the original nature of the agent, and how much to the changes, improvements and habits, which have been gradually making the agent what he is perceived to be, does not seem to come within any rule of certainty. Persons who have observed their contemporaries, know, that human life may be a continued process of education; and have noticed surprising advancement after manhood has been attained; but they have also noticed, that apparently well-founded promise has disappointed expectation. However difficult it may be to discriminate between natural and acquired powers, yet we can clearly discern the difference which these combined powers make among individuals; and we often believe that we see the original stamp of nature, through all the changes which education may have wrought.

414. The time usually devoted to education, is that which precedes manhood; and the condition of every individual depends, essentially, on acquirements within this period. It is most difficult to impress on the youthful mind, the importance of improving diligently this time. In general, the labor of acquiring knowledge is unwelcome to the young. Instead of regarding the work of disciplining the heart and the mind, as a precious privilege, which, if unavailed of in youth, may be lost forever, they frequently feel it to be an uncomfortable

exaction. But this is the defect of the process of education, and not the fault of the young. Every system of education is radically wrong, which makes the acquisition of knowledge, whatever be the age of the pupil, painful and disgusting. Pupils ought rather to be cheered, comforted, encouraged, and consoled in the labors, of which they may be incompetent to perceive the utility.

415. *Conclusion.* A maxim of Lord Bacon, "Knowledge is power," is often repeated. This maxim is founded in the very nature of society. Welfare is dependent on the right use of knowledge in individual concerns, in social relations, and in political duty. Gifts of nature, and attainments from education, qualify an individual to exercise great influence over his fellow men in the departments wherein he is, or may be, called to act. When this influence is qualified by exalted moral principle, it may be the very security of political welfare; when it is unprincipled and selfish, it is the worst enemy of the public safety. There is no difficulty in discovering where such influence does, or does not, reside. The difficulty lies in knowing whether it is, and will be, virtuously or viciously applied. The success of the experiment which the American people are making, is believed to depend on two things:—*first*, on their capacity to perceive the nature and the value of their political institutions; *secondly*, on their capacity to discern who, among their fellow citizens, are the conscientious and enlightened friends of these institutions, and who, among them, are, for any reason, unfit to be trusted.

NOTES.

[Note to page 79, section 199.]

ON BANKRUPT AND INSOLVENT LAWS.

As the relation of debtor and creditor is, at all times, one of great interest, and one which especially engages public attention at the present time, it may be useful to state what the *constitutional* law is, on this subject.

After the declaration of independence, and before the adoption of the constitution of the United States, the several states were absolutely sovereign, as to all legislative measures affecting debtor and creditor. "The power of interfering with contracts, and changing the relative situation of debtor and creditor, had been so exercised as to impair commercial intercourse, threaten the existence of credit, sap the morals of the people, and destroy the sanctity of private faith." (12 *Wheaton's Reports*, 354—5.)

Among the purposes intended by the framers of the constitution, and by the people when they adopted it, was, to cure such evils, and to make all the people in the Union, *one people*, in those relations which the constitution recognized to be national.

To these ends, the constitution provides, among other things, for a uniform standard of value, in gold and silver coin; for the like standard in weights and measures; for the faithful performance of contracts entered into between citizens of different states, by giving jurisdiction between them to national courts; for the equal distribution of the estate and effects of insolvents, by means of one and the same bankrupt system throughout the states. To secure the effectual operation of these and other provisions, the constitution prohibits certain acts of state legislation, in these words:—"No state shall coin money; emit bills of credit; make any thing but gold and silver coin a tender in the payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts."

When the constitution was adopted, insolvent laws, providing for the discharge of the person, and future acquisitions, were in force in some of the states, and such laws have been passed, or revised, in others, since the adoption of the constitution.

In this state of things, these questions have been raised:—(1.) *Do state insolvent laws impair the obligation of contracts?* (2.) *As power is granted to Congress to establish a uniform system of bankruptcy, is the power to make insolvent laws thereby taken away from the states?*

Several cases have been decided in the Supreme Court of the United States (the court of the last resort on constitutional law), in which the above-mentioned questions arose. It will be noticed, that the prominent words in the prohibitory clause are, "impairing," "obligation," "contracts." The meaning of these words, taken separately, is well understood. Their meaning, taken connectedly, in the above-quoted clause, has been so differently understood, as to call forth the best efforts of minds, as strong by nature, and as much improved by study and experience, as any that do, or ever did, act in our national affairs. The two most remarkable points of difference are understood to be these:—On the one hand, it is maintained, that the "obligation of a contract" is that duty which arises from the immutable laws of natural justice, the obligation of which men are presumed to carry with them into society; and that the laws of society do no more than to enforce the performance of that duty. On the other hand, it is maintained, that all contracts are made by persons, who are already members of society, and are made with reference to the existing laws of the society of which they are members; and that the "obligation" of the contract is that *only*, which these laws make it to be.

Those who maintain the first point say, that any law which *substitutes* something, for the exact performance of the contract, is a law impairing the obligation of contracts; that insolvent laws do this, and are, therefore, repugnant to the constitution.

Those who maintain the second point say, that, as all contracts are made with reference to existing laws, if there be a law in force, when a contract is made, which provides, that contracts may be discharged on the happening of a certain contingency, in some other mode than that expressly provided for therein, contracts must be considered as having been made with reference to that law; and that such law does not impair the obligation. Whence they infer, that a law, which provides that debtors, who surrender all their estate and effects for distribution among creditors, shall thereupon be discharged from all posterior liability to these creditors, does not impair the obligation of contracts entered into *after* such law was in force. Therefore, the operation of such a law, on such contracts, is not repugnant to the constitution.

In what manner the Supreme Court of the United States have disposed of both the questions above stated, will be seen from the following cases:—

Sturges vs. Crowningshield. (10 *Wheaton's R.* 122—208.)

Action on promissory notes, dated March 22 1811. Defence;—Discharge under the insolvent law of New York, passed 3d of April, 1811. Judgment;—That, since the adoption of the national constitution, a state has authority to pass a bankrupt law, provided such law does not impair the obligation of contracts, within the meaning of the constitution; and provided there be no act in force, to establish a uniform system of bankruptcy conflicting with such law; that the law of New York, so far as it attempted to discharge the contract, on which the suit was instituted, was a law impairing the obligation, &c.

The meaning of this decision is supposed to be, that *some* power of making insolvent laws resides in the states; and that a law, which

discharges a debtor from contracts entered into *before* the passing of such law, is repugnant to the provision of the constitution concerning contracts.

McMillan vs. McNeill. (10 *Wheaton's R.* 209.)

McNeill of South Carolina sued McMillan of Louisiana, for money paid for him, as surety on a custom-house bond, in May, 1812. Both parties then lived in South Carolina. Between that time and August, 1815, McMillan removed to New Orleans, and, in that month, obtained a discharge under the insolvent law of Louisiana; which discharge was offered as a defence against McNeill's suit. Judgment;—That the discharge was not a bar to the suit. Although the insolvent law was made *before* the debt was contracted, the contracting parties, residing, at the time of the contract, in South Carolina, had no reference to the laws of Louisiana.

Ogden vs. Saunders. (12 *Wheaton's R.* 213—269.)

In September, 1806, Jordon of Kentucky drew a bill on Ogden of New York, in favor of Saunders. Ogden accepted the bill, but became insolvent before the day of payment, and obtained a discharge under the insolvent law of New York, passed in 1801. He afterwards removed to New Orleans, where Saunders brought this suit against him.

Ogden's defence was (in part) his discharge under the New York law. Each of four of the justices of the Supreme Court, delivered elaborate opinions on the two questions before stated, and are understood to have concurred in this:—(1.) That the grant of power to Congress, to establish bankrupt laws, is not an *exclusive* grant; and does not take from the legislatures of the respective states, the right to legislate on the same subject, except when the power vested in Congress has been exercised, and the state laws conflict with those of Congress:

(2.) That a state insolvent law, which discharges the person of debtors, and their after-acquired property, from debts contracted *after* the passing of such law, is not repugnant to the constitution:

(3.) That a discharge under a state insolvent law, is valid *only* between the citizens of the state, by which that law was passed, and is inoperative as to contracts made with citizens of other states:

(4.) That a citizen who contracts debts in one state, and then removes into another state, and there takes the benefit of an insolvent law, does not thereby discharge himself from debts contracted before his removal.

The chief justice, and two other justices, did not concur in opinion with the other four, as to the constitutionality of insolvent laws; and he delivered, for himself and them, an elaborate opinion, setting forth the reasons which had led to a different conclusion.

The law is understood to be now *settled*, according to the opinion of a majority of the members of the court, as in all other cases where a difference of opinion occurs. But, as "the positive authority of a decision is co-extensive only with the facts on which it is made," it is obvious that many questions still remain open; and questions, too, of the most difficult and perplexing character. All questions where laws conflict, or, in other words, where litigating parties

claim to be protected or sustained under laws of different sovereignties, are of this nature. Although the constitution has been in the course of administration for more than forty years, nothing has been effectually done, in pursuance of its provisions, for the relief of debtor and creditor, even in those relations which are strictly commercial.

Whether the differences of opinion which have hitherto prevented the passing of a national bankrupt law, can be reconciled, or in any way gotten over, is exceedingly doubtful; and until such law shall have been passed, there can be no relief from the embarrassments which are said to exist, but by the exercise of power admitted to be reserved to state legislatures.

Whether a creditor shall, or shall not, have the remedy of coercion, by imprisonment, for the recovery of his debt; or the right to punish his debtor, by imprisonment, because he cannot pay, is entirely another question; and is one which does not arise under the constitution of the United States. Any state legislature may decide, by law, under what circumstances imprisonment for debt shall commence; of what nature it shall be; how long it shall continue; and when, and how, it shall end; and even that there shall be no imprisonment for such cause. Such legislation involves only one of the *remedies* of the creditor, and does not impair the obligation of the debtor. Mere remedies to compel the payment of debts, differ essentially in the several states, and are from time to time changed and varied, as state legislatures see fit. It is not perceived that any modification, or even the total abolition of imprisonment for debt, can ever be made a subject of national jurisdiction, under any of the prohibitory terms of the constitution.

NOTE ON CRIMES.

THERE are six crimes which are punishable with death by hanging, in Massachusetts; among which are murder, arson, robbery, burglary, treason.

Murder is the malicious killing of any human being, by force and violence, or by any secret means, as poisoning. The word *murder* is supposed to be derived from the barbarous Latin *mordrum*, or *murdrum*, or *murdrare*, which is supposed to be derived from *morti*, death, and *dare*, to give. *Murder* comes under the general term of *homicide*, which is derived from two Latin words signifying man, and killing. Homicide is felonious, excusable, or justifiable. *Felony* is a word of uncertain origin. All crimes, above misdemeanor, are felonious. Statutes may make, and often do make, crimes felonious, which are not so at common law. Excusable homicide happens, when one, being lawfully employed at the time, kills another, without the intention to do any wrong. This is, more properly, killing by *misadventure*. *Justifiable* homicide is putting one to death in pursuance of legal sentence; or in the necessary defence of one's person, house, or goods. *Manslaughter* is the unlawful killing of another

without malice, either express or implied; which may be voluntary, as in a sudden affray; or involuntary, but when doing some unlawful act.

Arson is from *ardeo*, to burn, and means the malicious burning of a dwelling-house *in the night time*.

Robbery is from the barbarous Latin *robaria*, and means the taking of property from one's person by violence, or by threats of violence, and putting the person in fear of his life, or of grievous injury. *Larceny* is the legal term for *theft* of all sorts; it is derived from the Latin *latrocinium*, which is translated *theft*, or *robbery*.

Burglary is derived from two words, which signify theft, and dwelling-place; and means breaking, and entering a dwelling-house, in the night time, with intention to commit any felony therein.

Treason is the levying of war against the government, or conspiring to levy war against it; or adhering to public enemies, giving them aid and comfort. This crime can hardly be committed against a state, since the adoption of the national constitution.

All crimes, not capital, are punished by imprisonment for life, and hard labor and solitary confinement; or by such punishment, for years, in the state prison; or by imprisonment in the common jail, and fine; and, for still inferior offences, confinement in houses of correction, and fine; or by fine only. In such cases, the statutes fix the highest and lowest degrees of punishment, and leave the judicial courts to decide on the amount of punishment between the two extremes.

Perjury (from *perjurium*) is the wilful and false swearing, when under the obligation of an oath, in any case where the public law requires a declaration of the truth under oath; *subornation of perjury* is the crime of procuring one to swear wilfully and falsely, in such cases. All oaths, which the public laws do not require, are, in themselves, criminal.

Forgery is a term borrowed from the fashioning or forming of any article on the anvil, and signifies the false and fraudulent making of things, or the similitude of deeds, records, notes or writings of any kind, with the intention to wrong or defraud.

Counterfeiting is commonly used to signify the making of false coins, or of false bank bills, or the fraudulent alteration of true ones.

Blasphemy is derived from two Greek words, which signify *speaking* and *impiously*; and is defined, by statute, to be such speaking in relation to the Supreme Being, the Savior, or the Scriptures.

The statute laws recognize, and provide punishments for, all other crimes, the number of which is very many. They are usually classed under some one of these heads:—

- (1.) Crimes against the lives and persons of citizens.
- (2.) ——— against private property.
- (3.) ——— against public justice.
- (4.) ——— against public peace.
- (5.) ——— against chastity.
- (6.) ——— against public policy.

The crimes above-mentioned and referred to, are punishable under the authority of the several states. Some crimes, of the like nature, are punishable under the authority of the United States, and some crimes are punishable under the latter only.

Crimes against the Laws of the United States.

The courts of the United States have exclusive jurisdiction of all crimes, which are committed in violation of laws enacted by Congress; and these laws are such, and only such, as the constitution of the United States expressly or impliedly provides for. As the sovereignty of the United States is a *limited* one, and that of each state an *absolute* one, excepting only as the powers granted to the United States make it otherwise, the question arises, How is the line drawn, which separates the one sovereignty from the other in matters of criminal jurisdiction? The answer is, that all which does not expressly, or by necessary implication, belong to the United States, is reserved to the states. This rule will settle every question of jurisdiction between the two sovereignties; viz. The act done, the place in which it was done, and the person against whom, or thing in relation to which, it was done, must all be such as to give jurisdiction to the United States' courts; and if any one part be wanting, the jurisdiction belongs to the state. For example; a stage coach is stopped, and robbed, between Washington and Baltimore. This is a crime against the laws of Maryland. An hour afterwards, a MAIL stage coach is stopped by the same persons, in the same spot, and robbed. This is a crime against the laws of the United States. Again; a citizen holds a civil office, under the United States. His dwelling-house is entered, and gold coin of the United States is stolen therefrom. This is an offence against the state. This citizen was not robbed in relation to his office; his gold was not taken as coin of the United States, but as money. But if any unlawful act were done to this citizen, even in his own dwelling-house, *in relation to his office*, it would be an offence against the laws of the United States. The *places* in which the United States have exclusive jurisdiction are the high seas, forts, arsenals, and particular places ceded by the states for national use; as, navy-yards, sites for light-houses, and all within their limits. The *persons* or *things* are all officers, in respect of their official rights and duty, and all things which are exclusively national, or national property, or which exist in virtue of laws of Congress; as, the national bank, post-offices, coin, public debt, records, courts, revenue, &c. The *acts* done, and charged to be crimes, are the same, everywhere, as to mere agency; as murder is murder wherever it occurs, &c.; but by what tribunal they are to be judged of, and punished, depends on the distinctions above-mentioned.

As the United States have the exclusive power to legislate as to the army and navy, crimes and punishments in these departments are, in some degree, dependent on the circumstance, whether a state of war exists or not; some offences are capital in time of war, which are not so in time of peace. Trials in such cases are had in courts martial (held only by military or naval officers).

Among the crimes (and, as far as recollected, all the crimes) punishable with death by the United States laws, are these:—piracy (a word derived from both Latin and Greek), which is forcible robbery on the high seas (engaging in the slave trade is classed with piracy, and punished in like manner); murder; malicious burning or destroying of ships at sea; arson; robbery of the mail on the highway.

The crimes which are felonies less than capital, and misdemeanors, are very numerous, and provision is made, in the statutes, for their trial and punishment.

In general, the United States have not court-houses ; but use those in which the state courts are held ; nor have they jails or penitentiaries. These places of confinement and punishment, built under state authority, are used in judicial proceedings of courts of the United States ; and sentences of these courts are executed in state jails and prisons ; but this is so by consent of state legislatures, expressed in statutes.

The distinction between national and state authority, may seem, at first view, confused, and difficult to be understood. But all becomes clear from understanding the fact, that there is a distinct, and perfectly organized government, for the whole people of the United States (as though there were no state governments), for certain defined purposes, in which all the people have a common interest ; and that there are state governments, for all other purposes, which act within their own limits, and on their own citizens. Every citizen is, at all times, subject to both these governments. But the rights and duties under the one, are entirely distinct from those under the other. Hence, a crime committed in violation of a law of the United States, is no offence against any state law ; and crimes against state laws, are not offences against laws of the United States. There are no judicial magistrates, in the national government, inferior to district judges. It sometimes happens, that some judicial act must be done, when a district judge is not at hand (there being but one in each district, however extensive) ; as a previous examination on a charge of some crime against a law of the United States. In such case, justices of the peace may examine, and, if they think proper, secure the accused, to be further dealt with, by committing him to prison.



APPENDIX.

CHAPTER I.

Pursuits in Life.

IN order to supply all the real or imaginary wants which grow out of the condition of man in a state of society, a great variety of pursuits have become necessary. Of these the most important are those which furnish him with food, guard him from heat and cold, protect him from the inclemencies of the weather and the seasons, and enable him to inhabit the different climates of the earth.

To these are added numerous others, which have sprung from his desire of improvement. These render his habitation and his garments convenient and comfortable, excite and gratify his taste, and bring to him, while dwelling in a little corner of the earth, all the delights and advantages of every other region.

That he may possess these enjoyments in security, and, possessing them, may employ his leisure in occupations worthy of his intellectual and immortal nature, other arts and professions have been found necessary, to record and ascertain his acquisitions, to extend his power over nature, to enrich him with knowledge of the distant and the past, and to enable him to prepare for the future.

If a man would be skilful in any one of these pursuits, he must spend a considerable portion of his youth in preparation for it. If he would be useful and eminent, he must devote a large part of his middle life exclusively to his particular calling.

All the different pursuits are in themselves equally respectable. But all are not suited, nor agreeable, to every person. They require very different kinds of preparation; and some require a much longer and higher preparation than others. It is the object of this Appendix to give some account of the various kinds and degrees of preparation, which it is necessary to make for some of the most important of these pursuits. It has been thought not unsuitable to annex this account to a book which points out the duties and rights of the American citizen. Its importance is obvious from the fact, that while ample provision is made for a course of study for persons destined to become physicians, lawyers or

ministers of the gospel, no such provision is made for young persons who are desirous of qualifying themselves to be good farmers, mechanics or instructors.

CHAPTER II.

Agriculture.

THE pursuit which occupies the greatest number of persons, in a civilized state, and which is essential to the subsistence of men in a social community, is the cultivation of the earth, or agriculture.

This includes the raising of all kinds of vegetables for the food of man and other creatures that depend on him; the rearing of cattle, horses, and other domestic animals; the management of the dairy; the preparation of fruits and their juices, such as the making of cider; the planting and preservation of fruit and forest trees, and whatever else is necessary to the bringing to perfection the productions of the earth. It is commonly supposed, that very little information is necessary to enable a man to conduct the business of a farm. But to be an intelligent and successful husbandman, requires no trifling acquisitions.

He must understand the nature and management of soils. Without this knowledge, he cannot be sure that he tills his ground on right principles, or applies the different soils to their right uses. He ought therefore to be acquainted with chemistry,* which treats of the nature and qualities of soil. Chemistry will also give him much valuable information upon the qualities of milk, and the processes of making butter and cheese; upon the management of fruits; and the modes of making cider, perry and wine; and upon the preparing and applying of manures. So that some knowledge of it should be considered indispensable to the well-informed farmer.

Indeed, without a knowledge of chemistry, a farmer cannot avail himself of the advantages of his situation. There are often to be found, beneath the surface of the ground, clays, marls, and other substances, which, when properly applied, are excellent manures. The knowledge of chemistry will assist in finding and applying them.

Then the farmer should be well acquainted with the mode of growth, and the diseases, of the different kinds of vegetables, grains and fruits which he cultivates. He will otherwise often waste his labor in attempting to cultivate a plant upon soil which does not yield it proper food, or lose his crop from not knowing what remedy to apply, to remove an evil which he does not understand.

* The word *chemistry* is derived from an Arabic word, signifying *the secret science*. It was early cultivated by the Arabians, who sought thereby for the means of prolonging life, and converting inferior metals into gold.

He should know how to breed horses, cattle, sheep, swine, &c., so as to stock his farm with animals of the best breeds; to prevent or heal diseases among them; to improve the breeds, and to do all profitably. He must therefore not be ignorant of that part of natural history which relates particularly to these animals.

There is a branch of culture which has been much neglected in this country, but which is very important, and deserves to be attended to: this is the management of forest trees. There are now, throughout New England, large tracts of land, which are very valuable only while covered with trees. The forests, in many parts, are disappearing, and new ones are not often planted to take their place. This was once the case with Scotland; and the destruction of its forests is, at this day, lamented as a national misfortune. Many animals and delicate plants are supposed not to flourish so readily in an open country, as in one protected by trees; rain is thought not to fall so beneficially, nor the lightning, that mighty but beneficent agent, to do its office so gently, as when it is drawn from the clouds, gradually, by these natural attractors. In our burning summers, too, shade is sweet to man and beast. Against the fury of the north-west wind, what a barrier is presented by a grove of old oak trees! I say nothing of the value of fuel and timber; and yet, for these alone, a growing forest, even if left to itself, and much more if taken care of, is like money at interest.

Let the landholders of New England hesitate before they throw away so many advantages, which they now hold in their possession, in the forests that cover their hills.

Forest trees, like every thing else, are improved by care; the less useful trees may be removed, and the more valuable ones favored. In some cases, foreign trees might, with advantage, be introduced; in many, the health and growth of the native kinds be improved. To do these things successfully would require a particular study of the character and habits of the trees to be cultivated.

In the last place, it may be said of a husbandman, what may, indeed, be said of almost every man, that he can hardly be strictly honest, and do exact justice to himself and his neighbor, without the practice of *keeping accounts*. He must have a memory which never fails, to be sure that he has paid what he owes, and demanded what is due to him, if he trusts to his memory alone. The practice, moreover, will be of great use to him in his husbandry. The only sure way of knowing whether one crop is more or less profitable than another, is to keep an account with each crop, as if it were a person, to charge all its costs, and credit all its yields.

A farmer should, therefore, be familiar with arithmetic and accounts, and should know something of chemistry and the natural history of the common plants and animals. As he is often called to superintend mechanical operations on his farm, and to judge of improvements in ploughs and other implements, he should not be ignorant of mechanics.

Books. The following books may be recommended to him :— Conversations on Chemistry, and Davy's Agricultural Chemistry, Conversations on Vegetable Physiology and the Elements of Botany; the Treatise on Mechanics, contained in the Library of Useful Knowledge. The New England Farmer, published weekly at Boston, contains a great deal of valuable information, suited to the wants and capacities of farmers. Thacher's Orchardist is a Treatise on Fruit-Trees suited to New England.

Conversations on Chemistry is the title of a book written for the instruction of beginners in this science. It is a very clear, sensible, well arranged book. It has the great advantage of being written in such a style, that every part of it is intelligible to a person who has never read anything upon the subject. It gives an interesting account of earths, metals, and all other substances with which we have anything to do; explains the manner in which plants grow, and the substances of which they are composed, and the manner in which air acts upon them, and upon animals. It is a small volume, and costs about \$1,00.

Davy's Agricultural Chemistry was written by the most distinguished of the English chemists, for the express purpose of rendering the subject interesting and useful to the cultivators of the soil. This end is very perfectly attained. It gives more information upon the nature of soils, and the suitableness of particular soils to particular vegetables, than perhaps any other book. It supposes a person to have some knowledge of chemistry, and is therefore to be read after the Conversations. The price of this valuable work is about \$1,75.

A book with the title "Conversations on Vegetable Physiology, comprehending the Elements of Botany, with their Application to Agriculture," is by the author of Conversations on Chemistry, and is equally well written. It treats of the roots, stems, leaves, flowers, fruit, seed, and other parts of plants; of the action of air, heat, light and moisture upon plants; of the modes of planting, grafting, watering, and otherwise treating plants; of the nature of soils, and the cultivation of grasses and trees. In order to understand it, a person should know something of chemistry. It will be found a very useful book to a farmer. Price, \$1,00.

The Treatise on Mechanics, above referred to, is contained in numbers 6, 7, 8 and 11 of the Library of Useful Knowledge, which was intended for, and is admirably well suited to, all classes of men who have not great leisure for study.

CHAPTER III.

Useful Arts and Trades.

NEXT to the pursuits of agriculture, may be considered what are called the *useful* or *mechanic arts and trades*. These have principally for their object to convert the productions of the earth

and sea, of vegetable, animal or mineral nature, into forms or fabrics suited to the wants, comforts or luxuries of men.

Classification. The arts may be divided into three classes:—1. those employed in changing the qualities of substances, and imparting new ones; 2. those by which the form only is changed, but the properties remain unaltered; and 3. those which furnish the instruments and means by which all the arts of the other two classes are carried on.

The leather-dresser changes soft and perishing skin into tough and durable leather. The metallurgist converts the ores of iron, copper or lead, into the metals themselves. The dyer changes the property of color. The arts of these persons belong to the first class.

The glove-maker and the shoe-maker give to leather, without changing its nature, forms suitable for use. The boat-builder shapes boards and planks of wood, by the aid of iron, tar, hemp and paint, into boats of various kinds. These belong to the second class.

The artists who supply the former with needles and awls, and the latter with planes, augers, chisels, adzes, and other tools, belong to the third class.

First Class. Every one, who would produce a permanent change in any substance, ought to study to understand, as far as he can, the nature of the substance he acts upon, and of the change he would effect. With this knowledge only can he be reasonably sure that he is employing the most direct and efficient means of reaching his end. This can be made clear only by examples.

It is the object of the tanner to change the hide of an animal into leather. This, he knows, may be done in several ways, in a short or long time, and by the use of several different substances. It is desirable to do this in the shortest and cheapest way; while the leather shall, at the same time, be, in the greatest degree possible, strong, pliable, tough, impervious to water, and uninfluenced by air. Now, in order that he may improve any one of the processes, through which the hide has to pass, he ought, as far as he can, to understand the nature of each of them. He ought to understand the qualities of skin itself, what it is composed of, and to what circumstances it owes its qualities. He must understand what effect lime has upon it, and whether some other substance could not produce the same effect more easily, or a better effect. To this end, he must study the nature of lime, and of those substances which resemble lime. Then he must understand the effect which the *tannin*, which is contained in oak bark, has upon the hide; what the substance called tannin is, and whether it does not exist in greater quantities or better qualities in other barks or woods, or in some substances which are not bark nor wood. He ought also to understand what effect immersion in water, or exposure to air, or the action of heat, or of light, has upon the leather, during these processes. These are only a few of the circumstances and influences he should understand; and

he can know little about either of them, but by an acquaintance with chemistry, which records whatsoever has been found out by men's observation and experience, upon these and a thousand similar subjects.

It is idle to say that an apprentice could learn all this from a master, and that a master is better than a book. True, he will learn much of these things from a skilful master, and probably many things which he would not find in books. But it should be remembered that books on chemistry contain the mature results of the experience of very many masters, and those, too, men who exceedingly well understood their trade. Would you not think it a very useful volume, which contained all the conclusions which a sensible tanner had come to, after many experiments and much observation, during a long life? Now, a volume of chemistry would contain similar conclusions of many such persons. Suppose experiments had been made to find out which produced the best effects upon skins, the tannin contained in the bark of oak, chestnut, willow, sumach or elm, and how those effects differed from each other. Would not a book containing an account of these experiments be very useful to a tanner? Such a book would be a volume of chemistry, and the man who made the experiments would be a chemist, whatever he might call himself.

The painter may be taken as another example. The use of paint is twofold—to defend the substance to which it is applied from the action of the air, and to contribute to its agreeable appearance. Of these the first is the most important. To effect this, paint should itself act favorably upon the surface to which it is applied, and should resist the action of moisture and air to as great a degree, and for as great a length of time, as possible. A painter ought, therefore, as far as practicable, to understand the nature of woods and other substances to be painted, of all the substances which enter into the composition of his paints, and of air and water; and how each of these acts upon the rest. If he do not understand the nature of wood, he may ignorantly apply kinds of paint, which will not unite with it, or with the sap or gums contained in it. In this case, the paint will soon peel off, and leave the surface exposed to the air. This sometimes is seen to take place. If he be ignorant of the nature of his paints, he may mix together articles which will not form a permanent union, or which will destroy each other's color. From ignorance of the composition and nature of air, he may expose to its action a substance which it rapidly corrodes. All knowledge of this kind belongs to the province of chemistry.

Another instance of the importance of scientific knowledge to practical men may be found in the case of the dyer. The object of dyeing is to produce a permanent change in the color of the article dyed. The excellence of a dye applied, for instance, to a woollen cloth, should consist in imparting the required shade of color, so as not to injure the texture of the cloth, and so as to be acted upon as little as possible by the air and light,

or, if acted upon by the light, to have its tint and brilliancy rather improved than injured by it. To effect all these different ends, a dyer must be acquainted with the chemical nature of wool, and the alterations made in its nature by the processes of manufacture: he must understand the nature and origin of the mineral, vegetable, and animal substances, used in dyeing; and he must understand the chemical action of air and light upon colored substances exposed to their influence. What constitutes a great difficulty in dyeing, is the fact that nearly all the mineral substances which enter into the composition of dyes, are of a corroding nature, and, unless counteracted by other principles, gradually tend to destroy the texture of the cloth or other article to which they are applied. This corrosiveness seems necessary, that the color may sink deeply into the cloth, and be thus permanent; but its destructive influence must be in a great degree corrected, or the firmness of the fabric will be destroyed.

Effects of Light. Another great difficulty arises from the fact that the sun's light, among the numerous and surprising effects which it produces upon the visible creation, has that of gradually softening away many colors, so as to deprive them of their original brilliancy. This is the difficulty. It may undoubtedly be converted, by the dyer who has deeply studied the influence of sun-light upon different coloring substances, into a source of great beauty. By slightly over-coloring, perhaps, the effect of the sun shall be exerted in mellowing down the too gaudy tints into a softness and richness more agreeable to the taste than any original brightness. We know this is done in the masterpieces of painting, and cannot, therefore, doubt, that it might be done in dyeing.

Something more might probably be done. We often see pieces of old glass, and fragments of anthracite coal, resplendent with all the colors of the rainbow. These have been produced, or brought out, by the action of light, moisture, air, or some similar cause, upon their surface. Whenever we can understand the nature of this action, we shall be able to hope to imitate it. And it can only be understood by means of chemistry. This study, then, is indispensable to every one engaged in the art of dyeing. The properties of light form the subject of a branch of natural philosophy called *optics*.

It must now be obvious, that persons engaged in the arts of the first class, must all be acquainted with chemistry, and some of them with parts of natural philosophy.

Second Class. The arts of the second class, those which change the form, but not the properties, of bodies and fabrics, must depend, mainly, for their excellence upon the manual skill and dexterity of those who exercise them. Still a useful preparation may be made for the pursuit, by such studies as point out the nature of the materials which are used in them. This may be rendered evident by considering a few examples.

To take that of the house-carpenter. His object is to build a house of the best materials, and in the best and most eco-

nomical manner. In order to choose his materials, he must be acquainted with the good and bad qualities of the different kinds of wood, and know on what circumstances their durability depends. In order to use his materials economically, he must know what form and dimensions to give the posts, beams and other parts of the frame of a house. In regard to each one of these parts, there are a certain form and a certain size, which are better than any other. A beam may become weak by being too large, as well as by being too small, and a builder who does not know what the true medium of size is, will be liable to waste his materials, and weaken his work, while he is intending to strengthen it. Now, the principles upon which he may judge are contained in the science of mechanics. Of this, therefore, the builder must not be ignorant. The proper shape and arrangement of apartments, the size of doors and windows, the mode of connecting the parts of the frame, are all contained in books upon carpentry. The best books upon this subject suppose an acquaintance with mechanics, and both carpentry and mechanics depend on geometry. A builder should therefore lay a foundation for skill by the study of geometry, and add to it the study of the other two branches so essential to his profession.

It is proper, in this place, that a few words should be said upon geometry, as this study is not only the basis of the art of the house-builder, but of all those arts which in any way use the principles of mechanics; and indeed it is the ground-work of nearly all the practical arts which do not depend upon chemistry.

Geometry signifies the measure of the earth. But the science includes the measure of all things which have length, breadth, or thickness. Land, timber, stone and earth are all measured by the principles of geometry. The art of navigation, or sailing upon the ocean, has been brought to perfection by these principles; and by means of them the magnitude and distance of the heavenly bodies have been ascertained. The construction and use of machines cannot be thoroughly understood without some knowledge of geometry. A wall or bridge cannot be well built, nor a wharf or pier, to resist the pressure or thrust of earth or water, laid, without a practical use of truths in mechanics, which depend upon geometrical principles. The knowledge of geometry, therefore, while it is of use to all persons, is of the greatest importance to the mechanic.

To return to the instance of the house-builder. In order to judge of wood, and the properties of the numerous kinds, he ought to know at what season of the year different trees should be felled, and how they should be seasoned. This knowledge may be, and actually is, acquired from intercourse with practical men. And there is no doubt that the best part of every practical man's information must be acquired in this way. But it is often the lot of a young man not to find the most intelligent men to learn from; and there are, moreover, many things which are more accurately stated in books than they can be by any man whatever;

and a book of science contains what has been found out by the united wisdom of a great many men. The house-builder should be a judge of bricks, and of the mode in which they should be laid, that he may superintend the masons whom he employs.

The mason should have knowledge of his materials and their use. No two things differ more than good and bad mortar. The one becomes harder and harder by time, and will make the walls built with it last for centuries. The other moulders away, lets in air and water, and allows the bricks and stones, which should have been united by it, to fall apart in a few years. To be able to choose the former, and avoid the latter, a mason must be acquainted with the nature of mortar, and, to that end, with that part of chemistry which treats of it.

He ought also to be able to secure a house against the evil of a smoky chimney. This may always be done; and if masons had the information they ought to have, it always would be done. But to do it, a mason must be acquainted with the principles on which the motion of smoke and air depends. These are treated of in books on natural philosophy.

After these instances, it will not be thought necessary to prove farther, that every workman ought, if he can, to become acquainted with the nature of the materials he works upon.

Third Class. In the arts of the third class, of which it is the object to furnish the means and instruments for the exercise of all the rest, there is particular need of the knowledge of mechanics, as many of them are the most complex, and require the most ingenuity of any of the useful arts.

Mechanics comes from a Greek word, which signifies contrivance, or machine. It comprehends whatever belongs to motion, and the forces and means which produce motion. All instruments are made and act upon mechanical principles, and it is to these that we are to look for any improvements which we may hope will take place, in the means of acting upon the powers of nature. Indeed, the powers of nature themselves, acting in the vast spaces of the universe, and forming one of the grandest subjects of our investigations, are subject, under God's providence, to the same laws that we observe acting on the surface of the earth, and rightly call the laws or principles of mechanics.

Wherever a great force is to be used, as in the drawing out and cutting up great bars of iron, the stamping of coin, the drawing upon shore, and launching again into the sea, a large ship, the pumping out of water, or the lifting of coal or ore from mines, the means must be found, and managed, by the application of mechanical principles. The construction of every machine, large or small, depends upon the same principles. He who has the most extensive knowledge of mechanics, and the most perfect control of its resources, will, therefore, be most able to construct, modify and use the machines, and other contrivances, necessary in the arts.

Books. It remains to give some account of a few useful books, which may be recommended to those engaged in the arts. As

a general introduction, especially for persons who have some education, no book has lately appeared which can be more highly recommended than Bigelow's Elements of Technology. This volume gives some account of the general principles of many of the most important of the arts. It is better adapted to persons interested in all, than to those who are particularly devoted to one. But it contains a great deal, which cannot easily be found elsewhere; and whatever it contains, may be entirely depended on. Some of the chapters must be interesting to all persons; particularly those upon heating, ventilating and lighting houses. The following are some of the subjects of the chapters:—of the materials used in the arts, their form and strength; of writing, printing, painting, engraving, building, machinery, forces, spinning and weaving, clockwork, coloring, making glass and stone ware, and the preservation of organic substances. At the end of each chapter is a list of the best works which have been written on the subject of that chapter; and this is the most useful thing in the volume. By the help of this list, an excellent library might be collected. This is an octavo volume of over 500 pages, with many plates. Price about \$3,00.

Another treatise, of a general nature, is found in the introductory number of the Library of Useful Knowledge, published at London. Its title is, "The Objects, Advantages and Pleasures of Science." Its price, as that of each of the other numbers of this useful publication, is from twelve to fifteen cents. Here also may be mentioned the first eight numbers of the same work; the eleventh, the twelfth and nineteenth. All these, though unequal, are excellent.

Chemistry. In addition to those works which have already been mentioned, the following may be noticed as useful:—Fyfe's Elements of Chemistry, prepared by Dr. Webster, a small volume of about 400 pages, (cost, \$1,25,) is well suited to beginners, as it was originally intended for the use of pupils of Mechanics' Institutions. It is written in a clear, simple style. In the Appendix is a list of the most important subjects in chemistry, with references to fifty works upon chemistry and natural philosophy, in which these subjects are treated more at length.

An edition has lately been made by Dr. Bache, of the Franklin Institute, of the Elements of Chemistry of Prof. Turner of the London University. The American edition is in one volume, of nearly 600 pages of fine print, and it costs not more than \$2,00. It is a full treatise, and, considering the size and contents, is a cheap volume. From its recent publication, it contains some discoveries in chemistry, which will not be found in other books that have been mentioned.

Dr. Webster's Chemistry is a compilation from the best authors, intended particularly for the use of students attending lectures, but not ill adapted to any learners in the science, who wish to obtain more than a superficial knowledge of it. It is in one 8vo. volume of over 600 pages, with several plates, and may be bought for \$3,00.

A very complete treatise on dyeing will be found in a work of two volumes, 8vo. price \$4,25, written originally in French by Berthollet, and translated into English by Dr. Ure. The author of this work was considered as understanding this subject as well, perhaps, as any person who has ever written upon it; and some processes, first recommended by him, have made great changes in the art.

To those who want a book of reference in chemistry, the Chemical Dictionary of Dr. Ure may be recommended. It is in one 8vo. volume of 800 pages, or in two smaller volumes. It is of excellent authority, and gives a pretty full and satisfactory account of the many subjects contained in it. The price is \$4,00.

Those who wish for the fullest account of all the parts of chemistry, with references to all the original authorities, will find it in Thomson's System of Chemistry, in four or five large volumes, 8vo. Henry's Chemistry, in two or three volumes, 8vo. of about 400 pages each, has long had a very good reputation. Price, \$5,50.

Natural Philosophy. As a mere introduction to this study, Joyce's Scientific Dialogues may be of use. It is a little work in three volumes, at about \$1,50. With an able instructor to explain and enlarge upon it, it is a useful book. The best part of this may be found in the Scientific Class Book, which is exceedingly well fitted to be used in schools, where much time cannot be given to studies of this kind.

Adams's Lectures upon Natural Philosophy are a popular work, somewhat diffuse, but generally clear. They are contained in four volumes, with well executed plates. The American edition may be obtained for \$9,00. A much better book, for practical men, is Brewster's edition of Ferguson's Lectures. The lectures themselves are the work of a man ignorant of geometry, and are therefore full of inaccuracies. These are corrected by Dr. Brewster, who, in an additional volume, has given a great deal of information, highly useful to men occupied in the arts. The work is in two volumes, 8vo. It is, however, difficult to be found. The life of Ferguson, which is contained in the first volume, is exceedingly interesting, from the difficulties he had to struggle with, and which he overcame.

These treatises are generally free from mathematical language, and may be understood with the most common knowledge of mathematics. If any one wishes to understand the subject thoroughly, and read the best books upon it, he must previously learn geometry and algebra. With the knowledge of them, he may read the following works:—Emerson's Mechanics, which is a very full and valuable treatise, in one quarto volume, price about \$5,00. The Cambridge Course of Physics. The Mechanics of this course is the most complete treatise which has been published, separately, in this country. Parts of it require a knowledge of the higher branches of mathematics, but most of it is intelligible to a person who understands geometry and algebra. There are four volumes, one upon mechanics, one on physics,

one on optics, one on astronomy. They may be had separately for about three dollars each volume.

Dr. Gregory's Mathematics for practical men is a single volume of 400 pages, with several plates, and may be had for \$4.00. This was written expressly for beginners in civil engineering, and for other mechanics and artists. It contains the most important parts of arithmetic, algebra, the truths of geometry, and its applications, mensuration, mechanics, &c. The principles are usually laid down, but not demonstrated.

Brunton's Mechanics' Text-Book is a little work, which may be useful, although it has the same defect as the preceding, of not explaining the truths, rules, and tables which are laid down. It is intended for "engineers, mill-wrights, machine-makers, founders, smiths, &c." It contains "Practical Rules and Tables connected with the Steam-Engine, Water-Wheel, Force-Pump, and Mechanics in general." It may be bought for 50 cents.

The Builder's Pocket Manual, a small 12mo. volume of 300 pages, price 75 cents, contains rules and instructions in the arts of carpentry, joinery, masonry, and bricklaying, with several engravings.—These last three works are unlike the others that have been recommended, in containing principles only, without the explanations. They are not well suited to beginners. A better book is Allen's Mechanics. It contains nothing upon arithmetic, and little upon geometry or algebra. This cannot be considered a defect, as these may be learnt elsewhere to better purpose. But it goes more fully into those branches which are of immediate importance to mechanics and manufacturers, for whose use it is intended. It contains many valuable tables, and much other useful information. By one who has acquired the rudiments of natural philosophy, it will be easily understood. Price, about \$3.00.

Carpentry. An excellent book upon the subject of carpentry was published in 1827, prepared by B. Hale, then principal of Gardiner Lyceum. This is the best introduction to be found, to the art of the carpenter. It treats of the strength of timber, and of the construction of floors, roofs, and the other parts of a building. It requires no mathematics but arithmetic, and every carpenter will find it of the greatest use. It costs \$1.12.

Civil Engineering. This teaches the art of building walls, roads, bridges and other extensive works. Some considerable information upon materials, modes of laying out and constructing roads, of building bridges, of digging and securing canals, forming locks, building sea-walls, and protecting harbors, may be found in a work called Sganzin's Civil Engineering, which was published at Boston in 1827. It costs \$1.33.

Geometry. For simplicity, clearness and easiness of comprehension, no full treatise on the subject is superior to Walker's Elements of Geometry. Where the object is to get an acquaintance with the science for immediate use, it is unequalled, as it is short, but strict, and nothing essential is omitted.

The author, who has been longer and more deservedly famous

for teaching geometry well, than any other author ever was for teaching any science, is Euclid; and Euclid's Elements are, at this day, among the best books on geometry to be found. His editors are numberless: one of the best is Simpson.

Legendre's Geometry, as used at Cambridge, is the most perfect work upon the subject of the elements of geometry that has, for many years, been written. It goes farther into the subject than Euclid, containing the best of the modern suggestions, all admirably clear and well arranged. There are many other books upon geometry. These seem to be best suited to the purpose now in view.

Algebra. Colburn's Introduction to Algebra is upon the same principle, and almost equally successful, as his books upon arithmetic. The learner has the satisfaction of overcoming the difficulties of the science himself, by a process into which he is gradually led, so that they almost cease to appear to be difficulties.

Day's Algebra is easy and useful.

If the learner wishes to use algebra in assisting him to read English authors on natural philosophy, he may learn some English treatise, as that in the Library of Useful Knowledge, Wood's Algebra, or Bonnycastle's, which are among the easiest. If he wishes to have the means of reading French authors upon the same subject, he may study Lacroix's Algebra.

CHAPTER IV.

Instruction.

Of the learned professions, it is intended to remark only on that of instructors of the young; for these may be considered as belonging to that class. The reason why they have not been so considered, is probably that they have not generally embraced the business of teaching as a distinct profession. Men devoted to other pursuits, have taken up the duty of instruction as a temporary employment.

It begins to be viewed with different feelings; and it is not uncommon, now, to find young men resolving to devote themselves to it, as a permanent profession. Such will do well to consider how great a work they are taking upon themselves, and how much is to be done in preparation. They are not only—to use the language of one who seems to have felt for schoolmasters, as if he had himself been one—to spend their time “in controlling petulance, exciting indifference to action, striving to enlighten stupidity, and laboring to soften obstinacy;” they are to quicken the tender germ of intellect when it begins to spring up towards the light of truth; to tend and train the powers as

they successively unfold themselves ; to fill the mind with good knowledge ; to watch growing habits ; to form the child to be happy and useful, and able to contribute to the happiness of others ; in short, to form him for the service of society and of God, and to exert influences, which, in their remote results, will be as lasting as the immortal mind itself. Such should be the exalted purpose of the instructor, and he should continually aim at it, though with the conviction that he shall never be able to attain to it perfectly. Let no one lightly enter upon so high an office ; but if he enter, let him give to it his heart and his strength.

I am speaking particularly of those who embrace instruction as a profession for life ; but what is said will apply, in some measure, to those also who take it up for a limited time.

An instructor should store his own mind with the knowledge of the works of nature. The child opens his eyes upon the beautiful creation, and every object moves his affections, and excites his wonder. An instructor should be ready to answer the numberless questions which will be put to him ; and let him do it reverently. Let him remember that God teaches us by his works ; and if a voice speak not to him from these works, he wants the first qualification for his office. Whatever sciences qualify to communicate this instruction—natural history, natural philosophy, physiology, anatomy, botany, chemistry—let him store his mind with their treasures.

The medium by which this and all knowledge is communicated from one to another, is language. An instructor should aim to be a master of his own native tongue ; and, in order to that, he should study those languages on which it is built. Let him begin with Latin, the great mother of nearly all the cultivated tongues of western Europe. If he begins early enough, —and late is better than not at all,—he will be able to learn this to some degree of perfectness. With the knowledge of this, he will find the French, Italian, and other kindred dialects, of comparatively easy acquisition. It would be well if he could add thereto Greek ; and still better if he could add German. But, with a competent knowledge of Latin and Greek, he will find few English words, of whose right meaning he need be doubtful, or which he cannot trace to their root, except those words which are said to come to us from the Saxon and Celtic.

If there be, besides our native tongue, one which, more than others, deserves peculiar attention from the future schoolmaster, it is the Greek. All technical terms in all the sciences, and in nearly all modern languages, are derived from Greek, and it is just these words, and the notions which they express, which an instructor ought to know ; for he must almost necessarily make use of the elements of all the sciences. The New Testament, which, even as a model of the art of teaching, the instructor should value above every other volume, was originally written in Greek. The Greeks, too, are the first teachers, and

among the most successful, of very much that we teach. The root of European improvement was with the Greek.

The exact sciences are those which may most successfully be used as discipline to the powers; as instruments, therefore, the instructor should be familiar with arithmetic, geometry and algebra. It is necessary only to name them; whoever understands them will see at once what use they are of to himself, and how he can make them useful to others. If he can add to these a knowledge of the higher branches of mathematics, he will never have occasion to regret the acquisition. And it is an important consideration, that the best books upon the physical sciences, which have for some time appeared in England, France, and the rest of Europe, suppose a knowledge of these branches, and cannot be fully read without them.

The accomplished instructor, as indeed every other person who desires to be at all distinguished for his attainments, must be largely read in history and geography. The best literature of his native language should be familiar to him. By this alone can he become practically a master of the use of it.

Let it not be said, that too high a standard is set for the acquisitions of the schoolmaster. He who undertakes to teach, as his profession for life, ought to be able to teach whatever his pupils may need, or desire to learn, except those branches that are obviously within the province of mechanical art. Attainment will never be high, if the standard be not high; and if those of any profession should aim to be learned, it is those who devote themselves to the profession of instruction. Whether too high, however, or not, instructors will never be respected as a profession, until they attain to something near it; since individuals in other professions often go far beyond the limits which have been here laid down.

Not much has yet been published in this country, calculated to assist the instructor in the modes of teaching, or the personal qualifications for the office. A beginning has been made, in the excellent Lectures on School-keeping by S. R. Hall. This book should be in the hands of every teacher. The Introductory Discourse and Lectures delivered before the American Institute of Instruction will be found very interesting and useful. All these have been produced in a manner which cannot fail to advance the science of education. They contain the fruits of the experience of distinguished teachers. Bacon, Locke, Milton, and some other eminent foreigners, have written upon the subject, and it is to be hoped that their best works of this kind will soon be republished in this country. Some valuable remarks upon the motives by which children should be led to study, will be found in the chapter upon emulation, in Parkhurst's Moral Philosophy. Other parts of the volume will also be found useful to the instructor.

CHAPTER V.

Moral Philosophy.

WHATEVER relates to our conduct or motives, as being right or wrong, belongs to morality ; and the science which teaches us our duty, and the reasons of it, is called *moral philosophy*.

We have duties to ourselves, to our fellow men, and to God. Upon a knowledge of our duties to ourselves, will depend our happiness ; upon a knowledge of our duties to our fellow men, will depend our usefulness to them ; and upon a knowledge of our duty to God, will depend our usefulness and happiness here and hereafter.

Personal Duties. We have duties to ourselves, which are independent of our relation to others. As we grow up to maturity, the formation of our habits, the cultivation of our powers, and everything else which has reference to our happiness, are necessarily committed to our own charge. We must make ourselves, after a certain period, whatever of good and excellent we may become ; we have, therefore, the greatest interest in practising what will have a tendency to make us happy, and in avoiding what will make us unhappy.

As far as happiness springs from ourselves, it will depend upon the right cultivation and improvement of our various faculties. In the first place, we must take care of the bodily faculties ; for it is only with a healthy body that we can enjoy the numberless pleasures that are presented us by our sight, our hearing, and our other senses. It is only with a healthy body that we can enjoy, in any considerable degree, even the simple pleasure of eating. Beautiful objects, pleasing sounds, agreeable odors, are continually presented to us ; but, unless we are in health, they can give us no pleasure. One of our first duties to ourselves, then, if we are in earnest in our pursuit of happiness, is the preservation of the health of the body. This depends on temperance. All excess impairs the organs of the frame. Temperance consists in avoiding excess, not only in drinking, but in eating, sleeping, exercise of mind or body, or the neglect of exercise. Excess, by disordering the body, brings on disease, and shortens life. The man of temperate habits not only enjoys his food and drink, his sleep and exercise, much more than the intemperate man, but he enjoys them much longer. If our enjoyment, therefore, depended only on the body, and terminated in this life, it would be our duty to be temperate.

But we have mind, as well as body ; and our best and most permanent enjoyments are those which belong to the mind. The world is full of fountains of happiness, if we will learn to drink from them. The pure and healthy mind is full of happy thoughts, and all the objects of creation are continually suggest-

ing them. Now, intemperance in eating or drinking renders this nice sense of happiness *dull* and *obtuse*. It quells the high spirits, blunts the quick perception of beauty and excellence, stupifies reason, and at last almost destroys it. The intellectual man, therefore, even if he dwelt in solitude, in an unvisited island, would sin against the happiness of the mind, if he were intemperate. How much more binding is the duty of temperance, on him who is to employ his faculties, not only for himself, but for others, and that for an indefinite future !

All our faculties, before they are nourished by education, are but as germs ; weak and uncertain principles, which are to receive their strength, compass and character, from cultivation. For this process of cultivation we have a limited time, a few years at farthest. It becomes us to use it frugally. He who wastes his time, throws away an opportunity, which may never return, of preparing himself for happiness. Economy in the use of time, is, therefore, an essential duty. Time is a great good given to all, and to all equally, wherein to prepare for all future good. The man who depends on his daily labor for support, whose industry constitutes his sole wealth, must take time to bring it to a useful end ; and the man who has the powers of Newton or of Solomon, can accomplish nothing without time. He who takes from me an hour of time, deprives me of all the good which I could gain in that hour ; and, if I waste it myself, I do myself an equally irreparable injury.

But health of body and mind is chiefly valuable because it puts us in a condition to perfect our higher powers ; and time owes its great value to its being the means within which we accomplish this. If temperance and economy of time are duties, one still higher and more binding, is the duty of improving all our faculties, and thus rendering ourselves susceptible of higher degrees and higher kinds of happiness. The memory is a treasure-house of truths, which we gather from observation, reflection, experience and study. These truths are essential to our welfare and advancement. Whatever contributes to the perfecting of the powers which we employ in gaining truth, is therefore a part of duty. These powers, namely, the faculty of attention, of discrimination, conception, judgment, imagination, and others, are improved by exercise. It becomes, then, a duty to exercise these powers upon their proper objects.

The faculty by which we judge of right and wrong in conduct, is called *conscience*. All agree that this faculty is susceptible of cultivation, that all have a conscience, that in some it is active and enlightened, in others, torpid and uninformed. This power is our great internal guide in duty. The habits and character we form, will depend more on the care we take to enlighten our conscience, and the faithfulness with which we follow its dictates, than upon everything else. Now, we are immortal ; we are to form our character, and the habits of our

mind, for eternity. How momentous, then, the duty of enlightening our conscience, and obeying it!

This is the last and greatest of personal duties. The empire of the conscience extends to every action which has reference to right and wrong. If we have a good conscience, and always listen to its dictates, we shall, as far as ourselves are concerned, always do right. This truth was recognized by one of the sages of ancient times, who bequeathed, as a parting legacy to his friends, the advice—"Reverence thyself." Fear not men, and refer not to their opinions in regard to your own duty; but fear yourself, and never violate what are your own convictions of right. These are some of the personal duties.

Social Duties. In the next place, we have duties to our fellow men, or social duties.

We find ourselves existing in such connexion with those about us, that we depend, in a thousand ways, upon them, and are able, in an equal degree, to contribute to their good. The dependence is mutual. The benefits we receive from others are such, that life would be hardly worth having, without them. It is the duty, then, of each individual in society to contribute his proportion towards that common good, from which the happiness of each one, and of the whole, is derived.

It would be impossible, in a few pages, to give an intelligible account of all the duties which are incumbent upon a man as a member of society. Nothing more will be attempted, than to mention a few of the more important ones.

At the foundation of all duties, and of all virtue, both personal and social, is the love of truth. The value to ourselves of the love of truth, is inestimable. Without it, we cannot search into and discover our own character; and, whilst we remain ignorant of ourselves, we are not prepared to make any progress in perfecting the best part, that is, the immortal part, of our nature.

The importance of regarding the truth merely as a social duty, arises from the fact, that the business of society could not go on, unless we could depend upon the promises of others. Each individual would have to do every thing for himself, if he could not trust to the expressed or implied promise which every one makes, when he undertakes to act for another. Universal disregard of truth would, therefore, make men lower than savages. Every departure from truth does something to destroy the confidence which is essential to the well-being of society, and, therefore, has a tendency to disorder and destroy society.

A principle which is so important to individual and to public happiness, ought to be deeply seated; and the love of truth should be inculcated upon children, and should be cherished by all who are judges of their own conduct, with earlier and more constant and sedulous care, than any other principle. The first departure from truth, is the first step to vice and ruin. As long as a child or a man is a lover of the truth, there is hope of him.

He who disregards the truth, or is indifferent to it, is already without principle.

Truth concerns ourselves and our fellow men. The way in which we violate truth to ourselves is, by breaking our resolutions. We should, therefore, be exceedingly averse to making resolutions, or binding ourselves by vows; and it seems to be against these that the command in the Gospel—*Swear not at all*—is directed. The personal consequences of departing from truth, in our conversation with others, are, the loss of the confidence and esteem of others, and all the particular evils which all the falsehoods we are guilty of produce. The liar is despised by others, even by other liars, and by himself. In the Scriptures of the New Testament, a deeper detestation is expressed of lying, than of any other vice or crime whatever. The love of truth in words, is connected with a love of truth in nature and in the sciences. When the moral taste is corrupted, the power of perceiving, comprehending and enjoying the truth, in all which comes under the examination of the mind, is essentially diminished.

The great foundation of our duties to each other is *charity*. The word is here employed in the comprehensive sense in which it is used in the New Testament. This leads us to love our neighbor as ourself, and is thus the source, not only of justice, but of kindness, benevolence, generosity, and all the noblest of the virtues. It teaches us to love our neighbor for his sake, and not for our own, and thus excludes selfishness, and other unworthy motives. It leads us to judge of our neighbor as we would wish to be judged ourselves, and condemns censoriousness, distrust, and the imputation of mean and evil motives. In this enlarged sense, charity influences the manners, looks and words, as well as the actions. An unkind look, or a harsh word, as really offends against the charity of the Gospel, as an unjust action; and rude manners are as inconsistent with the delicacy of feeling for others, which is the essence of charity, as a blow, or a fraudulent bargain.

Politeness has sometimes been considered as having no reference to morality; and it has even been supposed that incivility and rudeness were not inconsistent with the Christian character. To perceive how unjust this supposition is, both to Christianity and to politeness, it is only necessary to consider what politeness really is. True politeness, then, not only *seems* to respect the feelings of others, but actually *does* respect them; it leads a man, not to *pretend* to make a sacrifice of his own ease or convenience to gratify another, but to *make* the sacrifice, and to take a pleasure in it. If this be a correct account of politeness, how does it differ, so far as it goes, from the kindness which belongs to charity? Gracefulness of manners, and refinement of language, which are gained by long associating with well-bred and intelligent people, are not essential to politeness, but only an agreeable dress which it often appears in.

These two, the love of truth and charity, we conceive to be the most important and comprehensive of those principles, upon which a willingness to perform our duties must depend.

The several social duties arise from the several relations in which we stand towards others. The simplest of these relations is that of parent and child. The duties of the parent, which spring from this relation, are those of supporting and educating his child. By the first of these, he is bound to provide for him suitable food, clothes and maintenance; by the second, he is bound to set him a good example, to form him to virtuous habits, to defend him from the corrupting influence of others, and to give him a suitable preparation for a respectable and honest situation in life.

The answer to the question why the parent is bound to do these things more than any other individual, is, shortly, this:—It is of infinite importance to the child, that some one should do them for him, and of vast consequence to society that they should be done for every child; and the natural and intimate relation between the parent and the child distinguishes the parent, in a manner not to be mistaken, as the one individual, upon whom the duty rests. If the parent shall not do it, who shall? And if it be not done, the child is ruined, and a great injury done to society.

The duties of the child are, respect and obedience,—because, without these, the duties of the parent cannot be performed with effect,—and, in case of need, maintenance.

Another class of duties arises from the relation between master and servant. Of this important relation, which comprehends the condition of apprentices, of domestics, of laborers, of sailors, and many others, in reference to the person or persons to whom their services are due, it will be sufficient to give a single instance. In the case of the apprentice, who is put, at an early age, to learn some art or business, under a competent person, the duty of a parent is, by the nature of the case, transferred to the master. He is, therefore, bound to take the same charge of his apprentice, in reference to his education and character, as if it were his own child, in that situation; and he is clothed with the same authority in regard to him. A consideration of the mutual duties of parent and child will, therefore, answer the question, What are the reciprocal duties of a master and his apprentice, when the apprentice is a minor?

The institution of government gives rise to many duties, which it is unnecessary to dwell upon in this place, as they may be learned from the preceding volume.

Religious Duties. The highest of our duties are our duties to God. To him we owe love, worship and obedience. The explanation and enforcement of these duties, which are called *religious duties*, properly belong to the ministers of religion. The consideration of our immortality, and our relation to our Creator, ought, however, never to be long absent from the

thoughts of any one. Without them, our condition here, our trials, our sufferings, our capacities, our hopes, are a perplexing and unsolved mystery.

An unfailling guide for our motives, and a rule of conduct in all respects, enjoyment of the present life, and preparation for the life to come, are found in the Gospel of Jesus Christ, contained in the Scriptures of the New Testament. But in our intercourse with men, many questions arise, in which considerations of a temporary nature, not particularly spoken of in the Scriptures, are necessary to our adopting a right line of conduct. For the solving of these questions, books have been written upon moral philosophy; not to lay down new principles of conduct, but to show the application of the principles already acknowledged, to the circumstances and events which occur, and to give reasons for our being guided by these principles.

The Scriptures, for example, give us the commandment, "Thou shalt not bear false witness against thy neighbor," but do not explain what it is to bear false witness, and give us no reason for the command but that such is the will of God. The writer on moral philosophy defines the offence, and gives such reasons for avoiding its commission, as show that obedience to this commandment is favorable to our own happiness, and that of others; thus showing that God wills the happiness of men. The Scriptures command us to "do justly," but do not define justice, nor show the application of the rule to the various circumstances of our intercourse with other men. This the writer on moral philosophy does. He explains the nature of justice, and shows the evil consequences which proceed from an infringement of the rule in our promises, bargains and other transactions. The book of moral philosophy in no degree supersedes the Scriptures, nor substitutes any other principles than those contained in them. It only elucidates those principles, shows their application to our conduct, sets forth their reasonableness, and gives us additional inducements to be guided by them. The writer on moral philosophy addresses us as reasonable creatures, desirous of our own good and the good of others, and endeavoring to elevate ourselves, and to act worthily the part assigned us in life. The Scriptures do more; they speak to us with authority, as a voice from heaven; they speak to the heart; they speak to us as immortal beings, accountable, for every action, word and thought, to our Creator.

Paley's Moral Philosophy. The only work upon moral philosophy, which has extensive circulation, and which is level to the comprehension of common readers, is the Moral Philosophy of Dr. Paley. This work, like all others of the same author, is remarkable for its clearness, and the apposite and natural manner in which it illustrates principles. But it cannot be recommended without a warning to the reader to beware of being misled by the principle, upon which, as a foundation, the system of Dr. Paley is built. This is the principle of expediency. Dr.

Paley says, "Whatever is expedient, is right." But, then, it "must be expedient on the whole, at the long run, in all its effects, collateral and remote, as well as in those which are immediate and direct."* Now, this is undoubtedly true, to a being capable of estimating all effects, direct and indirect, collateral and remote, through all time, and upon all beings,—and to such a one alone. No person can safely act upon this principle, in questions of right and wrong, but one who can take into view the boundless future. Now, it need not be proved that none but God has this perfect foreknowledge; no one else can, therefore, safely act upon the principle of expediency.

With this exception, and one or two others, the morality of Dr. Paley is the morality of the Gospel; and he constantly enforces his principles by quotations from thence, and has been guided throughout by light borrowed from the Gospel.

The substance of this chapter may be summed up in a few words:—

1. The first of physical blessings is health of the body. This depends on temperance and exercise. "Keep your head cool by temperance, and your feet warm by exercise," was the rich lesson of a life devoted to the practice of the healing art. Health and activity of mind are the greatest good of an intellectual being, and the best possession of a moral being is a good conscience. Hence the most important personal duties are, temperance, faithful cultivation of the faculties, and self-respect, or reverence for the dictates of conscience.

2. For a large part of our present life, we must associate with our brethren of the human race, receive good from them, in numberless ways, and be dependent on them for much of our happiness. We are bound to pay back this debt, and add what we can to the great sum of good and happiness, by rendering ourselves, according to our powers, agreeable and useful. To these ends, truth and charity are most of all essential—truth, which is always safe, brave and generous, while falsehood is uncertain, cowardly and mean—and charity, which is the soul of whatever is disinterested and benevolent, in deed, or word, or outward show. We must, therefore, be true to all, and at all times; and let our charity embrace all upon whom the light of the sun is shed, that we may be perfect in our social duties.

3. We must spend the whole of our existence, and that without end, in the presence of God. We ought, therefore, to study to secure his favor. This can only be done by obeying his commandments, the first of which conveys a principle establishing the most momentous and comprehensive of human duties.

* Paley's Moral Philosophy, Book II., Chapter VIII.

CHAPTER VI.

Reading for Leisure Hours.

YOUNG men, in this country, so often begin their studies under great disadvantages, and without any well qualified person to direct them to the most important objects and the most useful authors, that it is thought a few suggestions, as to the employment of their leisure time, will not be useless. The hours spent in school will, probably, be faithfully occupied with well chosen studies. But even when this is done, the long mornings of summer, and the evenings in winter, rainy days in vacation, and the heavy time between the preparation of a plan of amusement and the execution, offer many a golden hour of leisure, which may be freely given to reading, and which, thus employed, will "sweeten liberty" whenever it comes.

The intention of the few observations which I shall make, and which the narrow limits of an appendix will oblige me to make very brief, is to point out sources of information, by means of which the young will be enabled,

1. To avail themselves of the advantages by which they are surrounded in early youth, particularly in the country; 2. to lay a foundation for future reading, and to understand better what they shall read; 3. to form the habit of, and obtain materials for, thought and reflection; 4. to derive the greatest advantage from the opportunities which are offered in the higher seminaries of education and in the world.

One of the most delightful and useful means of relaxation from severe study, which can be afforded to a thoughtful person at any age, is found in natural history. This directs the attention to numberless curious objects in the vegetable creation, and in the appearance and habits of animals. The opportunities for observing them are more frequent, and the means often more accessible, in youth, than afterwards. Smellie's Philosophy of Natural History has the effect of opening the eyes of the young to the wonders of the world in which they live, and of showing how many opportunities of receiving instruction and improvement are continually offered them, even in situations the least promising. Very interesting works upon natural history will be found in the Library of Entertaining Knowledge, a work which, on other subjects as well as this, fully deserves the title which has been given it.

The operations of nature, on a large scale, are carried on in conformity with the laws of chemistry; and a knowledge of this science renders a great many operations, which are constantly going on, unheeded, before us, intelligible, and, consequently, most interesting and delightful. Such, for instance, are the processes of freezing, combustion and breathing. Before we understand them, they are apt to excite no attention, but to be

viewed as matters of course ; when once understood, they immediately strike us with their beauty, and always after are viewed with interest. In passing through a thick forest, one is sometimes inclined to think, that the best means are not used for conveying moisture to the roots of trees, as we frequently see earth just at the foot of a tree dry, while every thing is moist at a little distance. The extended branches, while they afford a place of refuge from the storm, to man and the larger animals, seem to turn off to a distance the genial drops which are descending upon them for their nourishment. The truth is, the moisture is admitted to the ground just at the distance at which it is wanted ; and this is one instance among thousands, that the provisions of nature are, in reality, wisest, where they seem to be most defective. There is not time, in this place, to add examples ; those mentioned are such as are most likely to occur to a person who has read the *Conversations on Chemistry*, and on *Botany*, which have been before and are again recommended. We may also add *Conversations on Natural Philosophy*, which, although superficial, are very clear and satisfactory, as far as they go.

But of all the wonderful parts of the Creator's works, none is more so than the human body. This is treated of, with admirable clearness and success, in a work in which, from its title, a young reader would be least likely to look for it—Paley's *Natural Theology*.

From the world without, a young person of inquisitive mind will be often tempted to turn inwards his thoughts, to that which is within his own mind. And, in tracing and cultivating his various faculties, he will receive aid from a little work, called *Watts on the Mind*, or from *Mason on Self-Knowledge*.

However beautiful and interesting the world around us is, the most beautiful and interesting object in it is man. We are men, and whatever concerns our brethren of the human family is interesting to us. To a young person, what relates to individuals is more attractive than the history of nations ; biography, therefore, or the lives of eminent men, is one of the most entertaining, as well as one of the most useful, kinds of reading.

Our own country offers two lives for the instruction of the race. The *Life of Washington* and of *Franklin* should be familiar to every American, from his earliest years. Among the ancients, there is no life like *Washington's*.

But among them are glorious names, which will excite the young to great purposes and lofty deeds. Many of these have been handed down to us by *Plutarch*, whose "Lives" should, at some period, be read by every person, and are to none more acceptable than to the young. The *Life of Howard* is of a higher kind than any of these ; so is *Southey's Life of John Wesley*. The *Life of Henry K. White* is the life of a poet and a Christian. *Irving's Life of Columbus* is written by an American, for Americans. Parts of it have all the interest of romance.

History is a study of great and permanent interest. "Not to know what was before you were, is to be always a child." It cannot be begun too soon. It can never be exhausted. The beginning of human history, as the foundation of man's hopes, is found in the Bible. Every thorough course of history begins with this sacred volume.

The history of our own country, as it is most important, so is it most interesting to us. Robertson's *America* is the first book to be read upon our history; but it is only in writings which were published after his death, that Dr. Robertson enters upon the history of that portion of the continent which we call our own country. Adams's *New England* is short, but faithful. Willard's *Republic of America* recommends itself by the excellent apparatus of maps, by which it is accompanied. Marshall's *Life of Washington* is a large work, but well worth reading through, and of the highest authority. The first part, upon the early history of America, has been published separately.

The histories of particular states are numerous, and some of them excellent. Belknap's *History of New Hampshire* deserves a high place. Williams's *Vermont*, and Sullivan's *Maine*, are interesting to others as well as the citizens of those states. Hutchinson, Minot and Bradford are the historians of Massachusetts. Trumbull is that of Connecticut. Tudor's *Letters on the Eastern States* will make known much which is desirable to be noticed. His *Life of James Otis* is one of the best lives that have been written in America. The "*Foresters*" may be read for the amusement of a leisure hour, and serve to fix in the memory some of the events of history. Flint's *Travels and Residence in the Valley of the Mississippi* contains much valuable information in regard to that country. His *Geography* is larger, and still more valuable.

History receives an additional charm, when it is made to turn on the fortunes of an individual. Such is the case with Robertson's *Charles V.*; Aikin's *Memoirs of Elizabeth*, and of *James I.*; Scott's *Napoleon*; Belknap's *Biography*.

It would be going too far, to lay down a course of history for every foreign and ancient nation. English history, as most connected with American, is of the first interest; Grecian and Roman, respectively, show the genius, and the extent of power, of those two nations. Tytler's *History*, or Worcester's, will point out what portions of the history of the world are most deserving of study, and to what points the reader's attention should be directed. The same end will be accomplished by Whelpley's *Compend of History*; and one of these, or a similar work, should be repeatedly read, to give a correct idea of the order of the great events of history. The history of Greece, Rome and England may be read in the volumes of Goldsmith. That of England by Sir James Mackintosh is now in a course of publication, and, to judge from what has already appeared,

is more valuable than any other short history of that country. Young readers will be attracted by Scott's *Tales of a Grandfather*. The present state of Europe may be learned from a work called "Europe," and much concerning America from one called "America, by a citizen of the United States." Perkins's *Historical Sketches of the United States* contain a full and clear history of events from 1815 to 1830. A knowledge of geography is essential to the right understanding of history. Malte-Brun's *Geography* is a large work, containing a vast deal of information upon all the countries of the world. Hale's *Geography* has the advantage of being very recent, illustrated by sixty maps, very correct, and cheap. There are many other excellent treatises on geography, too well known to need to be mentioned.

Towards accomplishing that most important but difficult object, the writing of *theses*, much valuable assistance will be found in Newman's *Rhetoric*. All the books which have been recommended will afford materials, and to these you may add the *Adventurer*, the *Spectator*, the *Rambler*, the *Sketch Book*, and, in short, any book which presents ripe and pleasant thoughts, agreeably expressed.

Any one who wishes for a selection of beautiful passages in poetry, from the best poets in the language, is referred to Cheever's *Studies in Poetry*. Young readers are apt to be more pleased with Scott's *Poems* than with any other; and if they begin with the *Lady of the Lake*, and have any natural taste for poetry, they may easily become lovers of poetry. There may be some among our readers, so young as not to have heard that Shakspeare's plays and Milton's poems are among the best of all poetry. Whatever has been written in this way by Goldsmith, Gray, Wordsworth, Bryant, may be safely read, and will form a true taste.

As much may be said for the following writers in prose—Scott, Johnson, Addison, Burke, Edgeworth, H. More, Franklin—and, indeed, of many others. Most of Miss Edgeworth's writings, beginning with the *Parent's Assistant*, are particularly suited, and particularly delightful, to the young.

Voyages and travels, and books on geography, are a never-failing source of the best and most rational amusement. In regard to what is safe and what is dangerous reading, no better rule can be given than that which the excellent mother of John Wesley gave, to enable him to judge of the lawfulness or unlawfulness of pleasure:—"Whatever weakens your reason, impairs the tenderness of your conscience, obscures your sense of God, or takes off the relish of spiritual things—in short, whatever increases the strength and authority of your body over your mind—that thing is sin to you, however innocent it may be in itself."

QUESTIONS

ON THE

POLITICAL CLASS BOOK.

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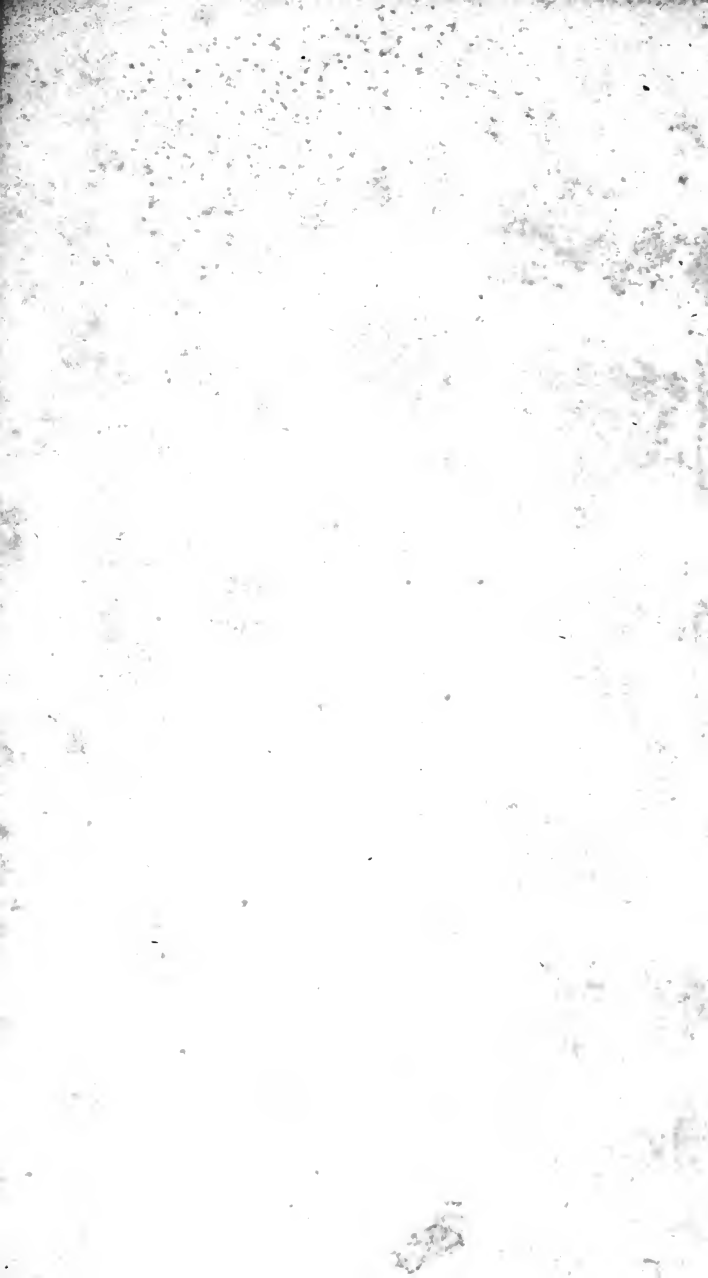
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