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AN

## ANNIVERSARY DISCOURSE,

DELIVERED BEFORE THE

NEW-YORK HISTORICAL SOCIETY,

ON

THURSDAY, DECEMBER 13, 1827.

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MR. PRESIDENT, AND GENTLEMEN OF THE HISTORICAL SOCIETY :

WE live in an extraordinary age. It may emphatically be denominated an age of improvement. Mechanical inventions, scientific discoveries, and advances in political knowledge, are daily bringing about great changes in the condition of society : and scarcely have we time to contemplate these changes, and to speculate concerning their probable effects, ere our anticipations are realized, and our attention is occupied by new improvements, whose results are beyond the grasp of the most vivid imagination.

The community in which we live remarkably exemplifies these striking characteristics of the age. It comprehends within its bosom many who have seen its day of small beginnings, and who, within their own lives, have witnessed the rapid growth of a few provincial dependencies into this powerful confederacy. These considerations cannot be overlooked by any person familiar with American history ; and, yielding to their influence, I propose, in discharge of the duty assigned to me by the Historical Society, to review the history of the European settlements in America, and their influence upon the condition of the civilized world.

By contemplating the condition of Europe at the time of the first migration to this continent ; by reviewing the motives which induced its early settlers to leave their native land for a savage wilderness ; by setting forth the principles by which they were governed, and the course of conduct they pursued, we are enabled justly to estimate the extent of their sacrifices, the value of the inheritance which has been transmitted to us, and the nature of our duties towards those who are to follow us. In this manner we associate ourselves with those who precede us in the march of existence ; we constitute ourselves a part of those who give character to a nation ; we share in their adversity and in their prosperity ; we partake of their labours ; we rejoice in their success ; we identify ourselves with the cause for which they suffered, and at once live with our ancestors and for our posterity.

Such a review has important uses. It compels us to reflect upon the nature of our institutions, the manner in which they have been built up ; and by recurring to their foundations we add new strength to the principles by which they are sustained. We are animated to fresh exertion in our national career, by going back to the original fountains from which American freedom and prosperity have been derived.

History is experience teaching by example ; but it is not by ordinary examples that her wholesome lessons are taught. The mean and selfish motives, which so often enter into the inducements to glorious achievements, are forgotten in the lapse of ages. The petty intrigues and personal quarrels which so often influence the fate of empires, pass to oblivion with those by whom they were fomented ; and the character of the age, marked by its prominent moral and intellectual qualities, alone remains to animate or to warn succeeding generations.

The distinctive marks of the period, from which we date the commencement of American history, are easily ascertained. The obscurity which hangs over the origin of other nations, and which affords ample opportunity for the erection and demolition of plausible theories, does not darken the period in which the European settlements in America were established. Science and learning shed their full light upon the communities from

which they migrated. Their motives and actions were exposed to the spirit of inquiry which distinguished the age. The peculiar characteristics of the early colonists are fully detailed and faithfully preserved by their contemporaries, and we are not left to conjecture for the materials of American history.

In examining the annals of the settlements now composing the North American Confederacy, our attention is not attracted, nor a feverish excitement produced, by a series of brilliant military achievements. No splendid conquests nor murderous battles, in which myriads of the human race were sacrificed, to extend a boundary line, or perpetuate a dynasty, enliven the matter-of-fact history of the American people. The tinsel decorations of martial renown are not the appropriate ornaments of our national annals. They have a more real and solid interest. They come down to us adorned with their triumphs; but they are not the triumphs of physical force. They are the triumphs of intellect, of liberty, political and religious. They are the triumphs of an enlightened policy over the prejudices of a scholastic and bigotted age; of free institutions over the abuses of the feudal system; of the right of conscience over persecution; of freedom over despotism and slavery. These are victories over which the philanthropist need not mourn. They are debased by no alloy. They are achieved at a comparative small expense of blood and treasure; but they are more valuable to mankind, and more momentous in their consequences, than all the battles ever gained by all the heroic scourges of humanity who have graced the annals of warlike achievement. They have a permanent interest, which is connected with the improvement of our nature and the happiness of man; with the ascendancy of all that is enlightened and free and ennobling, over what is ignorant and slavish and debasing. We, and all who come after us, participate in such triumphs, and are the rightful heirs to their glorious results. The annals of the American people are thronged with such victories. From their first inception to the present day they form one great procession of triumphs. Their whole tendency has been to emancipate the human mind from the bonds of prejudice, to extend



and perpetuate the sway of reason, to establish political, religious and commercial freedom, all essential parts of one great system, upon a firm and permanent basis.

At the period when America was discovered, the political condition of Europe was of the most arbitrary character, and the tendency of its civil institutions endangered even the few privileges which had been preserved from the grasp of civil and religious tyranny. The feudal system had received a fatal blow, but its relics incumbered the face of society, and presented the most formidable obstacles to the progress of improvement. All the absurd doctrines which had taken root during the dark ages, and had grown up under the protecting shade of monastic superstition, still flourished, and were received as established truths. The divine right of a certain race to govern a kingdom, was maintained with as much zeal, as if it had been a dogma essential to salvation. The infallibility of the head of the Papal Church, or the authority of an individual selected by a few cardinals, to bind the consciences of his fellows in all matters of faith, was still unquestioned. This extraordinary authority even extended to temporal affairs, and the monarchs of the leading powers were in the habit of availing themselves of it as a great political engine. The principles of commerce were conformable to the general character of the age ; and the efforts of those few rulers who made it an object of attention, were directed rather to secure a monopoly, than to extend the trade of their kingdoms, by developing their resources, and by encouraging domestic industry. It was a sort of predatory commerce, instead of a fair and legitimate exchange of the productions of human industry. In short, throughout Christendom, the religious feeling was intolerant, the political system despotic, and the commercial policy narrow and monopolizing.

The first tendency of this state of things was to reduce the newly discovered world to the most abject condition. According to the established code of public law, the American continent, with its inhabitants, became the property of the monarchs whose subjects discovered it. Alexander VI., who then filled the Papal chair, arrogating to himself, as Christ's vicegerent, the right of



disposing of all heathen countries, divided the new discoveries between the crowns of Spain and Portugal, and these powers immediately began to extend their sway over the western hemisphere. The adventurous soldiers and mariners of those nations, then in the zenith of their power, soon reduced the numerous but timid aborigines to subjection; and measures were at once adopted to render the wealth and resources of the new possessions available to the European governments. These measures are too faithfully related by some of the companions of those adventurers, whose hearts were not wholly closed to the appeals of suffering humanity. The predominant feeling of the Christian world is there fully developed in action; and bigotry, stimulated by avarice, is seen exciting the followers of Cortez and Pizarro, to indiscriminate plunder and massacre of a race, whose peaceful and inoffensive habits offered the most powerful plea in their behalf, and whose undeserved fate has excited almost a general regret, that their country was ever exposed to the enterprise and cupidity of Europe. Even submission on the part of the natives caused no alleviation of their sufferings. Doomed to labour in the mines for gold, to satisfy the insatiable avarice of their conquerors, they found reason to envy the fate of their more fortunate countrymen, who had fallen in battle. If these acts of inhumanity had been unauthorized, we might have ascribed them to individual depravity; but unfortunately they are essential parts of the system adopted towards America, and the legitimate results of principles preached from the pulpit and practised by the sovereigns of the age. The discussions between Las Casas and Sepulveda, whether the natives of the new world became the subjects of the Spanish crown, or the private property of the conquerors, show the small estimation in which American rights were held by European casuists. At the present day, public opinion could not tolerate the idea, that a people might be reduced to slavery, and their property seized by the conquerors, solely because they were of another religious faith; but according to the reasoning of that age, the inhabitants of heathen countries were destitute of civil and natural rights. Religious intolerance

erected itself into an infallible tribunal, and adjudged their claims "to life, liberty and the pursuit of happiness," to be unsupported by Gospel or reason. The same anti-social principle—a principle which sprung from the union of scholastic philosophy and Gothic ignorance—soon became ascendant in politics as well as religion, and the doctrine of perpetual and unalienable allegiance was now introduced, to secure the dependency of the European settlements in America, and to reduce their inhabitants to the political level of aborigines. The right of kings to rule was no longer earned by services in the cabinet or field, but was maintained as depending upon religious faith. The doctrine which now infests Europe under the appellation of legitimacy, and is vindicated under the pretence of upholding civil order, then existed as a divine right, which could not be questioned without offending the Deity; and the ominous ruin of church and state, in which religious intolerance and civil tyranny are leagued to sustain each other by alternate appeals to spiritual hopes and human fears, threatened to extend its sway over both worlds, and to deprive the objects of its vengeance of all earthly asylum.

If the claim of the Spanish crown to the whole western continent had been unquestioned, its condition at this time would probably have resembled that from which her colonies have so recently emancipated themselves. It is impossible to estimate with accuracy the effect, which the establishment of that claim to this hemisphere would have produced upon the happiness and freedom of mankind; but the injuries inflicted by the blighting policy of that court upon all territories subjected to its authority, entitle us to presume, that it would have caused results equally extensive and destructive to the best interests of humanity.

Fortunately, however, for the cause of truth; fortunately for mankind, the northern parts of America were claimed by other European powers, and, as they did not offer the same temptations to Spanish cupidity, these claims in time acquired a valid character. Neither the climate nor soil allured the first American adventurers to these shores. Avarice could not be easily

gratified by the productions of North America, nor could wealth be acquired without labour, by those who established themselves there as colonists. The consequence of this happy poverty was, that the colonists were not men of desperate fortunes and desperate characters, seeking by violence wealth, to squander in the accustomed haunts of vice at home. They were men migrating here to found a nation. They were seeking here a permanent country, and to build up institutions for themselves and their children.

It is still more fortunate, that whilst these causes preserved the Northern continent from the grasp of Spain, and prevented any premature settlements there, the spirit of reform was actively at work in Europe, and the collision between those who sustained the ancient superstitions, and those who waged war upon them, was preparing fit materials for the population of the transatlantic republics. Persecution and violence on the part of the dominant party, was furnishing colonies for America from among the intrepid, the conscientious, and the pure minded. Those who valued truth, religious faith, and a peaceful conscience above all else, were thus driven into the ranks of the American settlers.

The reformation which commenced shortly after the discovery of this continent, had now fully awakened the public mind in Europe. The first reformers were private individuals, unsupported by a party, and only sustained by their unextinguishable enthusiasm and confidence in a good cause. Their first partisans were drawn from the poor, the humble, the oppressed; from among those, who not being interested in perpetuating old abuses and deriving no authority from them, added no weight to the side they adopted, except the moral power of their disinterested testimony. They brought no armies, no overflowing coffers, no bands of feudal dependants, to the cause they espoused. Their whole strength was a moral force; but that lever rested upon public opinion, and the ancient order of things was shaken and overthrown by its omnipotent action. Men began to examine for themselves in matters, before that time regarded as beyond the reach of



investigation. A spirit of inquiry pervaded society, and the test of an awakened reason was applied to the claims of the existing religious establishments. The monarchs who then governed the great European kingdoms, were not slow in perceiving, that the surest foundations of their thrones were immediately connected with the superstitions of the Church. They accordingly took measures to enforce its denunciations against such dangerous opinions, and Europe soon beheld her sovereigns combining to sustain a religious establishment, that in the plenitude of its power had compelled the proudest monarchs to descend from their thrones, and kneel as suppliants at the feet of imperial Rome.

Political considerations induced some to swerve from this course; but from the commencement of the Reformation, in 1520, until the settlement of Plymouth just a century afterwards by a few English non-conformists, the European governments manifested the most intolerant and persecuting spirit towards all their subjects who assumed the liberty of thinking for themselves in matters of faith.

In Germany, where the Reformation broke out, a furious contest was carried on for more than a century between the Catholics and Protestants, and the surrounding powers were often involved in the war as allies or abiders. The treaty of Westphalia, in 1648, gave them both peace and religious toleration; but before that pacification it seemed as if the fiends of darkness had been let loose to carry on the quarrels of the Church. It is true, that in this portion of Europe the reforming party maintained itself, and brought the conflict to a successful result; but this success was purchased by the most painful sacrifices. Their religious freedom was maintained by unremitting efforts both in the cabinet and in the field. It was guarded by a sword constantly unsheathed. So far from being able to offer an asylum to others, they were themselves reduced to the extremity of distress, and were often indebted for their preservation to combinations of circumstances almost miraculous. It was not in a country thus afflicted and overrun by contending armies, which, from the length of the contest,

degenerated into mercenary bands, ready to enlist under the most celebrated leader—seeking wars as their proper employment, and plunder for their reward; that Christians, who longed for peaceful toleration, could find the object of their desires.

The other kingdoms of Europe presented similar scenes of confusion and anarchy. The Netherlands were distracted by a rebellion, which was provoked by the impolitic and unrelenting severity of the Spanish Court, and terminated in their separation from Spain. This rebellion or civil war grew out of religious intolerance, and continued nearly eighty years, wasting the strength and treasures of Spain in fruitless attempts to reduce the United Provinces to submission, and destroying their security and happiness during this protracted contest.

The contemporaneous history of France does not afford a more favourable account of the tranquillity of that powerful kingdom. The infamous massacre of St. Bartholomew, planned and executed by the court, indicates the spirit in which the religious contest was carried on; while the wars of the 3d and 4th Henrys against their own subjects; the numerous towns, computed at more than four hundred, destroyed by the contending sects, and the distrust constantly evinced whenever the leaders met in times of hollow truce, all manifest the wide extent of the religious feud, and the deeply rooted rancour harboured towards the Protestants by the dominant party. Scotland and England were governed upon the same intolerant principles.

All Europe was vexed by religious warfare. The quarrels and persecutions of ambitious monarchs and intolerant priests, had wearied the patience of their long-suffering subjects, and they wishfully cast their longing eyes in search of an asylum in that newly-discovered continent beyond the western ocean. The accounts of a new world teeming with plenty and bringing forth spontaneous productions under ever-sunny skies, were now in all men's mouths, and were eagerly listened to by the persecuted—despairing Protestants. It seemed as if, in the moment of



deepest distress, that their desponding hearts were cheered by the suggestions of some angel-spirit, that beyond the waste of waters which had confined the human race to the old continent, to suffer all that humanity could endure, or tyrants inflict, there was another and a better world. The followers and companions of Du Plessis and Coligny in France ; of Barnevelt and Grotius in Holland ; of Hampden and Milton in England, all looked to America as an asylum.

It was from this class—this dissenting—persecuted minority, that the ancestors of the American people were drawn ; and it was owing to the universality of this feeling among them, that the tide of emigration swelled so rapidly when it began to flow. Whilst the eastern colonies were settled by the English Puritans, the adjacent provinces offered a similar shelter to the Huguenots, and the Dutch and German Reformers. This description of population gave a sobriety of purpose and a religious character to the whole colonies, and prevented the southern settlements from degenerating into mere trading establishments.

It also enforced the necessity of a tolerating spirit. Our English ancestors were not only Protestants in religion, but they were Dissenters from the political faith of their countrymen. In their struggles against the religious supremacy of the crown, they often questioned its temporal authority. They felt a yearning for the dawn of that day of civil freedom, which their descendants now enjoy. They were in fact the vanguard of that stern, austere band of Presbyterians, who in the next generation established the commonwealth upon the ruins of the monarchy, and brought their misguided sovereign to the scaffold for offences against the people of England. They had not, it is true, such well-grounded ideas of civil freedom, as are now prevalent. They were not born under a written constitution ; nor had they grown up under a free and well-balanced government ; but they had been taught the value of freedom in the school of persecution. The cruel tyranny which had driven them from their own country ; the hardships and privations they had undergone in establishing themselves here, were all so many testimonials against an arbitrary government, and unanswerable proofs in favour of the rights of man.

In the lapse of a few years, the feelings which were naturally entertained against the particular sects, by whom the first settlers had been exiled, were modified. Succeeding generations became heirs only to the strong dislike against tyranny in general; and the want of rich religious endowments, by depriving theological teachers of all temporal motives to persecution, took away the chief cause of religious intolerance. Accordingly, when the mother country undertook to straighten the bonds of government and to reduce the colonies to unconditional submission, we find them overlooking minor points of difference, in order to preserve their political freedom. The Catholics of Maryland, the Episcopalians of New-York and Virginia, the Huguenots of Carolina, and the descendants of the German and Dutch reformers, who were planted in several parts of the Union, joined with the Puritans of New-England in opposing the usurpations of Great Britain. They all felt that unless their resistance was successful, both civil and religious freedom would be at the discretion of the British ministry, and, in the presence of the common foe, they buried their theological differences. As they had purchased their religious freedom by relinquishing their homes and kindred, they now made a sacrifice of sectarian prejudices upon the shrine of civil liberty and national independence, and religious toleration was thus made the key-stone of the American Union. But though it is a fortunate circumstance that the dissenters of other nations made settlements in this country, there is no reason to regret that the chief provinces, which materially influenced the character of the whole, were settled by English non-conformists.

The country from which they came, though far from furnishing a perfect model for a free government, was infinitely superior in that particular to any then existing in Europe; and from its arbitrary features and the despotic principles of its ruling monarch, this sect had uniformly dissented. It is not, however, by their partiality for free institutions alone, that the English Puritans were peculiarly fitted to become the founders of a great nation. The qualities and principles which distinguished this extraordinary sect are well worthy of a chief place among

the circumstances which formed the character and controlled the destiny of the American people. The Puritans not only rejected the creed of the Catholic Church, but they had separated from the Protestant Church, because in their judgment it was still tainted with Romish superstitions. They aimed at a more thorough reformation, and to bring their chosen flock back to the primitive simplicity of the apostolic age. Their system of faith was one of self-denial, humiliation and prayer. It rendered every passion subservient to a vehement desire of knowing and executing the will of Providence. All temporal motives, ambition, avarice, self-love, all were swallowed up in this one absorbing feeling. Earthly riches they regarded as dross. Their hearts were fixed on that spiritual wealth, which the meanest member of the congregation claimed as his inheritance. Human honours they despised, as transitory and dependent upon the breath of man. They were heirs to immortal crowns, and celestial thrones and eternal honours awaited them, when they were released from the bonds of flesh. For this they relinquished all those objects which the mass of mankind pursue with such ardour, and became the tenants of a prison, the victims of the Star-Chamber, and the subjects of persecution and exile.

Dangers could not deter such men; for death they welcomed as a translation to the realms of bliss. Titles and honours could not seduce; for their imaginations were beyond the reach of temporal motives. In their paroxysms of religious enthusiasm, in their gloomy fits of humiliation and despair, they seemed subjects for pity and commiseration; but when these mental clouds had passed, they came to the business of life with an intensity of purpose, and a thorough devotion of every physical and mental faculty, which triumphed over difficulty and trampled every obstacle under foot. This state of religious exaltation proved an admirable support in all parts of their trying career. It enabled them to continue their course with unflinching step, when men under the influence of ordinary motives would have turned back in despair. It sustained them in their cruel persecution at home; in the solemn moment of parting from their



native land; in their long and dangerous voyage on the Atlantic; in their many trials in the American wilderness; and in the gloomy hour when the storm of ministerial wrath, which had been so long gathering, burst on their defenceless settlements. In all these trials they acted like men whose destinies were under the special superintendence of an overruling Providence. The claims of their friends and kindred were in vain presented to their minds. Their hearts yearned towards those objects of affection and the pleasant places of their childhood; but religious duty forbade them to submit to the commands of an arbitrary government, and they turned their backs upon their native country, with a fixed determination never to return.

A stormy ocean in vain arrayed itself in unusual terrors. Their little bark was laden with a greater burden than Cæsar and his fortunes. It bore the founders of a mighty republic. In their own estimation, it contained the chosen church, and they felt as if under the special protection of heaven. The ocean, which presented such obstacles to their escape, would preserve them from the corruptions of the old world. It placed them beyond the influence of countries grown old in abuses. A bleak and barren shore awaited them upon their arrival; but there they were free from ecclesiastical persecution and political tyranny. They were freed from the mischievous example of institutions vicious in principle, and were at liberty to establish a social community, whose members were far advanced in civilization upon a broad and natural basis.

With these views, upon their landing, they entered into a social written compact, the *first* the world ever saw, by which it was agreed, that the common will should be the law of the colony. They then chose a governor from among themselves, and established their republican government far from the debasing influence of Europe, without the sanction of a charter or grant under any royal seal, in the midst of the untouched forest, with the canopy of heaven for a covering, and the waves of the Atlantic rolling between them and the abodes of civilized man.

Under such circumstances was the first English colony planted, which possessed the power of sustaining itself; and to the hard-

ships which its founders endured, and to the principles by which they were actuated, may be attributed the fearless and uncompromising spirit of the colonists. They were always prompt to oppose the pretensions of England, and when force was resorted to, they were found as ready to play their part in the field as in the halls of debate.

Another circumstance growing out of the religious feelings, which entered so largely into the inducement to American colonization, had an important influence upon the institutions of the new colony. Its founders were surrounded by their families, and among the moral causes which contributed to its stability and prosperity, we cannot assign too high a rank to the example of those devoted women, who left the comforts to which they had been accustomed for the sake of their persecuted friends, and to sustain and cheer them amid their dangers and privations. It was no inconsiderable cause of the success of this settlement, that it was established upon the permanent foundation of domestic happiness; and that its founders felt, as husbands and fathers, solicitous for the moral and religious education of the rising generation. Their views extended to posterity. They were religious and educated themselves, and they intended that their descendants should be so too. Actuated by these motives, they made provision, shortly after their landing, for teaching the gospel and for the education of the children in the colony. The noble system of common schools, to which the eastern states are indebted for no small share of their reputation and happiness, and which is so fast spreading through the country, dispelling ignorance and preparing the rising generation for the proper administration of our excellent institutions, is a lasting monument of their wisdom, and will long remind their countrymen of the sagacity of the fathers of New-England.

These remarks, illustrating the forecast of the eastern colonists, are equally applicable to the manner in which the founders of the British colonies, in general, framed their political institutions. It is true, that in some of the provinces they were induced by different motives to migrate to this continent; but they all considered these wilds as their permanent homes.



The North American settlements were not like the colonies of Greece and Rome, mere extensions of the parent states to contiguous territories ; nor migrations to countries inhabited by people as much advanced as themselves in civilization. They were the commencement of new communities in a new world. Neither did they resemble the European settlements in the East and West Indies. These were commercial establishments, and the adventurers always looked with impatience for a return to their own country, with fortunes accumulated abroad as the reward of their industry and privations. The colony was regarded as a place of banishment, and they sought rather to carry away wealth, than to confer any lasting benefit upon the place of their temporary abode. These views essentially modified their policy and conduct. So long as they were permitted to pursue without interruption their schemes of gain, they took no interest in the welfare of the colony. Its legislation might be impolitic, its privileges invaded, its vital interests neglected ; but while they considered themselves merely as sojourners, they did not feel called upon to make personal sacrifices, in order to vindicate its political rights.

Not so with the settlers of the North American colonies. They had turned their backs upon Europe for ever, from motives which were not liable to be changed by the lapse of time. Their migration was the permanent adoption of another country. It was colonizing upon an original footing. The colonists were intelligent, educated and civilized. They had been taught by bitter, by personal experience, that the political institutions they had fled from were not fitted to promote the freedom or happiness of the mass of the community. They had no inducements to copy the frame of their government from those, which at home were overgrown with the abuses of antiquity. Privileged orders had no charms for them. They were all equal in rank, in sufferings and in sacrifices. They were not compelled, from their relations with those around them, to erect a feudal system or a magnificent hierarchy in the American wilderness. All this was indissolubly connected in their minds with imprisonment, persecution and exile.

But they were placed here in a productive country, where a virgin soil offered its treasures to their industry; with all the arts of civilization to aid them; possessing all the experience, which the failures in government for four thousand years could teach, and free from the motives and interests that have planted the principle of corruption and decay in the foundation of other governments. In the vigour of youth, and unshackled by prejudice, they commenced their course from the goal, which other nations had attained after centuries of exertion. Well were these things characterized by a statesman,\* whose eloquence is the ornament of his country, as the "happy auspices of a happy futurity! Who would wish that his country's existence had otherwise begun! Who would desire the power of going back to the ages of fable! Who would wish for an origin obscured in the darkness of antiquity! Who would wish for other emblazoning of his country's heraldry, or other ornaments of her genealogy, than to be able to say, that her first existence was with intelligence; her first breath the inspirations of liberty; her first principle the truth of divine religion!"

Under the operation of these causes, the colonies grew with unexampled rapidity. Before the close of a century, a native population of European origin, exceeding half a million, had established themselves on the eastern shores of North America. The colonies now began to attract the particular attention of the mother country, and its parental care was displayed in projecting measures to appropriate their resources to its own use, and so to modify their governments as to prevent any effectual opposition to this ungenerous design.

A course of reasoning similar to that which had deprived the aborigines of all natural rights, and appropriated their wealth to European use, now threatened to reduce the colonists to an inferior and dependent condition, and to monopolize their trade and resources. The lapse of a few years had made the inhabitants of the old world forget, that the colonists and themselves had a common origin; and they began to regard them as if

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\* Mr. Webster's Oration at Plymouth, Dec 22, 1820.

they had lost their cast by taking up their abode in a continent, which, in their minds, was associated with all that is uncultivated, ignorant and barbarous. While these natural associations depressed the colonists in the public esteem, the European monarchs were urging their claims to political sovereignty, upon the ground that their subjects could not expatriate themselves. The duty which a citizen owes to the community in which he lives, and by whose laws he is protected from unjust violence, was perverted into the doctrine of perpetual and unalienable allegiance, and this principle was made the corner-stone of the colonial system. In establishing this system the European governments had in view a two-fold object. The first was national, and was intimately connected with the extension of their trade, and the other political. This latter aimed at the complete control of the colonies, and to govern them by officers appointed in Europe. A rich harvest was thus furnished for the dependents upon the court, and the American colonies became the receptacle for the decayed servants of the crown.

The maxims of European policy towards America are few and comprehensive. They consisted in rendering the colony entirely subservient to the interests of the mother country; in monopolizing its commerce, and in retarding its progress towards improvement, in order the more effectually to prolong its dependence. All foreign trade was prohibited to encourage the navigation of the mother country; and all intercourse with the colonial possessions of other nations was forbidden, lest these commercial regulations should be evaded. In order to protect home industry, laws were enacted discouraging manufactures in the colonies; and the raw materials produced there were sent to the ports of the parent kingdom, to be thence distributed to other nations, or to be manufactured for the use of the colonists. Scarcely had they shaken off the bonds of religious intolerance, ere the desire of gain sought to bind down the American continent, their place of refuge, in the chains of commercial monopoly, and to render it a mere dependency upon Europe. The communities which were established here were not only deprived of all transatlantic trade, but of that intercourse with



contiguous countries which was so much more necessary to their comfort and prosperity. They were not only prevented from directing their industry to those employments which would best repay their labour; and from trading with those countries which furnished the cheapest supplies and afforded the best market; but by a rigorous application of the system to the whole continent, they were shut out of the pale of improvement, deprived of the stimulus, which a spirit of emulation among adjacent communities imparts in the pursuit of knowledge, and doomed to labour in an insulated colony for the prosperity of a transatlantic power, that rewarded their industry by monopolizing its profits, and repaid their faithful allegiance by obstructing them in their progress to civilization.

A system so inherently unjust necessarily provoked opposition on the part of the inhabitants of the British Provinces in North America; and a series of measures adopted by the mother country to carry it into effect, prepared the way for the success of another essential part of the American system.

The principles by which the colonists were actuated, were entirely at variance with colonial dependence. They were indeed compelled, after many violent struggles, to partially submit to the navigation acts; but even this qualified dependence was the cause of continual disputes, and to all pretensions to political supremacy, they offered the most determined resistance.

It is worthy of remark, that in the British United American Provinces, representative governments of a popular character were established previous to the British revolution. In the proprietary colonies of Maryland, Pennsylvania, Carolina and New-Jersey, the political institutions were originally formed upon enlarged views of civil freedom. In Virginia a house of Burgesses was suddenly introduced by the colonists into their frame of government, without any authority from home, and very much against the wishes of the directors of the company. The original settlers of our own state were emigrants from Holland in the best period of her existence, when that republic was invigorated with the spirit of new-born liberty. Wo



accordingly find them, shortly after the transfer of the colony to the British crown, contending for the privilege of self-government, and compelling the Duke of York, who was the proprietor, to acquiesce in that characteristic right of an American community. The governments of the eastern provinces were essentially democratic, and it may be safely asserted that the public will was early manifested in the acts of all the colonial governments. In consequence of the popular form of their political institutions, their opposition to the pretensions of the mother country assumed an official shape. It was not the hasty ebullition of individual feeling, unauthorized and unsupported, but the result of deliberation, and evinced a widely extended discontent. It could not be punished as the misconduct of a few riotous persons, but must be treated as the premeditated act of the whole community.

The many instances of insubordination and disobedience in America, which are so much complained of by the English historians, are so many testimonies in behalf of the fearless spirit of the colonists, and show the insecure tenure of royal authority over them. It was never their intention to be controlled by a government on the other side of the Atlantic. They maintained, in the technical language of the time, "that the laws of England were bounded by the four seas, and did not reach America." The General Court of Massachusetts made this answer to a charge against that colony, of having disobeyed the navigation acts; and on another memorable occasion, upon information that a general government had been projected for all colonies, the magistrates and clergy of that province unanimously resolved, "that if such governor were sent, the colony ought not to receive him, but to defend its lawful possessions."

The limits of this discourse will not permit an enumeration of the many acts of resistance offered by the inhabitants of the other provinces, to the colonial system of Great Britain, long before those difficulties, which immediately preceded the Revolution; but I may be allowed to refer with pride and exultation to the testimony borne by Chalmers, the official historian of the British government, to their refractory spirit of independence.

“The Americans,” says this writer, “have had all along a reluctance to order and good government, since their first establishment in their country. They have been obstinate, undutiful and ungovernable from the very beginning; from their first infant settlements in that country. They began to manifest this spirit as early as the reign of Charles the First, and disputed our right of fishing on their coasts in the times of the Commonwealth and the Protectorate.”

In these conflicting principles and views, may be distinctly traced the causes of the Revolution. It was impossible, in the nature of things, that communities with such opposing interests and claims; governed upon such different maxims; and so severed by distance and sentiment, should long continue to acknowledge a common authority. The voice of nature had decreed the independence of the United States, long before the Continental Congress resolved to vindicate that independence by arms.

The expulsion of the French from Canada soon brought the pretensions of England and her colonies into direct collision. Whilst France held that dangerous position in the interior, and stood ready to assist the colonies in case of difficulty, Great Britain was unwilling to add to the causes of discontent. But after the conquest of Canada, and its cession at the peace of 1763, that obstacle being removed, a more systematic policy was adopted to strengthen the bonds of colonial dependence. The complete subjection of the colonies was to be secured by means of an army stationed in America, and maintained at their expense. The taxes to be raised, were not, however, to be at the control of the local assemblies, lest in time they might control the army; but were to be laid and collected by the authority of Parliament. It was also contemplated to render the executive and judicial departments of the American governments wholly dependent upon the British Ministry; to divide the colonies into provinces of more convenient size; and to new model the colonial department. In order the more effectually to execute this arbitrary design, all settlements in the interior were

prohibited, with the view of keeping the civilized population more within the reach of the trade and power of the mother country.

This indication of the arbitrary disposition of the British government, and its manifest determination to reduce the colonists to unconditional submission, united them as one nation in opposition to its authority. The spirit of the people was roused to open resistance. They appealed to the sword to sever the bond of union between England and her colonies, and a power independent of Europe arose on this side of the Atlantic.

The feelings and principles of the civilized inhabitants of America were now represented by an independent government, and embodied themselves in a course of national policy. This remarkable event, which, when justly considered, will not yield in interest and importance to any that ever engaged the attention of historians, soon caused a material modification in the colonial system.

The statesmen of Europe were no longer at liberty to regulate the affairs of America solely with reference to European interests. American interests were urged upon their attention, and were ably sustained by an American government. It is true, that these claims were not readily allowed. Europeans could not at once bring themselves to regard an American state as entirely independent, and of equal rank with the ancient kingdoms of the old world. The court of France considered our independence to be but little more than a transfer of allegiance; and her incessant efforts to obtain an undue influence in our public councils, evince her desire to render us partially dependent upon herself. The other governments of Europe, with the exception of Sweden, were influenced by similar prejudices respecting the communities on this side of the Atlantic, and refused to acknowledge an independence, which was already achieved, until the course of events rendered the acknowledgment of little importance. Their pretensions and principles with regard to the inferiority of the western continent, had been engrafted by the practice of nearly three centuries upon the law of nations.



The rivers which constituted our boundaries, had been shut from immemorial time by the jealousy of the powers, to whom they belonged, before they became boundary lines. The fisheries on the Grand Bank had been always enjoyed by the subjects of some European government, and participation in them had been regulated by various treaty stipulations. All access to the islands in the American seas was debarred by a rigorous colonial system, and the vast territories which were still dependent upon Europe, and comprehended far the greatest portion of the continent, were subjected to the same strict monopoly.

Besides these obstacles, which were presented by European pretensions to the enjoyment of our independence, there were others growing out of popular prejudices; the condition of the country and the character of the system from which it had just been emancipated. Among these we need only enumerate the state of manufactures and the mechanic arts; the estimation in which domestic productions were held, and the means of internal intercourse at the close of the Revolutionary War, to show how dependent we were upon Europe; and by recurring to the regulations of the British government repressing colonial manufactures, and to her jealousy of all intercommunication between the different provinces, we discover the cause of that dependence and the means of remedying the evil.

The sagacious men who established the American confederacy, and reconciled the discordant interests of its different members under one government, perceived that our independence even then was but partially achieved, and planned a system of policy, well designed to complete the emancipation of this country from all its colonial burdens. The religious liberty, for the sake of which their ancestors came to America, was secured under a free and tolerant government, and made the cementing principle of our union. Political independence had been obtained after a severe struggle, and our right of self-government formally admitted. Commercial freedom alone was wanting. Whilst our intercourse with the rest of America depended upon the permission of the governments of Europe and American commerce was shackled by colonial regulations, our independence



was incomplete. Free trade, therefore, became necessary to the full enjoyment of our rights as a nation. This constituted an essential part of the American system, and the efforts of the government were directed to its accomplishment.

Most of its foreign and domestic policy has had in view the establishment of this principle. The Federal Constitution originated in the desire to free the trade of the United States from the embarrassments to which it was still subjected by the colonial policy of Europe. The war with France and the late war with Great Britain, grew out of the conflicting principles of the commercial systems of America and Europe ; and the influence of this great and important maxim of free trade as promulgated by the government of the United States, may be easily seen in every part of their history. It may well be called a great and important principle. It comprehends within its scope, not only the freedom of the trade of the United States, but the entire emancipation of the rest of the continent from the colonial system, and the establishment of a new commercial policy, founded upon principles of equality and exact reciprocity.

The system of reciprocity in trade, which was so early adopted by this country, was with the view of promoting its success. The government instantly perceived the importance of an unshackled commerce, and wisely determined not to sacrifice the essential interests of the country for any present advantage ; but rather to submit to temporary inconvenience, for the sake of permanent benefits. The reciprocal policy is one of self-denial, but it has great and lasting results in view. It aims at abolishing the monopolizing system ; at emancipating all colonies ; at compelling each community to bear its own fiscal burdens ; and at the abrogation of those rules of international law, which have grown out of the colonial system of Europe.

As one of the indispensable means of success, and to diminish the sacrifices which are the price of its ascendancy, it inculcates the necessity of internal improvement. Not merely the improvement of the channels of internal intercourse ; though these are of no small importance in enabling different portions of the Union to supply their relative wants : but the developement

of our resources, advancement in science and knowledge, the encouragement of manufactures at home, and the naturalization of all those arts and institutions, which distinguish a civilized from a barbarous community.

The natural state of trade, which consists in a free exchange of commodities, unburdened by imposts and duties, was not applicable to the condition of a country just emerging from colonial dependence. The inhabitants of the American colonies had not been permitted to apply their industry to such employments as would best repay their labour. By commercial regulations and colonial restrictions, they had been confined to those which tended to increase the navigation, and gave employment to the home industry of the mother country. This artificial state of things interposed great obstacles to the entrance of an American state into the great mart of nations. She was obliged to contend for her claims to commercial equality, long after her right to political equality had been formally admitted; and in this latter contest she could only resort to the comparatively inefficient arms of legislative enactment. After the adoption of the federal constitution had placed these weapons in the hands of the general government, they were effectually employed by the revenue acts of the first congress.

These laws were formed upon the great principles of reciprocity, always keeping in view the necessities of the public treasury—the state of all domestic manufactures, and the ability of the nation to supply itself with articles of prime necessity. These considerations were wisely permitted to modify the reciprocal system, which, if carried out in its full extent, would have burdened the staple commodities of each and every country with similar duties, to those imposed by the revenue laws of those nations upon the staple productions of the United States. It was, however, adopted so far as the circumstances of the country permitted, and was particularly applied to the navigating interests, upon which the old colonial system had most severely borne.

Such was the policy which the circumstances of the country forced upon the government of the United States. It was hos-

tile to the system of Europe, and of course it has encountered a constant opposition from that quarter. The European governments have opposed it by intrigue, sometimes by force. Foreign interests always, and sometimes the prejudices of our own countrymen, have interposed obstacles to its success.

It is not the least, among the evils of a state of dependence, that it renders its subjects unfit for the full enjoyment of the advantages proceeding from a change in their condition. Their habitual mode of thinking, influences them after they have shaken off their bonds. Their movements still indicate, that they were brought up in shackles, and that the iron chains of dependence have sunk deep into their souls. To this state of feeling may be ascribed the difficulty which exists in eradicating the prejudices, that keep all colonists in a condition of habitual dependence, after their political connection with the mother country has been dissolved.

The statesmen of Europe were not ignorant of this prejudice, and they endeavoured to avail themselves of it, in establishing their commercial relations with the new republics. Shortly after the close of the Revolutionary War, the celebrated Brissot wrote a work to persuade the world, that it would be unwise in us to manufacture or produce any thing, that was produced or manufactured in France. The famous work of Lord Sheffield, which produced such a decisive effect upon public opinion in England, and prevented the passage of a law brought forward by Mr. Pitt in 1783, to place our intercourse upon an equal and liberal footing, teaches the same doctrine with regard to British manufactures. It inculcates the principle, that the United States are essentially dependent upon Europe, and that by judicious commercial regulations, the same monopoly of their carrying trade, and the same advantages in their commerce, may be obtained as existed before their separation from Great Britain.

This work was unfortunately made the text-book of the British government, in all its commercial arrangements with this country, and has proved an abundant source of difficulties. It aims to secure to England a monopoly of American commerce, and especially of the carrying trade between the two countries. Having



relinquished the power of directly effecting that object, it now seeks the same result by imposing burdens on the shipping of the United States, and by availing itself of the habits and prejudices engendered in a state of colonial dependence.

These efforts to stay the progress of a great people have been unavailing. The policy of the federal government has been directed to correct the evils entailed upon us by the colonial system, and to cure the prejudices which were its legitimate results. It has proved eminently successful.

The first half century has scarcely closed since our birth as an independent power, and what momentous changes have taken place! Our own wealthy metropolis even now presents striking marks of the helpless and dependent state of its early inhabitants. Dwelling-houses still exist here, which were built of bricks that the colonists were obliged to import from Holland. Little more than a century has passed since the date of their erection, and what a contrast! On the uncultivated island of the Manhadoes stands a city—the commercial emporium of a new world, greater in importance than any in the native country of its founders. The silent forest has disappeared, and in its stead are crowded streets alive with the bustle of civilized men. A capacious harbour, which then only gave shelter to the canoes of the aborigines, is now filled with shipping, that crowd from every port to pour their tribute into the great mart of American commerce; and a new application of power by American genius has peopled the then lonely, but always magnificent Hudson, with a novel species of navigation, which move over the waters self-impelled and self-directed.

The parent colony of New-England, that in its infancy was saved from famine by the unexpected arrival of a provision ship, has now expanded into six powerful states, rich in a native population, and abounding in wealth, industry, science, and all the arts of civilization. Other communities, too, on the banks of the Mississippi and on the shores of Erie and of Huron, claim her as their origin, and surpass in power and numbers the most sanguine expectations as to the future growth of that infant colony. The states, that were formed from the old North West



Territory—a territory that within the memory of the present generation was the abode of Indian tribes,—now own a population nearly equal to that of the whole provinces, when some members of this society were in their infancy; and all these great and growing republics, refer back to the landing at Plymouth as the era of their birth, and hail that settlement as their common mother.

Instead of several distinct communities, thinly scattered through thirteen provinces along the sea-coast, we find a dense and united population pouring into the interior, accompanied by the arts of civilization, and the refinements of social and cultivated communities. Educated and intelligent man is taking the place of the savage, and is fast advancing to the borders of the Pacific ocean, making the wilderness to smile like a garden, and “sowing towns and villages as it were broadcast through the country.”

The shipping which, at the formation of the federal government, was inadequate to the transportation of our own exports, now whitens every sea with its canvass, and bears the varied productions of our soil to every quarter of the globe that is open to American enterprise. The striped bunting, which has within so few years appeared among the symbols of national authority, now floats in every port, and at the same moment excites the jealousy of a power, self-styled the mistress of the sea, and compels the corsairs of the Mediterranean to pay homage to the laws of civilized nations.

The extensive American territories, all access to which, at the era of our Revolution, was debarred by European jealousy, as if they had belonged to another planet, have profitted by the glorious example of this country, and shaken off their colonial fetters. Their emulation has been excited by our success; their patriotism has been stimulated by our prosperity; their desire of self-government has been warmed by contemplating the operation of our free institutions.

The crepuscular light, which first appeared in the north, and now illuminates the whole hemisphere, was the dawning of their own freedom. They have awakened from the slumber of

slavery, assumed their rank in the family of nations, and the American continent, from the St. Lawrence to its southern extremity, is declared free as the bounty of Providence created it to the commerce and enterprise of the human race. Communities, each occupying territories greater in extent than the whole United States, have successively dissolved their colonial connection with Europe, and, at the moment of declaring their own freedom, have augmented the independence of those who preceded them, and pledged their national existence against the re-establishment of the colonial system. The political institutions of nations, whose fathers never heard of the name of civil freedom, are modelled after the popular constitutions of the United States. A community of independent powers, all possessing representative governments, now occupy the western world, and interpose an insuperable obstacle to the pretensions of Europe. The lofty plains of Mexico and Peru; the fertile banks of the Orinoco and La Plata; even the awful summits of the Andes, resound with the exhilarating watch-words of liberty and independence!

The great principle of non-conformity—of dissent from religious system; abjuration of the political institutions; and resistance to the commercial policy of Europe, is at last ascendant.

Advance, then, ye rising generations! To you is entrusted the completion of this great experiment. On you, your country relies for the fulfilment of her hopes. To you, she looks for the realization of that glorious promise, which is held out to mankind by her past history, and her present institutions. To you she confides the sacred deposit of the freedom of the world. By the toils and sufferings of your fathers—by the martyrs of the Revolution—by the blood poured out like water, by the patriots of humanity in every clime and every age, in the same godlike cause—she implores you to be faithful to her trust. She adjures you to persevere in the course which your history has marked out—to consider nothing as finished, while anything remains undone, until the American system is triumphant, and you are as completely separated from Europe by character and policy, as by the eternal barrier which heaven has placed between us.

From the North American Review, October, 1823.

*The Principles of the Holy Alliance ; or Notes and Manifestoes  
of the Allied Powers.* London, 1823.

THESE papers are well calculated to excite reflection in the mind of every liberal statesman and national jurist. They afford the strongest indications, that have yet been given, of a settled determination on the part of the allied monarchs, to preserve by force the ancient system of government from any reformation ; unless proceeding from a quarter where, hitherto, every thing savoring of an innovating spirit has been carefully repressed, and where all reformers must necessarily meet with their natural and eternal enemies. If the governing principle of these documents be once established—that all reformation originating with the people, or caused by their interference, is inconsistent with the welfare and repose of Europe, and, as such, is to be put down by the combined arms of foreign powers—we may indeed abandon all hope of any melioration in the condition of mankind ; except through the struggles and throes of a convulsion not inferior in horror and bloodshed to the French Revolution. Instead of partial reformation, confined to each particular kingdom, and effected at different periods, the peace of the world will be destroyed by a total and general revolution, in which the aristocratic and liberal parties throughout Christendom will be engaged in active hostility. The only effect of any combination, like the Holy Alliance, to put down the spirit of revolution without extirpating its causes, must be to retard the progress of innovation, until the revolutionary excitement shall have accumulated beyond the power of resistance or control. To expect that this result will be averted, by the voluntary surrender on the part of the privileged orders of their immunities, is to hope for an event contrary to all experience.



It is to suppose a change in human nature to be easier than a political revolution. The natural tendency of all aristocratical and monarchical institutions is to augment the power in the hands of the rulers; and while the wheels of government move on without interruption, and the splendour of the privileged orders is maintained at the expense of the labouring portion of the community, they are not sensible of the misery of those beneath them. They so seldom come in contact with the inferior classes, that they feel no sympathy in their condition, and before it is displayed by a surrender of any of their privileges, they must be reminded that government was established for something besides the enjoyment of kings and nobles, by complaints that never proceed but from a desperate people, and are conveyed in a voice, whose very tones speak force and violence.

To insist, therefore, that all reformation must proceed from the monarchical part of the government, (a proposition which of itself presupposes a consciousness of imperfection rarely if ever felt,) is sufficiently absurd. But when to that is added the monstrous maxim, that all innovation proceeding from the forcible interference of the people with their rulers, is to be crushed by the armies of surrounding nations, they together form a theory of despotism, at once subversive of the laws of nations and the best hopes of mankind. The political regeneration of Europe is placed at a boundless distance, and is only to be expected, when, by the gradual operation of those causes, that have so much enlightened the public mind in the old world within half a century, the oppressed in all civilized kingdoms shall be arrayed in open opposition to their oppressors. At what time this state of things shall take place it would be imprudent to prophesy; but that this crisis is not far distant may be easily foreseen by all who have examined the present political and social state of Europe with the slightest attention. The general diffusion and increase of wealth, the extension of knowledge to the lower classes, and the great improvement in the condition of men in almost every particular, had, in the infancy of the present generation, rendered the actual situation



of society inconsistent with its existing civil institutions. Deriving their origin from the warlike barbarians, who established the feudal system, and among whom military science and courage were the only requisites to high station, and the best lance and the strongest arm were the most indisputable titles to rank and property; they necessarily became unsuitable to a commercial community, in which industry, enterprise and economy were regarded as the best qualifications to ensure respect and power. The ignorant warriors who overran Europe during the sixth and seventh centuries, and who laid the foundations of most of its civil institutions, as conquerors of the countries they invaded, according to the prevalent code of war, took absolute possession as in property of the land and its occupants. They sought to transmit their power to their latest descendants, by confining their attention to warlike pursuits, and provided for their support by appropriating to themselves the productions of the soil and the labour of its inhabitants, who were divided among the conquerors as appendages to the land. These claims were at first maintained by the same force with which they were acquired, and after the victors and vanquished were amalgamated into one community, by the juridical powers assumed by the seignoral lords within their respective domains. They were thus interwoven as it were into the constitution of society. This assumption of rank and superiority was not resisted by the dispirited and vanquished cultivators, happy in the preservation of their lives; and the subsequent generations growing up under that system, (which was tolerably well adapted to the savage state of the world,) were not tempted to innovate upon it by those provocatives to an inquiring and adventurous spirit which are afforded by modern society. On the contrary, they continued to perform the task assigned to them in the social system, viz., that of labouring for the benefit of their feudal lords, without profit or reward. The hereditary claim of the nobility to these unpurchased and unmerited services, could not long exist in any except a military community. The necessity under which the cultivators then laboured, of seeking protection against the barbarous hordes, which the northern

regions were constantly pouring forth to devastate and plunder the more fertile countries of the south, induced them to acquiesce in the exorbitant price, that was demanded for the services of their military lords. A respect, too, was felt by the peasantry for a nobility, who displayed in so eminent a degree the attractive qualities of a warlike race, and whose offspring, stimulated by their fathers' example and the manners of the times, were early initiated and excelled in those exercises which exalted their ancestors to their high stations. By these means, the notion of hereditary rank was justified, and the privileges of the feudal aristocracy were sustained by popular sentiment, long after the qualities which had earned and preserved those immunities had become less necessary for the rulers of a nation.

The laws of primogeniture and of entails all tended to the same object, viz., to perpetuate and augment the power of the privileged classes; and whilst the mass of property consisted of land and its raw productions, their privileges rested upon the sure foundation of enjoyment and ability to maintain it. Their tenants, who belonged to them by law, and obeyed them from habit, formed a large portion of the community, and with the courage and military skill of their lords to direct them, would have easily overpowered those inhabitants who felt disposed to resist their authority. In a society thus constituted, power must have become concentrated in the hands of a few; where it would be augmented until it was rendered intolerably burdensome to the rest of the community. Thus, in most of the nations adopting the feudal system, we find the nobility claiming to exercise privileges inconsistent with the very end of society, while the cultivators of the soil, or the serfs, were reduced to a condition but little if any better than that of domestic cattle. From this state of things the political institutions of Europe derive their origin. Here we see the beginning of the privileged classes, of their independent and conflicting courts of judicature in the same kingdom, and of those feudal institutions in general, which, by the progress of society, have been rendered such insufferable abuses in modern Europe.

The institutions that were well adapted to a time in which agriculture was the chief productive art, and was the chief end of government, were no longer tolerable, when the manufacturing and commercial arts had become the main business of men, and governments devoted their efforts to develop the resources of their respective countries. The great amount of real property, which was monopolized and withdrawn from general use by the nobility and the church, (enriched as it was in the dark period of religion,) was also at variance with the spirit of an age, in which an active circulation of capital was required by the habits of the community. Many efforts have been made to reform these abuses, and to render the political institutions of the old world more conformable to the advanced state of society. The barriers, behind which the hereditary aristocracy had intrenched itself, have been partially destroyed, and individuals, who had obtained wealth by commerce, or influence by talent, have been received into its ranks, thus conferring splendour and strength upon that body, to which they thought it an honour to be admitted. The real property of the country has been rendered the subject of commerce, and a general revolution has become manifest in the jurisprudence of Christendom. But still most of the obnoxious institutions remain. The mass of real property on the continent is placed beyond the reach of commerce, by the great wealth of the privileged orders, and by the independence of the two great landholders, the crown and the church. The nobility still exercise privileges inconsistent with just and equal laws, even when the qualities which elevated them to rank are no longer peculiar to that class, and other requisites are demanded for public men in which they are still more deficient. In many countries independent and seignorial judiciaries are tolerated; a system of partial and unequal taxation is prevalent, and the whole face of society presents the revolting spectacle of the civil institutions in open or secret hostility with the habits and wants of its members. The great spring that has been given to the public mind by the American Revolution, and to productive industry by the vast improvements in machinery within



half a century, has contributed to place these in still stronger opposition. The undefined and general feeling of dissatisfaction, that slumbered without any specific object, has grown by the operation of these causes, and by the opposition of the advocates of the ancient order of things, into a settled and active hatred against all the institutions originating in the feudal system; until we find the absolute governments in alliance for the purpose of forcibly supporting the establishments that the friends of liberal principles have determined to abolish.

The principles promulgated in the manifestoes of the allied monarchs will draw the line of demarcation between these parties more distinctly. If their conduct, since the downfall of Bonaparte, had not already convinced, these documents must convince every person who values political freedom, that there is no safety for the advocates of liberal doctrines in any corner of Europe, while the league between the continental despots subsists unbroken. This conviction will produce a sympathy and correspondence between the friends of liberty in every country, that must swallow up all local and even national attachments, and lead them to unite against the Holy Alliance, and may probably bring on the final contest sooner than it would otherwise take place. The war against Spain, and the state papers justifying it, proceed upon the simple *axioms*, that the monarchical branch of the government is the only part that is to be regarded as sacred, that it is beyond the reach of reform, and that all political innovation can rightfully proceed only from the free will and voluntary grant of the sovereign. From these undeniable maxims, as they call them, they draw the corollary, that any violation of them may be punished by the military interference of the adjoining kingdoms, supported by the whole force of the alliance. All pretences of danger to their own quiet from the intrigues of the new rulers are laid aside as unnecessary to disguise their designs, and the plain principle of interference with the political constitution of the country in which the reform has been adopted, on the ground of an innovation against the royal will, is unequivocally advanced. In this enlightened age, is this



monstrous proposition, which heretofore has been scarcely heard of but in the adulatory address of some wretched court parasite, for the first time inserted in the public manifestoes of civilized monarchs, and sought to be engrafted upon the national law of Europe. The allied powers are united to support it, and it must of necessity reduce the liberals in all kingdoms to make common cause against them. The war is waged not against revolutionary Spain alone, but against the free principles of government in that, and through that in all countries. The alliance aims at the destruction of the British as well as of the Spanish constitution, and considers them both as equal nuisances, and to be abated in the same manner, as soon as circumstances will warrant the attempt. That we may not be accused of precipitancy in assenting to this conclusion, we will proceed to lay before our readers the circumstances under which the Holy Alliance was formed, and to examine the principles promulgated in its official documents, and the acts authorized by the parties to that league.

The first twelve years of this century may be regarded as an era in the political history of the world. The ancient governments of Europe had found the principles of the French Revolution too powerful for their means of resistance. Aided and developed by the extraordinary genius and energies of Bonaparte, they had overspread Christendom, shaking the foundation of thrones, paralyzing the strength of the privileged orders, and literally "with fear of change perplexing monarchs." The feudal system was overthrown in France, and by its downfall in that kingdom a fatal blow was given to all institutions of the same family in other countries. The invasion of Spain, though unjust and indefensible, was not without some good effects. The inquisition was abolished, together with the commercial monopolies, the unequal and oppressive imposts, and the independent and seignorial courts of judicature. Like a fire that had passed over the country, though it had destroyed vegetation, it had given activity to the soil, and purified the atmosphere. The Spanish colonies were affected by the same event, and the destruction of the government in the mother

country also severed the unnatural chain which bound them to Europe. The commercial supremacy of Great Britain trembled on the verge of ruin, and it seemed as if a new and sounder state of things was about to grow out of the convulsions of France and the injustice and violence of the master of Christendom. This happy consummation could not indeed be expected, while, in full possession of the resources of his empire and of absolute power, Napoleon went on in his career of usurpation and aggression upon the surrounding kingdoms. When, however, he had met with so severe a check in Russia, and subsequently, by the rising of the German people, had been compelled to retire beyond the Rhine even to his capital, the allied monarchs might have dictated a peace, that should have put it out of his power again to disturb the quiet of his neighbours, while the rights of the French nation were respected. By this course they might have secured the lasting tranquillity of the civilized world. The people of France would have been unwilling to enter the lists with combined Europe a second time, and Napoleon would have been obliged to listen to their entreaties for an interval of repose. The privileged orders and crowned heads would have felt the necessity of respecting public opinion, while the people would have been contented with the great improvement in their political condition; and the benefits resulting from the partial destruction of the feudal system, would have remained to compensate mankind for the temporary miseries of the French Revolution.

But the heads of the coalition seemed incapable of profiting by the great moral and political lessons that had been presented by the events of the preceding twenty years; or they had acquired knowledge only to misuse it. The demands of the allies were augmented in proportion to the diminution of the power of Bonaparte, until they lost their moderation in the intoxication of success, and undertook to impose a family upon France, which was the abhorrence of the majority of the people, as associated with the burdens that they had shaken off at such an expense of lives and property. From affirming that they had no intention or desire to interfere with the internal

concerns of France, they proceeded to declare, when at Frankfort on the Rhine, in December, 1813, that "they would not lay down their arms until the political state of Europe should be re-established anew, until immovable principles should have resumed their rights over vain pretensions." In this document was first displayed a spirit totally different from that in which they had until then prosecuted the war. The independence of Europe, the unjust violence and grasping ambition of France, were not spoken of; but a new proposition was advanced, which could not be comprehended, until explained by subsequent events. On the first of March, 1814, having advanced into France with every prospect of ultimate success, the allied powers entered into a treaty at Chaumont, in which they bound themselves "never to lay down their arms until the *object of the war, as they have agreed upon it among themselves*, should be fully obtained." In the fifth article of the treaty they spoke of consulting, in the moment when peace with France should be concluded, upon the means necessary to preserve the peace of Europe. This treaty, which may be regarded as the basis of the present public law, or legitimate doctrines of Europe, was to endure twenty years. For what purpose it was formed, and for what objects additional concert was premeditated, can be understood only by attending to the subsequent acts of the high powers. The object that was obscurely hinted at in the Frankfort manifesto, they deem themselves strong enough to acknowledge when at Paris; and they there declared, that they would not treat with Napoleon, nor with any of his family, and "that they respected the integrity of France, such as it existed under her legitimate kings."

This declaration plainly evinced their resolution to deprive the French people of their right to establish their own government, so far as to render the abdication of Bonaparte essential to the peace of his empire. This resolution was plausibly defended on the ground that the inordinate ambition, great genius and unexampled energies of that man, had rendered his possession of power incompatible with the repose of Europe. Still they cautiously avoided any thing resembling dictation to





the French nation of the dynasty to which it must submit. The public mind was not yet prepared for the developement of their ultimate designs, and a too open declaration of their principles might have caused a reaction that would have been dangerous in the extreme. The battalions of Bonaparte, though weakened, were not dispersed; the national guards still held their arms, and, in the midst of a brave and armed people, the bare proposal of forcing a constitution and monarch upon them might have roused a spirit that would have proved fatal to the projects of the holy league and restored the fallen fortunes of Napoleon. Caution was therefore necessary, and duplicity, in conformity to their usual policy, was resorted to. Upon entering Paris, the allied monarchs promised, in the face of the world, "that they would recognise and *guaranty* the constitution, which the French nation should give itself," and they invited "the senate to appoint a provisional government capable of providing for the want of administration, and of preparing such a constitution as might be adapted to the French people." This guarantee was signed by the emperor of Russia on the 31st of March, 1814, and declared by him to express the intentions of all the allied powers. As it was never disavowed, we may safely conclude that they were parties to and sanctioned this guarantee.

In this manifesto was contained a full and express acknowledgment of the right of the people to alter their political constitution, a right which they had assumed and vindicated in the midst of unparalleled violence and tumult. They now deny the truth of this principle, but this does not destroy the force of their acknowledgment; neither is it invalidated by their subsequent refusal to comply with their guarantee. This may show perfidy and duplicity on the part of the allied monarchs, and that for temporary purposes they could stoop to promise to the people, what they never meant to perform; but the fact, that their guarantee was offered and accepted, demonstrates their acquiescence in that great principle, which they now seek to subvert by policy and arms, viz. the right of the people to change their government. In compliance with this request, a provisional government was



established by the senate, and on the 6th of April, 1814, it presented the constitution, which it had formed, to the nation. In that instrument, the right of the people to alter their form of government is expressly asserted. It further stated, 'that the French people call freely, to the throne of France, Louis Stanislaus Xavier de France, *brother* of the *last* king, and after him, the other members of the house of Bourbon, in the ancient order.' In the 29th article, provision is made for submitting the constitution to the people for their acceptance, and Louis was to be proclaimed king as soon as he had signed and sworn to the constitution. He consequently was not to be proclaimed king, before he had performed that condition; and the allied powers, in the character of guarantees, were bound to see that he faithfully performed it. Louis the XVIII, who, while these preparations for his restoration were going on, had remained in England, began his journey to Paris, then occupied by the allied armies, neither assenting to, nor rejecting the constitution, but preserving a profound, and, as we think, a deceitful silence, with regard to the form of government which should be established in France. His brother, indeed, who was in Paris, and acting as his representative, encouraged the belief of his approval of the constitution; but Louis made no public declaration of his opinion on that subject, until he imagined himself firmly established on the throne of his ancestors. As soon, however, as Napoleon had left France, viz. on the 2d of May, 1814, at St. Ouen, Louis issued a proclamation, approving the *basis* of the constitution, but condemning certain articles, which, in their present form, he declared could not be considered fundamental laws of the state. As he could not accept a constitution necessarily requiring revision, he convoked the senate and legislative body to meet on the 31st of May, to examine one, which would then be placed before them. By this declaration, he denied the right of the French nation to frame a constitution for the government of the kingdom; and he violated the guarantee of that right by the allied powers. It then became their duty to enforce it. Their pledge (the most solemn that could be given by monarchs to a people in arms) was forfeited by supporting Louis upon

any other condition, than that of his absolute acceptance of the constitution framed by the senate. They had invited the nation to recall him upon that condition, and had promised to guaranty its performance. The objection of Louis, to the *form* of certain articles, and his promise to present an unexceptionable constitution to the nation, even if sincerely given, were not equivalent to the unconditional acceptance that was promised. But the objection of the king was to the substance, and not to the form, and the promise (if given for any purpose except to obtain time) was never executed in its proper sense. The constitution of the senate asserted the principles of freedom ; the instrument, framed by Louis, was founded upon the doctrine that ‘the breath of worldly men cannot depose the deputy elected by the Lord.’ In the preamble, he claimed the throne, not as it was offered to him, as successor to Louis XVI. called freely by the French people, but as successor by indefeasible right to his nephew, Louis XVII. He degraded the constitution into a charter, pre-facing his grant with an assertion, that, in France, all authority resided in the person of the king. After proving by history, the degraded condition of the French people in former times, and declaring that they owed their present immunities to the generosity of their sovereigns ; and deducing from these premises the necessity of preserving the royal power and prerogative, he concluded with ‘granting, conceding, and releasing,’ (in the form of a deed at common law,) ‘to his subjects, the privileges contained in the constitutional charter.’ It is unnecessary to point out the differences between the charter and the constitution of the 6th of April. The two instruments rest upon different principles, and all comparison would be useless. One provision, however, may be quoted, as a specimen of the whole. By the constitution, either legislative body was enabled to propose laws, excepting for contributions : by the charter, all laws originated with the king.

What excuse, but that of increased power, can be urged for this breach of faith on the part of the allied monarchs ? It certainly cannot be pleaded in justification of their inattention to the conduct of Louis, that it was a matter concerning the inter-

nal government of France, with which they had no right to interfere, and that when once on the throne, his subjects and he should have decided their differences without a foreign arbiter. Of this subterfuge they have deprived themselves, by their interposition after the return of Napoleon from Elba. Their right to interfere was claimed under the capitulation of Paris. The committee of the Congress of Vienna, in their report of May 15, 1815, put it solely upon that ground. They considered the French nation as a party to that capitulation, and that their conduct, in recalling Bonaparte, was a violation of that treaty. If that treaty was binding upon the French people after the return of the Bourbons, it was binding upon the allies, and their solemn guarantee of their right to form their own government subsisted in its full force, unaltered by the restoration of the ancient dynasty. Interference in behalf of the people was as justifiable as interference in behalf of the monarch; and that they did not comply with their guarantee, while they did compel the French nation to perform its part of the capitulation, only proved their total indifference to promises or principles, except as they conduced to the establishment of a despotic system of government. It was not a little remarkable, that whilst the allied powers were declaring their intention of not interfering in the domestic affairs of France, they considered the French people as distinct from their government,—so much so, that the former was regarded as a party to, and bound by a treaty to which the latter never assented, and a war was waged against the nation for its infraction of that treaty, while the invaders were in alliance with the government. This inconsistency displayed in a striking manner their unprecedented violation of public law, and how hard it was for them to reconcile their conduct with any known and acknowledged principle. It is however partially explained by a little circumstance, to be remembered not only as affording the key to this mystery, but also as indicating a division between the allies, and the disposition of the British government to return to a wise and more liberal policy. When Napoleon, by his return from Elba, had deranged the views of the coalition for the pacification of Europe, the powers assembled at Vienna declared



him an outlaw, and announced their determination to maintain the treaty of Paris, and to guard against every attempt to replunge the world into the disorders of revolution. Twelve days subsequent to this declaration, viz. 25th of March, 1815, the ministers of Great Britain and the monarchs of Austria, Russia, and Prussia, entered into a new treaty, "to apply to the invasion of France the principles of the treaty of Chaumont, to preserve the order of things so happily established in Europe, to maintain the treaty of Paris, and the stipulations determined and signed at the Congress at Vienna." They consequently agreed not to lay down their arms, until Napoleon should have been rendered absolutely incapable to create disturbances, and to renew his attempts for possessing himself of the supreme power in France. In the last article, his Most Christian Majesty was invited to accede to the treaty, and to make known what assistance circumstances would permit him to give in furtherance of its objects. Whether it was that the British Court was apprehensive, from the unanimity and exulting gladness with which Napoleon was received by the French nation, that the war would be interminable; or that the house of Brunswick at last saw that it was about condemning the title by which it held the British crown, we are unable to decide. It however took a distinction, which would have enabled it either to conclude peace without inconsistency, or to defend its title to the throne of Great Britain without being embarrassed by its own acts. In exchanging the ratifications, the British minister declared that "the article inviting his Most Christian Majesty to accede to the treaty," was not to be considered as binding his Britannic Majesty to prosecute the war with a view of imposing upon France any particular government. "However solicitous," the declaration went on to say, "he might be to see his Most Christian Majesty restored, and to contribute with his allies to so auspicious an event, he deems himself called upon to make this declaration, in consideration of what is due to his Most Christian Majesty's interest in France, and in conformity to the principles from which the British Court has invariably acted." To this explanation, the Austrian ambassador assented, as expressing the sentiments of



his master, probably thinking a slight contradiction between professions and actions to be preferred to a difference with Great Britain, the purse-bearer of the alliance. While the representatives of the allied powers were acting this farce at Vienna, the Duke of Wellington, the commander of their armies, was marching upon the French frontiers, and in a simultaneous proclamation to the French people, manifested the hollowness and hypocrisy of their professions. In that manifesto he declared, and the expressions are worthy of remark, "that henceforth Europe, united and moved by the same interest, must form but one power, and the sovereigns a supreme corporation, upon which will be raised the solid pedestal of the peace and happiness of nations. The rights of the monarchy will attain all from this august senate, and be confirmed in its solemn acts. The name of Louis XVIII. is inscribed in this federal compact. The allied sovereigns placed him on the throne of his ancestors, and proclaimed the reign of the Bourbon family, until its extinction, over the French people. *They now take up arms to restore and confirm that dynasty, to support the cause of kings, to consolidate the government, to secure the repose of mankind, and to give an imposing example of sovereign authority to all mankind.*" The same sentiments were reiterated in the proclamations, dated March 18th, and April 8th, 1815, signed by all the powers at Vienna. In these public papers, the mask of respect assumed by them, for the independence of France, is thrown off. They avow that the violation of the capitulation of Paris was their own act, and not that of the adherents of the Bourbons, and they declare their determination, again to disregard their guarantee, while they insist on the compliance of the French nation with its part of the treaty.

The battle of Waterloo decided the contest in their favour. The Bourbons were again restored, and with more marks of violence and conquest than before. The allies avoided giving any pledge to observe the rights of the nation, and the legislature adjourned, after protesting that they yielded to superior force, and that the independence of the country was violated. As if there were not sufficient marks of their utter disregard of

their pledged faith, and of the explanation given at the exchange of the ratifications of the treaty of March 25th, 1815, the allies entered into a new treaty at Paris, November 20th, 1815, in which they agreed "for the purpose of *maintaining inviolate the royal authority,*" to station 150,000 troops on the frontiers, and within the fortresses of France, for the space of five years, unless "the allied sovereigns, at the end of three years, should, in concert with his Most Christian Majesty, agree to acknowledge, that the motives which led to that measure had ceased to exist." In this military occupation of France the revolution ended. The popular party was overcome by an overwhelming force, and Louis le Desiré was placed upon the throne of his ancestors, and there maintained, by the armed legions of the alliance. To this moment, however, a pretence of public good was held out as the motive to their conduct. Whatever may have been their real intention, as to the conclusion to be drawn from the restoration of hereditary monarchy in France, the act is glossed over with fair professions of zeal for the welfare of mankind, and of the necessity of suppressing principles dangerous to the existence of social order, and afterwards of the necessity of disarming an individual, whose ambition and genius rendered his possession of power fatal to the repose of Europe. These principles, though perhaps their applicability depended upon the unnatural and unsound structure of society in the old world, still were not easily controverted by statesmen living in that society, and defending the permanency of the ancient establishments. Although the abuses of the feudal system, and the disproportionate privileges of the nobility in the continental monarchies, afforded materials for the contagion of revolutionary principles; or even for the military conquests of Bonaparte, directed by his genius, and maintained by a system better adapted to the wants and nature of modern society; still to these courts struggling for existence itself, the revolutionary excitement in France, or the continuance of Napoleon at the head of his empire, seemed more than a pretence for their interference in the domestic affairs of that kingdom. The extent and immediateness of the danger prevented men from putting to

the test the correctness of the principles which governed their conduct. But when Napoleon was imprisoned in St. Helena, and Louis was securely seated on the throne of his ancestors; and particularly when, in 1818, the allied powers, at Aix-la-Chapelle, declared "they recognised with satisfaction the order of things happily established in France by the restoration," this pretence no longer existed, and the general rule, that any interference with the internal government of a country is an attack upon its independence and a violation of the laws of nations, assumed its original force. The grounds upon which the exceptions had been justified were annihilated, and the ordinary maxims of national jurisprudence were restored to their usual active operation. Such, however, was not the intention of the members of the Holy Alliance. They had seen the extension of liberal principles; they had witnessed the progress of intelligence in modern Europe, and they feared its operation upon their subjects. They knew that an augmented activity in the public mind would cause the overthrow of the political institutions of their own kingdoms, as it had done those of France, and in their several assemblages they adopted and matured measures to arrest the march of political innovation. It is impossible to doubt this, when we look at the simultaneous acts of the allied monarchs to promote that object, and advert to the fact that these were adopted shortly after a general congress had been held. Upon the return of his Prussian Majesty from Paris, namely, on the 3d of January, 1816, a decree was published, suppressing certain political journals and restricting the liberty of the press. The sacred alliance was acceded to by the king of the Netherlands, June 21st, 1816, and in the month of September following, a law was proposed by the king to the legislature, and approved by that body, prohibiting any discussion upon the nature or character of any foreign government. In France, the press was already under the inspection of the police, but in 1817 a law was passed imposing upon it further restrictions, and on the 30th of December, in that year, all political journals were suppressed by law until the end of the legislative session in 1818. These measures not only evince the hostility



of the members of the alliance to a free press, that great engine of political reformation, but a settled and concerted plan to suppress all attempts at innovation by their joint efforts. They had experienced the advantages of acting in concert against their disaffected subjects, and at Aix-la-Chapelle an agreement was formed, to which France acceded upon the invitation of the original parties. By this agreement, Austria, Great Britain, France, Russia, and Prussia, "after having investigated the conservative principle of the great interests, *which constitute the order of things* established in Europe by the treaty of Paris, of May 30th, 1814, the recess of Vienna, and the treaty of peace of 1815," declared, 1st, that they would preserve the principles of intimate union, which had hitherto decided with respect to all their common interests and relations, &c. 2d. That their union should have for its object only the maintenance of general peace in conformity with those treaties. 3d. That France, associated with the other powers by the restoration of legitimate monarchy, engaged to concur in the maintenance and consolidation of a system which has given peace to Europe and assured its duration. 4th. For the purpose of attaining that object, future meetings of the allied powers were provided for, to which the contracting powers were to be invited; but if the affairs of any other state were to be brought before the meeting, that power should be invited to attend and participate in the debates relating thereto.

This combination of monarchs at this time began to assume the form it was originally intended to take, but which circumstances had until then rendered unnecessary. It was to be continued upon a new principle. Not as before, to suppress any particular danger, or to oppose any particular government, but to guard against indefinite dangers which might exist,—to act as a sort of precautionary, supervising police.

We might here condemn this measure as creating an unprecedented tribunal, without any apparent or real necessity; inasmuch as the allied powers did not intimate that any existed, or that any new revolutions were to be apprehended. But this would be shutting our eyes to the evidence before us. Revo-

lutions were to be expected ; but the allied monarchs could not allude to their apprehensions, without exposing the causes of the universal desire of change. If they had said that the alliance was formed against the revolutionary spirit of their own subjects, the inquiry would have presented itself, "What is the cause of this spirit?" and the public mind would have reverted to the arbitrary laws and despotic systems of government in their several kingdoms ; the promises of those monarchs to reform their political constitutions, and the violation of those promises, when the danger which had extorted them had passed away. They therefore resorted to a new combination, under the pretence of subserving the interests of religion and morality ; but, in reality, to guard against the reformation of their governments, and, if possible, by united and simultaneous efforts to stay the progress of improvement. To further this great object, shortly after the dissolution of the congress at Aix-la-Chapelle, laws were adopted in several of the continental kingdoms, having in view a still greater restriction upon the liberty of the press. On the 14th of October, 1819, a decree was issued, establishing a literary censorship for the kingdom of Hanover. On the 18th of the same month, his Prussian Majesty promulgated a decree to the same effect, and at the same time the German Confederation passed a law, by which all periodical publications were subjected to a previous censorship. Other restrictions upon the press were imposed, the universities within the confederation were put under supervision, and professors who did not teach political doctrines suitable to the views of the aristocratic party, were to be dismissed from employment. The Prussian Court adopted the same principles in a circular to the foreign agents of that kingdom, and the object of this supervision was in that paper said to be, "to prevent young men from preparing for a life at once learned and active,—from becoming what they ought not to be." This was, in other words, expressing the fear of that party of the operation of intelligence upon the minds of those, who, by their activity, obtain influence in society. To co-operate with those decrees, a central committee was appointed to meet at Mentz, to inquire into all revo-

lutionary movements or associations. The same year the French government adopted some new regulations respecting the press, which, in 1820, were so modified, that the editors of the liberal journals retired from the exercise of their duties, declaring that under those laws their labours could be of no service to the public. In Poland, notwithstanding the constitution guarantied the liberty of the press; every publication, whether periodical or not, was subjected to the inspection of a royal censor, by an ordinance of the Russian Emperor, of July 16th, 1819. These simultaneous acts, all tending to the same object, prove them to have been the result of a well digested and unanimous resolution. They show the efforts of the allied monarchs to have been directed to the achievement of one great end, namely, to extinguish the desire of innovation, perpetuate the old system of arbitrary government, intrall the human intellect, and chain its freeborn spirit to the footstool of legitimate monarchy. But while their attention was occupied in those kingdoms wherein they suspected revolutionary principles to be most prevalent, the reaction upon their system commenced in the south of Europe, and they found new difficulties springing up at the very moment when they had supposed their end to have been accomplished. In the beginning of 1820, the troops that were assembled at Cadiz for the invasion of South America, being badly fed and clothed, and worse paid, revolted, and declared that they would not embark, and also that their arrearages should be paid. The people immediately took advantage of this disaffection among the military, and simultaneously throughout Spain proclaimed the constitution of 1812, which, on the 6th of March next following, the king, being without support, found himself obliged to accept. How this constitution was formed, and how it was overturned upon the return of Ferdinand from France, will be mentioned in another part of these remarks. At present we must confine ourselves to the relation of events. On the 1st of July the Neapolitan army followed the example of the Spanish troops, and proclaimed the Spanish Constitution of 1812; Naples having been formerly united to the same kingdom. On the 6th



of July, Ferdinand, the old king of Naples, abdicated, and his son Francis, who succeeded him, assented to the constitution, saving what modifications a national representation, constitutionally convoked, might propose. On the 20th of August a similar revolution took place in Portugal. A constitution was to be formed by the cortex, and the king was proclaimed as the constitutional monarch. These events soon attracted the attention of the self-constituted guardians of Europe. But instead of concluding from this general dissatisfaction evinced towards existing governments, that there was something faulty in their constitutions, or that they were unsuitable to modern societies, they determined to afford them their most efficient support. A forcible opposition was therefore organized to these reformed governments, not because they threatened the political existence of the neighbouring kingdoms, or by their excesses disgraced the cause of freedom, but because the established order of things was invaded; or, as it was declared in the Laybach circular, subsequent to the Neapolitan war, "because every change, which does not solely emanate from the free will—the reflecting and enlightened impulse of those, whom God has rendered responsible for power, leads to disorders more insupportable than those which it pretends to cure." The Emperor of Austria, being special guardian of Italy, according to the new system, took measures to summon the allied monarchs to a congress, and in the month of October, 1820, they met at Troppau. On the 28th of December they issued a circular, in which they declared that "the principles which united the great powers of the continent to deliver the world from the military despotism of an individual issuing from the revolution, ought to act against the revolutionary power which has just developed itself. Without doubt," it continued, "the powers have the right to take, in common, general measures of precaution against those states, whose reforms engendered by rebellion are opposed to legitimate government. In consequence, the monarchs assembled at Troppau have arranged together the measures required by circumstances, and have communicated to the British and French courts their intention

of attaining the end desired by mediation or force." Lord Castlereagh (and certainly he was not a statesman to be shocked at any slight infringement of popular doctrines) was unable to assent to the principle asserted in this circular. On the 19th of January, 1821, the British Court issued its protest against any such interpretation being put upon the general treaties, to which the allies had referred as sanctioning that principle. This protest contained the following sentence, which not only more strongly marked the difference first manifested at the ratification of the treaty of Vienna, but pointed out the cause of that difference. "The British Court regard all interference with the internal concerns of a foreign government, as an exception to principles of great value and importance, and never to be so far reduced to rule as to be incorporated in the law of nations." This single sentence showed a radical difference between the policy of the Court of St. James and that of the Holy Alliance. While, however, it refused to join in the crusade against Naples, it fully admitted that Austria and her associates might engage in it with a view to their own security. The protest, though asserting an established principle with manly force, closed with certain professions as to the pure intentions of the allies and of their right to interfere, provided the internal commotions of Naples threatened the tranquillity of their dominions, which could not be regarded otherwise, than as an implied approbation of their conduct towards Italy. The Austrian troops were consequently put in motion, and in one short campaign annihilated the popular party in Italy. As if, however, fate had determined that the deceitful professions of the combined despots for the independence of other powers should be exposed, and their true designs fully developed, it so happened that in the midst of the Neapolitan war, a revolution broke out in Piedmont, against which the Austrian forces were immediately directed, as if they had been the ordinary police of Italy, and this a common breach of the peace. No consultation was had with regard to this revolution; no invitation was given to the government of that kingdom, in conformity with the fourth article of the Protocol of Aix-la-Chapelle; nor was there any delay to ascertain if the domestic disturbances were likely to

extend to other countries ; but the Piedmontese territories were immediately invaded and the new government overthrown, by the unsolicited interference of the foreign allies of its sovereign. With the suppression of the revolutionary spirit in Italy, they appeared to be then satisfied ; but in the Laybach circular, in which they justified their conduct, and appointed a time for another congress to assemble, the same alarming principles of interference with the internal concerns of other countries, are reiterated and maintained as incorporated in the public law of Europe, and the allies declare that “ they will regard as null and contrary to the law of nations, all pretended reform effected by revolt and open force.” Though this declaration might well be considered as a direct attack upon the Spanish and Portuguese revolutions, and indicative of more energetic measures to be pursued at some subsequent period, still, as no immediate steps were publicly taken by the high powers to carry their resolutions into effect, it was generally supposed that Spain and Portugal would be protected from such unauthorized interference, if not by the law of nations, at least by the dread of their power. The great monarchies of Europe were not to be treated in the same unceremonious manner as the petty states of Italy. In the case of Spain, too, there were some peculiar circumstances, which strengthened her claim to exemption from the special superintendence of the allies. By their peculiar religious and national prejudices, and by their almost insular situation, the Spanish people had been in a great degree separated from a considerable part of the European family. Their spirit of national independence had often rendered them invincible, and history afforded the Holy Alliance some striking lessons on the danger of invading a gallant and haughty people, in a mountainous country. For three hundred years that nation resisted the gigantic power of Rome. The Saracen hordes, that overran the country, could not subdue it. Though outnumbered, the Spaniards resisted, and after the lapse of centuries drove the Moors back to their own country, and the

“ Castilian mould,  
 Incapable of stain, at last expelled  
 Her mischief, and purged off the baser fire  
 Victorious.”



It was in the Peninsula, too, that the first effectual resistance had been made to the power of Napoleon. The rest of Europe had submitted after a long struggle to his authority, and acquiesced in his continental system. The old king of Spain acted but as his deputy. By his orders the best portion of the Spanish army had been transported to the Danish islands in the Baltic, and the French troops had been admitted into and occupied some of the most important cities of the kingdom. Charles IV., (whose abdication, it should be recollected, though caused by a revolt of his subjects, was sanctioned by the Congress of Vienna,) and Ferdinand, his son, who was in possession of the crown, had agreed to submit their disputes to the decision of the French Emperor, and had placed their persons and their courts in his power. While in France, Ferdinand was induced to abdicate, possibly by motives similar to those of his father, and after his abdication he sanctioned the transfer by Charles of the Spanish crown to Bonaparte. Here then was a full and entire release of his subjects from their allegiance. If papers, and charters, and releases, are to be substituted in the place of principle, that release would have acquitted the people of Spain, even if they had adopted Joseph for their sovereign. Charles IV., influenced by personal fears of the violence of his subjects, then in open revolt against their monarch, had abdicated in favour of his son. This abdication he disowned, when those fears were removed, and transferred all his royal rights, and those of his family, to the French Emperor. To this transfer Ferdinand assented. Whether this assent was extorted or voluntary is unimportant, inasmuch as his father, being restored to the exercise of his free will, and no longer influenced by the terrors of a tumultuous crowd, had voluntarily abdicated in favour of Napoleon; and if the people of Spain had not denied the right of their king to alter the constitution, the transfer would have been executed. Ferdinand and his court were without energy, and had submitted to fate; and the Bourbon dynasty would have been at an end in Spain, and possibly in Europe, if the Spanish people had not taken the management of their public affairs into their own hands. Unsupported by allies; without arms, money or leaders; in presence of the French legions, who occupied the best part of

the kingdom, and in defiance of the might of the most powerful monarch that ever swayed a sceptre; the Spanish nation resolved to vindicate its independence, and the title of the heir to the crown, or as it was expressed, in contempt of the doctrines of the Holy Alliance, the right of Ferdinand to succeed, in the lifetime of his father, to the crown, to which he was called by the voice of the nation. The indignation of the whole body of the people was sufficient to animate them to endure the first brunt of Napoleon's power; but to excite and support their courage during a long and bloody struggle, with so powerful a foe, it was necessary to present some other motive besides the wrongs of Ferdinand. The insult to the national honour, though keenly felt and warmly resented, would in time have been forgotten. Men will not wage an eternal war for a point of honour, and it was feared, that the people would soon see that it was only a change of masters, and that their old dynasty did not deserve so great a sacrifice as they were about to make for it. Besides, by the abolition of the inquisition, the sequestration of its property, the diminution of the number of monks and monasteries, the establishment of a national judiciary in the place of the seigniorial courts, and by the reformation of the financial system, the new dynasty was conferring benefits upon the nation that would have soon wiped away the odium of its usurpation. The successes of the French, and the distress and want of union among the Spaniards, were not without effect; and the patriot cause would probably have failed, if for the purpose of uniting the nation, enlisting, all on the side of its independence, and giving to the people some motive to resist, at the suggestion of the Marquis of Wellesley, the Spanish junta, (which had assumed the executive functions,) had not authorized the meeting of the cortes for the purpose of giving a better government to the kingdom.

This body was well known to the Spanish nation as its supreme and extraordinary legislature. Under the different names of *concilium*, used by Gothic legislature; of *curia*, the term by which it was known during the twelfth century; and of *cortes*, first assumed under Ferdinand the Third, it had been a constituent part of the government ever since the fall of the

Roman empire. Laws were usually passed in the king's council; but the cortes was entitled to be called together and consulted on all extraordinary occasions; and if any could ever be deserving of that epithet, it was when the royal family was treacherously withdrawn from the kingdom, the soil invaded, and the people looking for leaders to direct their efforts against those who sought to subvert their independence by fraud and violence. The powers of this body, and the mode of calling it together are not well defined; but sufficiently so to show, that it had not exceeded its authority in framing the constitution. Like all the European constitutions, the Spanish was a collection of precedents from the history of the nation. The king and the legislative body claimed to do whatever had been done before by any of their predecessors; and enough of contradictory precedents might have been found during the past ages of violence and ignorance, to authorize almost any exercise of power, by either branch of the government. The cortes, however, was entitled to very great authority from the earliest history of Spain. It had often sat in judgment upon the sovereigns of the nation. Ramiro III., Queen Urraca, and Henry IV., were severally deposed by this body; and when the Pope sent his legate to restore the last named monarch to his throne, one of the nobles, in the true spirit of Castilian freedom, told him in full assembly, that "he and the nobility of the realm would depose a king on just causes, and set up such as they thought suited to the public good." It also held the public purse, until the discovery of America gave other means to the king, by which he was enabled to dispense with the cortes. A body possessing such transcendent powers, in such an emergency had an undoubted right to alter the constitution. No royal consent or formal charter could make such an alteration more binding. To say nothing of the inherent right of the people to consult their own safety, the most obvious rules of European politics justified, and the laws of necessity commanded, that course. No objection could be made to the manner in which the cortes was assembled, as Ferdinand had, by a decree of May 5th, 1808, authorized any council or audience at liberty



to summon the cortes. In 1810 the members met in the Isle de Leon, and after much unnecessary debate formed the constitution of 1812. It was popular, and did in fact redress many of the grievances which had weighed so long and heavily upon the Spanish nation. With the hope of obtaining something like the common privileges of men, and a melioration of their political condition as held out to them by the cortes, this gallant people, with British aid, resisted the power of Napoleon, until, by his reverses in the North of Europe, he was compelled to withdraw his troops from Spain, to release Ferdinand, and restore him to his devoted subjects.

With the government thus formed, Great Britain and Russia did not think it unlawful to enter into an alliance; England, at the commencement of the Spanish war, and Alexander, when Napoleon had invaded his territories and threatened his subjugation. At this juncture no doubts were entertained by the Russian Court of the legitimate formation of the government, or of its power to do all the acts of a sovereign authority. It had declared war, formed alliances, altered the constitution, and meliorated the social condition of the common people, in order to secure their affections, and to confirm and animate them in their resistance to their invaders; and while these things were done to resist the power of revolutionary France, no objection was made to their right so to do. But when Ferdinand had recovered his freedom, and was restored to his hereditary crown, which had been preserved to him only by the energy of the Spanish liberals, and the courage of the populace, (for the Spanish courtiers succumbed to the French,) the scene was changed, and principles operated in another manner. The constitution had been adopted in the absence of the king, and of course (according to the doctrine of the Holy Alliance) without any legitimate authority, and it depended upon him, when he resumed the reins of government, to sanction or disallow it. His intentions on that subject were not long doubtful. After leaving Paris, Ferdinand, carefully avoiding the Atlantic frontier of Spain where the English troops were stationed, took a circuitous route for Valencia, where he staid nearly a month,

probably arranging measures with his monarchical allies. On the 4th of May, directly after the departure of Bonaparte for Elba, and simultaneously with the rejection of the constitution of France by Louis, Ferdinand, with the concurrence of his courtiers, and supported by a powerful army, issued a proclamation annulling the constitution, dissolving the cortes, and proscribing that party, by which the privileges of his family and the national independence had been so nobly vindicated. It is a fact worthy of note, as indicating the interest which the Bourbon family in France took in the destruction of the popular party in Spain, that during this interval of suspense, the French journals were filled with paragraphs abusing the leaders of that party, and intimating that they had determined to rebel against the king. After this explicit declaration, Ferdinand proceeded with great vigor in the royal regeneration of his kingdom. His first care was to regulate the press, which was done by an edict of the 12th of the same month. The editors of the *Redactor*, and the *Conciso*, who had with the greatest energy maintained the cause of their country against Napoleon, were arrested, and subsequently sentenced to the galleys for ten years. The church property was restored. The inquisition was re-established, and united more strongly to the crown. The seigniorial courts were reorganized. The council of the Mesta was reinvested with the power of ordering the merino flocks to traverse the kingdom, to the great detriment of the agricultural part of the community; and all the odious abuses of the ancient government were re-established in their former vigor. The principal members of the cortes, the patriot generals and their supporters, were thrown into prison, to the number of more than four thousand, and the galleys, castles and dungeons, the garrotte and inquisition, were all put in requisition, to punish those who had been so audacious as to assert the independence of Spain for the sake of the nation, and not for the sake of the king alone. To such an extent was this system of proscription carried, that the prisons, not being sufficient to contain the victims of royal vengeance, a Franciscan convent was converted into a state prison, and many persons sought refuge in other countries.

This persecution was not quietly submitted to. After the return of Ferdinand, scarcely a year passed without some serious rebellion. Although the joy felt in the national triumph over the French, and in his rescue and restoration, afforded him the best foundation for great personal popularity, so disgusted were his subjects at his ingratitude and tyranny, that within four months after his return, the provinces of Navarre and Andalusia were the seats of revolt; and to prevent the extension of disaffection, the government were compelled to send troops into the provinces of Estremadura, Arragon, Castile, Catalonia, and Valencia, and permanent councils of war were established in each province for the immediate trial and execution of persons arrested. The subsequent insurrections of Mina, Porlier, Lacy; those at Barcelona, Valencia, Cadiz; the partial commotions in other parts of the kingdom; and the general insubordination, all indicated a settled and permanent dislike to the anti-constitutional measures of Ferdinand, by no means inferior to that first excited. Whilst this dissatisfaction was increasing, the government was losing its official and natural strength, by an imbecility and mismanagement on the part of its ministers, only to be equalled by the ingratitude and tyranny of its head. The navy dwindled to a shadow, the army badly fed, paid and clothed, and the finances in such a state of disorder as to be inadequate to defray the ordinary expenses of the municipal department, all showed the royal government to be hastily tending to dissolution.

Such was the state of affairs in 1820, when the constitution of 1812 was re-established, that constitution which had been formed to remedy the most deplorable condition to which a civilized country had ever been reduced. From being the most powerful kingdom in Europe, Spain had become the weakest. With a fertile soil and delicious climate, it was the abode of famine. With the mines of Mexico and Peru at its disposal, it was poor; and it possessed the monopoly of the most fertile and largest colonies in the world, without having either commerce or manufactures. Its rulers seemed to study political economy only to contradict its precepts by their practice, and



the efforts of government were solely directed to brutalize the intellect and paralyze the energies of its subjects, and to impoverish and depopulate the country. Neither did the honour of Spain receive more efficient protection from its proper guardians, than its political prosperity. While the other monarchs of the continent were the helpless victims, or reluctant instruments of Napoleon, Charles IV. became his willing agent. The soldiers, navy and wealth of the kingdom were employed in increasing the preponderance of an already too powerful neighbour. The strongest frontier of Europe was passed, and the impregnable fortresses of Spain were surrendered without resistance; and the whole court, the old king and new, the weak father and usurping son, with their attending nobles, from a state of freedom, and while their fertile colonies offered them an ample empire and a secure asylum, went to Bayonne to place their persons and fortunes in the power of the French Emperor, with the same weakness and irresolution, with which the inferior animals yield to the fascination of a rattlesnake. Was there not, in this state of things, a sufficient justification of a new organization of the government? Even if the royal family had been on the throne, a revolution would have been justified by the destruction which threatened the nation from the maladministration of the government. But in its captivity the circumstances altogether form a defence of the conduct of the cortes and nation, in the adoption of the constitution, that places it beyond the reach of censure or doubt. To deny this proposition would be to contend, that the nation was bound to acquiesce in its own destruction; unless the king was in a state to command it to act with a view to its safety. The whole theory of government would be overturned, and its great object, the welfare of the subjects, sacrificed for the benefit of the rulers.

Such in truth is the essence of the principles of the Holy Alliance. Government is by its leaders considered as established for the benefit of the privileged orders, and the people are never to be mentioned, except when it is necessary to invent an excuse for some new encroachment upon their rights,

or some violation of public law. Thus, under the pretence of guarding them from themselves, they are to be debarred from all interference in their government; and all reform proceeding from a popular quarter is to be opposed and crushed by foreign powers, lest the happiness of the subjects should be disturbed by revolutionary excitement. Any revolution to extend the royal prerogative may be tolerated, but one having popular rights for its object is illegal. In what, excepting in the party to be benefited by the change, did the overthrow of the constitution in 1814, differ from its re-establishment in 1820? The army, in both instances, was the immediate instrument. Then, we ask, had Ferdinand, upon his return from a captivity from which he had been redeemed by the valour and perseverance of his subjects, a greater right to overthrow a constitution with which they were satisfied, than they had to re-establish it, when that was the only way to the regeneration of their sinking government? What gave him the right to disapprove of that constitution? He had it not as heir apparent to the crown. The heir only succeeds to the right of his ancestor, and Charles then living as monarch of Spain, could *grant*, according to the principles of the legitimate party, a charter to his subjects; a charter, too, not to be violated by his successors. During the life of Charles, therefore, the disapprobation of his son could not annul the constitution.

But it may be said, Ferdinand was king of Spain by virtue of his father's abdication. This abdication, however, was caused by a popular commotion, and it was void, according to the doctrines of the Holy Alliance, as the abdications of the kings of Naples and Sardinia had also been considered. The people, in 1808, finding the public affairs mismanaged, through the fondness of the old king for Godoy, rose tumultuously, and to prevent them from proceeding to extremities, Charles abdicated in favour of his son. This change in the government was sanctioned by the Congress of Vienna, and the continuance of Ferdinand on the throne was "constituted part of the order of things" at the general pacification. Ferdinand therefore owed his throne first to the will of his subjects, and subsequently to their courage; and it

must be granted that the power which first gave to him his political authority, might, under like circumstances, either wholly deprive him of it, or so limit it, as to promote the public welfare. Besides, the great justifiable causes of a revolution still existed. The situation of Spain in 1820, was, if possible, more deplorable than in 1808. The public and private distress was greater. The colonies which, at the time of his accession, were attached to the mother country, were for ever separated, and the resources and armies of the kingdom were squandered in ill directed attempts to reduce them to submission. The navy was no more; the finances were in the greatest confusion, and with all these causes of complaint, the people were goaded to desperation by the tyranny of the inquisition and the government, and their indignation was roused by the unmerited persecution of the most distinguished leaders and gallant generals of the patriot party. If, then, the revolution which placed Ferdinand on the throne was not contrary to the public law of Europe, much less was that of 1820, which limited his authority, and directed its exercise to the promotion of the public prosperity. It was to restore a constitution lawfully established and generally acknowledged; but which had been overthrown by the illegal violence of the military and of their ungrateful sovereign. We have been thus particular in the history of the Spanish revolution, that our readers might fully understand the grounds upon which the contest rests, and that it is for no other object than to strengthen the arbitrary party. The indefeasible right of the monarchical part of the government is no more sacred in the eyes of the alliance, than any other principle, except as it contributes to effect this great object of their combination. Those kings who had not entered into their designs, were treated with as little ceremony as the popular party. If the royal right be indefeasible, it is equally so to a part of the kingdom as to the whole. Yet Norway was wrested from the King of Denmark by the allies, in violation of that right, and part of Saxony shared the same fate. These facts prove that their peculiar regard for the monarchical principles was only a pretence; but the Spanish revolution was a peculiar and striking instance, which at once illustrated the nature and



extent of their designs. With that revolution the alliance finally determined to interfere, and France was deputed to restore the ancient order of things, inquisition and all. This appears by the St. Petersburg Imperial Gazette of June 12, 1823, where in one of the half official papers of the Russian Court, it is asserted, that France acts in behalf of the alliance, by the invitation of that body, as Austria did against the Neapolitan and Piedmontese revolutions; and the inquisition is spoken of as one of the pillars of the Spanish monarchy. In justification of this attack upon the independence of a powerful kingdom, it was not even pretended, that the Spanish revolution had been attended with those massacres, which roused the indignation of mankind against the Jacobins of France; and the charge that the Spanish liberals were instrumental in exciting commotions in that country, has been so fully disproved in a late number of the Edinburgh Review, and was so faintly urged and at such a period of the negotiation with the Spanish government, that it can only be classed with those pretences, with which the members of this alliance have so often sought to disguise the real motives of their measures. But in this age such reasons can neither justify those who allege them, nor deceive the world. The British Court has become convinced of the unhallowed designs of its allies, and in the late diplomatic correspondence at Verona has manifested its determination not to sanction their proceedings. All enlightened and unprejudiced men seem to be now satisfied by the manifestoes delivered to the Spanish Court by the ministers of the allied powers, and by a thousand other simultaneous and kindred acts in other parts of Europe and towards other nations, that a combination has been formed by the three Northern courts, aided by the Bourbon parties in France and Spain, to preserve by force the ancient order of things from reformation; and by subjecting the press to the authority of government, by supervising the universities, by the exile and proscription of the friends of liberal principles whenever they appear, by the re-establishment of the inquisition in Spain, the erection of a central commission in Germany, and augmenting the strength of the police in other countries, to extirpate the apparent causes of all

revolutionary excitement ; or, in other words, to poison, at the fountain head, the streams of political intelligence and improvement.

This is the unholy enterprise in which these statesmen have embarked. From their elevated stations they have foreseen the dangers which threaten their authority ; and instead of yielding to the manifest will of society, they have arrayed themselves in opposition to it. The spirits of tyranny and bigotry have been awakened by the events of the last thirty years, and are rallying all their forces in support of the ancient establishments of Europe. A numerous and powerful party answers to the summons. It has possession of the armies, the police, and the finances of the continent ; but it is opposed by whatever has been and ever will be irresistible,—the spirit of the age. The increase of knowledge is constantly impairing the strength of this party, and augmenting that of the popular party. The abuse of their authority has rendered the mass of the community hostile to its leaders. Great Britain has deserted them, and they must fail in their attempts. Spain may be conquered by her own divisions and by the armies of France, (though we trust a different fate awaits that kingdom)—the noble and generous patriots of humanity may be more than once defeated and trampled down by the legions of the combined despots ; but the great cause of freedom will go on, gaining strength and diffusing happiness, until its triumph shall be consummated in the general melioration of the political institutions of the old world. Its martyrs leave examples of more efficacy than all their exertions while living, to animate and encourage their associates. The generous blood of those heroic men, who testify their devotion to the cause of mankind upon the scaffold or in the field, does not sink into the ground, as water spilt in the desert ; but fertilizes and invigorates the soil of freedom, and in due season, like the teeth of the Bœotian Dragon, will spring up in a harvest of armed men. The infant minds of the active and enthusiastic, who, by their inborn talent and courage, are destined to lead their contemporaries, the nobility of God's creation, are deeply impressed with the great example, and thirst to

imitate it ; and whilst the institutions of society press so harshly upon the manners of the age, and militate so strongly against the most valued principles, they never will be without a motive to action. All the improvements of modern times ; the manufacturing, mechanical, and scientific arts ; the literary institutions ; the interests of commerce ; and more than all, the free institutions of this republic, are indirectly opposed, and are constantly raising up enemies to the aristocratic party. They must ultimately effect its downfall. It has entered into a contest in which it cannot be successful, until those causes, which contribute to the continuance of society, shall have ceased to operate. The manners, feelings, and opinions of living men must be totally changed ; a new inheritance of thought must be bequeathed to their descendants ; commerce, literature, and the chief productive arts must be destroyed ; the tide of improvement must flow back, and then, but not before, can the doctrines of the Holy Alliance be re-established in their primitive security.

In the contest between a party thus destined to prevail and another so determined to resist, in which the very foundations of civilized society must be shaken, it is not impossible that much may take place, which the friends of liberal principles cannot approve. The passions of the multitude, never under the strictest subjection, when emancipated from the severe bonds of despotic government, may lead them into excesses that will cast a stain upon the popular cause. We hope that this may not be the case ; but if it should, to whom ought those excesses to be attributed ? Not to the friends of freedom, notwithstanding their followers may be the immediate actors. The efficient cause often lies beyond the apparent agent. Subjects have rights and feelings as well as their rulers. Their passions are excited at any violation of these rights, and their indignation and anger become uncontrollable. When their attention is once attracted to their political interests, and the subtlety, hypocrisy, and injustice of the privileged orders, and their open and secret opposition to any political reform, are made manifest to their understandings ; it is folly then to charge upon the lower classes, the guilt of those atrocities which may be



committed in a contest between them and the supporters of the ancient order of things, brought on by the opposition of the latter to a reformation, that was called for by the exigencies of society. The consequences to which we allude are the necessary result of such conduct in such a state of society. The operation of circumstances and principles upon men in the mass, may be foretold with as much certainty, as any of the phenomena of the natural world; and if kings and their ministers, with all the lights which are afforded to them by their high stations, will oppose the spirit of the age, their destruction is upon their own heads, as much as if they had placed themselves in the channel of a torrent, when they heard the storm gathering in the mountains.

It cannot be expected, that a contest involving such important principles, portending such momentous results, affecting so many interests, and upon so extensive a theatre, should pass by, without affecting us in a national point of view. The exercise of belligerent rights upon our extended commerce must present many causes of offence. Besides, the nature of the contest is such as almost necessarily to involve us in disputes with one of the great contending parties. If success should favour the allied monarchs, would they be satisfied with reforming the government of Spain? Would not the Spanish colonies, as part of the same empire, then demand their parental attention? And might not the United States be next considered as deserving their kind guardianship? Would this government be likely to receive more indulgence than that of Spain? Its example does infinitely more hurt to the cause of despotism than ten Spanish revolutions. Its very existence is an attack upon the monarchies of Europe; its economy is a reproach upon their wild extravagance; and its policy condemns their ambition, their unnecessary wars, and their whole political system. In this contest, though not active, this republic is their most efficient enemy. She appeals to the feelings and interests of men, and creates allies and enlists armies in the camps of her antagonists. The wishes of our citizens, too, are all on the side of the liberal party. These circumstances, connected with the

jealousy with which our republican institutions are viewed by the European courts, may produce a state of feeling, that will not improbably result in direct hostility, and it is not impossible that the extravagant pretensions of the Russian Emperor in the Pacific, are only the first steps to a series of usurpations, which we cannot resist without war, nor submit to without dishonour.

Neither is it by the active interference of the allied courts alone, that our pacific relations may be disturbed. Our institutions, feelings, and domestic policy, indeed, place us in opposition to them; but our foreign policy is equally opposed to the commercial systems of the governments advocating liberal political principles. The national policy of the United States is founded upon two great maxims, just and equal laws at home, and reciprocal commerce with foreign nations. The history of the country, our wars, treaties, negotiations, and our statutes, fully illustrate this proposition. This commercial system is directly opposite to that which has always governed the great powers in opposition to the Alliance. Spain, when in possession of her South American Colonies, scrupulously debarred all intercourse with those fertile countries. If by this revolution she should attain any great physical force, whatever party may rule over the kingdom, it is not probable that the government will acquiesce in their total separation, without making some final and vigorous efforts for their subjection. Whether she should attempt this unaided by her allies, or with the assistance of the Holy Alliance in case of the success of the despotic party, or of Great Britain, provided the latter should, by the length of the contest and the violence of the alliance, be compelled to side with Spain, is immaterial. In either event it will present a fruitful field of dispute and controversy. The United States have acknowledged the independence of the Spanish Colonies; their citizens are engaged in extensive and flourishing commerce with them, and no attempt can be made to subjugate these new powers, without bringing our interests and rights in direct conflict with the pretensions of the invaders. If England should join Spain in her contest with France, the chance of this country's remaining at peace will be still more

diminished. Great Britain is a greater monopolist of the commerce of the world than even Spain. Her commercial system has extended itself into every quarter, and has been everywhere followed and supported by her wealth, her intrigues, and her arms. In America, Europe, Asia, and Africa, it is seen and felt, grasping and monopolizing the commerce and carrying trade of all nations. Every war has its preservation for an object, and every negotiation tends to extend and perpetuate it. With nations, advocating a system so opposite to ours, and with interests clashing with those of this republic at so many points, it will be next to impossible, in the agitation and tempest of a general political conflict, to preserve our harmonious relations, and we should be prepared to maintain our rights in the manner in which the rights of such a people should be maintained. These considerations will doubtless induce the government of this country to preserve a rigid and scrupulous neutrality between these great parties. It is indifferent between them. Our feelings as freemen and men are indeed warmly interested in the success of Spain; but our national interests are opposed to that policy which its government would probably adopt in conformity with the public feeling of the nation, and a too hearty adoption of their cause would compromise some of our best interests in case of its success. But while this government should preserve a strict neutrality, it should be an armed neutrality. It is an unwise and unsafe presumption to trust to the equity and forbearance of nations at war. In all wars the rights of neutrals are too apt to be regarded by the belligerents in a secondary point of view. Under the pretended sanction of some new principle of national law, their commerce is daily subjected to some vexatious interruption, as this country has already ascertained by dearly bought experience. The questions constantly arising between belligerents and neutrals as to their respective privileges, are tenfold increased in wars concerning opinions, in which the chief civilized powers are engaged for the purpose of supporting or overthrowing any particular system. The elements of society are then in agitation, and the public mind is alive to start and settle



new principles in politics and jurisprudence. To vindicate the rights of this country in such a crisis, the government must be able to defend its cause by other means than sound logic. We have not yet arrived at that Utopian age when redress will follow the perception of injustice, and there is still enough of uncertainty and confusion in national law to warrant discussion upon many of the most important privileges of neutrals. New and equally important questions will probably arise, and if we would enjoy the dignity and privileges of an independent neutral, and would give force to our remonstrances and negotiations, we must be prepared to back them with those more weighty reasons that are reserved for the peroration of a national argument.





## AMERICAN INSTITUTE.

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*June 5th, 1828.*

MR. BLUNT, from the Executive Committee, brought in the following report :

The Executive Committee, having taken into consideration, according to the resolution of the Institute, the means best adapted to encourage such manufactures, as shall most conduce to the permanent interests of the country, and render this city the great depot of American fabrics, beg leave to report, that it was not deemed expedient to enter into an examination of the policy of a high tariff, for the encouragement of domestic industry. This was not considered as necessarily coming within the scope of the resolution. The policy of the country, by the late tariff, and that of 1824, may be considered as settled; and in conformity with the general sentiment of the inhabitants of the United States, it has resulted in favour of protection. Whilst the confederacy continues under one government, it cannot be doubted that the local interests of New-York will be better consulted, by harmoniously co-operating with the mass of the community, and accommodating her pursuits to the national policy; than by making a vain opposition to a policy finally settled and solemnly promulgated, and foregoing all the benefits resulting from her natural and acquired advantages, because unable to realize her desires to their fullest extent. Whatever may be the opinion in this community as to the details of the present tariff, and as to its effects upon the various branches of domestic industry, it is manifest that the United States now are, and have been from their first settlement, in a progressive state, so far as it regards manufactures. From a state of de-



pendence upon Europe for the comforts and necessaries of life, they have advanced to a high point of improvement and comparative independence. At different periods, new manufactures have been established in the country according to its wants, and its increasing ability to supply them from its own resources. There is no characteristic of our history more marked than the astonishing rapidity with which the mechanic arts and the useful manufactures have been established in the United States; and it seems to be their appropriate destiny to transfer the arts, the manufactures, and the civilization of Europe, to America, and to naturalize them in a new world.

A comparative view taken of any two periods of time, demonstrates this proposition.

Indeed, nothing is more certain than that an exchange between two nations, in the temperate zones, of agricultural products for manufactures, cannot be a permanent commerce, except where the country furnishing the raw materials is either in a colonial state, or too poor or ignorant for manufacturing.

The history of the British settlements in America strikingly illustrates this remark. Before the revolution, their exports were solely the productions of the soil. Their emancipation from their colonial shackles gave a new direction to their industry; and although the distracted condition of Europe, during the first twenty-five years of their existence as an independent power, created an extraordinary demand for agricultural productions, the manufactures of the country acquired stability and strength, and had attained so high a rank among the branches of national industry, as to constitute one twentieth of our domestic exports on an average of the years between 1803 and 1811. Since the general peace in the old world, a still greater alteration has taken place in the employments of the inhabitants of this republic.

Less demand has existed for our produce; new manufactures have sprung up in the country; and under the fostering influence of the tariff of 1824, they have suddenly advanced so as to compose more than one tenth of our domestic exports; being in 1826, in the proportion of \$5,852,000 to \$52,528,000; and in 1827, of \$6,386,000 to \$58,368,000.

Such rapid changes in the condition of a country, all tending to augment its wealth and resources, justify a modification in its policy to suit its varying circumstances. As the channels of trade vary, new means of employment must be devised, and it is an indication of true wisdom, on the part of the government, to modify its laws, so as to promote the prosperity of its citizens, and to secure to them the largest share of the navigation between the United States and other countries. We give this preference to navigation, not only because it is that branch of domestic industry most exposed to foreign competition, and of course most entitled to protection ; but because, as an important arm of national defence, it amply repays in war the protection it receives in peace. We do not mean, that the prosperity of navigation should be promoted by the sacrifice of the other great branches of national industry. On the contrary, it must depend on their success. Commerce is only the exchange of the excess of the productions over the consumption of a community, for the surplus products of other countries ; and its permanent prosperity must be based upon the flourishing condition of the agricultural and manufacturing classes. In regulating the terms upon which these exchanges are to be made, sound policy dictates a due consideration of the relative wants of the communities trading together, and their ability to supply the materials of a mutually profitable commerce. It is only in that manner that an extensive commerce can be encouraged and secured ; and in framing the permanent and fundamental commercial regulations of the United States, care should be taken to form them so as to promote their trade with those countries, whose natural productions are most in demand here, and whose inhabitants depend upon us for the supply of their wants.

The fertility of the soil, and the rich and varied productions of the southern portions of this continent, their relative position to the United States, the habits and employments of their inhabitants, and their deficiency in capital and manufacturing skill, all designate those new communities as our best and most permanent customers. The sudden and simultaneous opening

of those vast regions to the trade of the world, by their emancipation from Spain, and that at a time when, by the return of the inhabitants of Europe to the employments of peace, the demand for our agricultural productions was diminished, justified the government in encouraging at home the means of furnishing the materials of a new commerce, which promised full remuneration for the sacrifices consequent upon its first establishment.

The trade between the United States and South America must be an exchange of manufactures for the natural productions of a fertile soil in a warm climate ; and in order to secure and augment it, encouragement must be afforded to the development of the mechanical skill of our citizens. We do not mean to say, that that encouragement has been given by the tariff lately passed. On the contrary, we think it impolitic in its details, peculiarly oppressive to the navigating interest, and intentionally rendered so by an opposition to the policy, which passed the bounds of prudence and patriotism. The propriety of this act, however, is not now the question. Whatever may be our opinion as to its policy, it is now the law of the land ; and capital must be invested, and commercial enterprises undertaken, with reference to its details. Some change will take place in the direction of our trade ; and commanding as the position of New-York is, in relation to the commerce of the country, she must enjoy her full share of any advantages growing out of this alteration in our policy. Our productions must be exchanged, as heretofore, for the surplus productions of other nations ; and New-York, as formerly, must be the great depot and mart of exchange. The only question is, how to avail ourselves, to the utmost, of this change in the national policy by means of our local advantages. So far as the fabrics of American skill and industry supply the place of European manufactures, whether for domestic or foreign consumption, they must become the objects of commerce. Vessels must be employed to transport them, and merchants and factors must superintend their distribution among the consumers. Every effort, then, should be made to render this city the great depot of domestic manufactures, as well as of the productions of other countries ;



and to conform, according to our circumstances, to the fixed and settled policy of the country.

In Boston, extraordinary exertions have been made to turn the trade growing out of this system into that port, and to make that city the emporium of domestic manufactures. A semi-annual fair has been established, to induce purchasers and manufacturers to resort to that market. The effects of these spirited measures upon the navigation of that port are already visible. Hitherto the increase of tonnage has been greater in New-York than in any of the large ports; but during the last year a sensible superiority has been manifested in favour of Boston. While the annual increase in the tonnage of New-York has been only 11,805 tons, that of Boston has amounted to 19,105 tons; being only 4 per cent. increase in this port, and 13 per cent. in Boston. During the same year, the rate of increase on the whole tonnage of the United States has amounted to  $7\frac{1}{2}$  per cent. This disadvantageous result on the part of New-York, compared with the Union at large, and more especially, when compared with the chief mart of domestic fabrics, indicates some falling off in the enterprise which has heretofore distinguished this community, or an inattention to the changes which have been made in the direction of domestic industry.

Your Committee will not ask whether the inhabitants of this city will continue neglectful of their peculiar advantages—losing on one side, without attempting to gain on the other. The field of competition is open to all; and the enterprising character of New-York, and her superiority of position, will insure success in the contest. A fair to be held in this metropolis in the spring and fall of each year, to which the manufacturers of the whole country might be induced to send their goods, by the high prices to be obtained in the principal market of the United States, as well as by premiums to be given to the best specimens of the different productions of domestic industry, would very soon render this city the emporium of American manufactures.

The emulation excited by competition on such a theatre, would improve the quality of the goods; while the character

gained by success in this market would more than compensate for any extraordinary pains taken to improve their quality, by its general effects upon their sale. Purchasers, too, would be attracted to such a fair; and this city would reap the advantages of a liberal distribution of premiums to the successful competitors, by an increase in its trade, and by the influx of strangers, in crowds, either to exhibit their fabrics, or as purchasers.

In conclusion, your Committee beg leave to recommend a semi-annual fair, to be held during the second weeks of October and April; and with the view of rewarding the skill of the American mechanic and manufacturer, your committee recommend premiums to be awarded, under the superintendence of the American Institute.

## ARGUMENT

IN THE COURT OF IMPEACHMENTS AND FOR THE CORRECTION OF  
ERRORS OF THE STATE OF NEW-YORK.

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CHARLES KING AND JOHNSTON VERPLANCK, *Plaintiffs in Error*,  
*vs.*  
ERASTUS ROOT, *Defendant in Error*.

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JOSEPH BLUNT opened the argument for the plaintiffs in error.

This action, he stated, was brought for a publication in the New-York American, alleged to be libellous, and made under the following circumstances :

During the presidential election of 1824, an extra session of the legislature of New-York was called by the governor, with the view of giving to the people, in their primary assemblies, the choice of the members of the electoral college of this state.

A powerful party in the legislature, favouring the election of Mr. Crawford, was opposed to this project; and while it was warmly urged upon the legislature by a large portion of the community, it was as warmly resisted by others. Great excitement was produced, and the attention of the whole state was directed upon the proceedings of the legislature at Albany. The meeting took place at a season of the year, when Albany was thronged with strangers, and the capital was daily filled during the session with intelligent and distinguished men from the different states of the confederacy. On this striking occasion, in the presence of an assemblage comprehending many of the most influential and illustrious names of our country, the plaintiff, who is the defendant in error, while presiding over the senate of the state, conducted himself in a manner which induced one of the defendants, who was then in the senate chamber, to



make the publication complained of, giving an account of his appearance and conduct at that time, and to animadvert upon it in language, which such conduct fully deserved.

I do not mean to contend in this place, that this account was accurate. This I am precluded from doing by the verdict of the jury. All that the defendants are required to show is, that they fully believed that their account was correct, that they had good reasons for believing it, and that they made no intentional misrepresentations.

If that were the case, no language could be deemed too harsh and severe in commenting upon acts, which degraded not only the station filled by the plaintiff, but reflected discredit upon the people of the state, and the body over which he presided. A citizen, attached to our institutions, and zealous for their character, and forming such conclusions from what actually passed before his eyes, would be filled with indignation, and his justly excited feelings would manifest themselves in strong and appropriate expressions.

Such was the impression made upon the mind of the defendant, who wrote the libel in question, by the conduct of the plaintiff. Believing him to have been intoxicated on that occasion, he did not hesitate to say so ; and he animadverted upon his situation in terms of pointed severity.

For so doing this action was brought by the plaintiff, and the venue was laid in Delaware county, the place of his own residence. The defendants sought to have the trial take place either in Albany, where the transaction occurred, or in New-York, where many persons, who were present at the time alluded to, resided.

This motion was resisted by the plaintiff, and upon the pretence that he had as many witnesses in his own county as the defendants had in New-York, (although he stated in his deposition that he was unacquainted with their names,) the venue was retained in Delaware.

Under such circumstances the trial came on, and the defendants acting in good faith and under the impressions which influenced them in publishing the libel, attempted to prove it to

be true. With this view they introduced several witnesses who were present on the occasion referred to, all men of the highest character in both public and private life ;—three members of the senate,—two gentlemen who now represent their country at different courts of Europe,—and three others who were also present, and who all stated that the description given of the plaintiff in the alleged libel was substantially true. Indeed, the statement given by them fully justified the publication, and the judge who tried the cause charged the jury, that “there was no doubt of the entire credibility of every witness upon either side. They were gentlemen of the first integrity and intelligence, and no inducement could be supposed in the case sufficient to lead them to misrepresent or withhold any fact within their knowledge.” In addition to this testimony, they proved that it was currently reported in Albany at the time, that the plaintiff was intoxicated in the senate on the occasion alluded to : and the character of the plaintiff as an habitual and notorious drunkard was established beyond all controversy.

On the other hand, the plaintiff produced several witnesses, who stated that they were also present in the senate, and that in their opinion he was not intoxicated. They did not, however, attempt to deny that his character for sobriety was bad.

After a full discussion of the testimony, the honourable judge who tried the cause charged the jury, and they retired. After being out all night they came in, and upon his reiterating a portion of the charge to which exception had been taken, they rendered a verdict for \$1,400 in favour of the plaintiff.

The Supreme Court was moved for a new trial, on exceptions to the legal principles advanced in the charge of the judge, and also on the ground, that the verdict was contrary to evidence. This motion having been denied, a writ of error was brought on the bill of exceptions, and the cause is now here for a reversion of the legal doctrines laid down at the trial of this cause. The grounds urged upon the consideration of the Supreme Court are comprehended in the following propositions :

1st. Proper testimony was excluded from the consideration of the jury.

2d. The judge ought, when required so to do, to have charged the jury that if they believed the publication to have been made in good faith, and with a full belief in its truth, these circumstances should induce them to mitigate the damages.

3d. The question of malice ought to have been submitted upon all the evidence, as a question of fact for the decision of the jury.

It is to be observed, that at the trial of the cause, the defendants were not permitted to inquire into the general habits of the plaintiff for temperance, not even upon cross-examination.

The testimony concerning the prevalence of the concurrent reports at Albany as to the plaintiff's conduct in the senate on the occasion alluded to, was also excluded from the consideration of the jury, as well as the evidence of the general character of the plaintiff for intemperance, unless it appeared to be equal in degree with the offence charged. They were told that this testimony was not to be taken into consideration by them; not even in their estimation of damages; and this opinion concerning general character was reiterated, when the jury, puzzled as some were at the charge, came into court for new and clearer directions.

The jury were also told, and this formed one of the principal objections to the charge, that they were simply to inquire whether the plaintiff was intoxicated, as described by the defendants. The intention and motives of the defendants in making the charge, their belief in its truth, were excluded from their consideration. Their malice, it was stated, and emphatically stated by the judge, was a legal inference; a conclusion of law from the falsity of the publication; and notwithstanding he was requested to direct the jury to inquire into the motives of the defendants, he refused so to do, but persisted in saying that their intention or malice was a legal inference. (Here Mr. Blunt read the charge of the judge. *Vide Am. Ann. Register, for 1826-27, p. 247*, and then proceeded:)

When this opinion came before the Supreme Court for revision, the court did not altogether confirm all the positions of the judge at circuit.



It assumed a new ground, and one which enabled it to avoid deciding directly upon all the questions submitted for its consideration.

The judge at the circuit charged the jury, that inasmuch as the defendants had professed to state what they saw, no concurrent reports at Albany of the plaintiff's drunkenness were admissible in mitigation of damages, as showing the belief of the defendants in their statement. The supreme court, perceiving this ground to be untenable, assumed a different one, and observed that the notice of justification accompanying the plea of not guilty, was an admission of malice, and therefore no evidence short of proving the truth of the charges was admissible in mitigation of damages, as showing the motives of the defendants.

This was a new ground, but still it as completely excluded the evidence offered in mitigation, as that assumed by the judge at circuit; and it will be incumbent on us, in reference to that point, to overturn both positions; and after reading the reasons advanced by the Supreme Court in support of its decision, we shall proceed to inquire into their validity, as well as into the correctness of those advanced by the judge at the trial. (The opinion of the Supreme Court was then read. *Vide page 259, Am. Ann. Register, for 1826-27.*)

The first question, he continued, that we shall submit for the consideration of this court, grows out of the rejection of proper testimony, whether by the total exclusion of it by the judge, or by his charging the jury to disregard it in making up their verdict. In cross-examining the witnesses produced on the part of the plaintiff, they were asked, what were the general habits of the plaintiff as to temperance. This course of cross-examination being objected to, was prohibited by the judge.

What was the effect of this decision under the circumstances in which the cause was then placed? The jury was inquiring into the condition of the plaintiff at a particular time. Several respectable witnesses on the part of the defendants said that he was intoxicated. Others produced by the plaintiff said, that in their opinion he was sober. The testimony was conflicting,

and it was the province of the jury to decide upon it. If, then, it had appeared, that it was the general and even invariable habit of the plaintiff to commence the day with strong and frequent potations, repeated as the day advanced, until the afternoon (the time concerning which the inquiry was made) would always find him completely under their influence, and in a state either of riotous or beastly drunkenness; suppose that the proof to be produced would have established this as his invariable habit, (and we have a right to assume this as a fact,) what, then, was the effect of excluding it? It deprived the defendants of strong corroborative evidence, which would have fortified and strengthened the statements of their witnesses. If his habit was to get drunk every day, their opinion that he was intoxicated on the afternoon alluded to, was more likely to be correct than the opposite opinion; and the proof would have furnished the jury with a powerful reason to adopt their statement. Again, the motives of the defendants in making the publication were to be inquired into. Were they actuated by malice, or not? This was one of the questions the jury was compelled to pass upon; first, (as we shall contend,) in reference to the justification of the defendants; and secondly, in estimating the amount of damages.

Was this proof thus excluded calculated to throw any light upon their motives? In ascertaining this, we must inquire whether they believed the charge or not, and whether they would not be more likely to believe that he was intoxicated at the time alluded to, provided he was in the habit of daily intoxication.

There were obviously some peculiarities in his appearance, from which some of the spectators drew one conclusion and others drew an opposite conclusion. The defendants' witnesses inferred that he was drunk, and his own witnesses thought that he was sober. The jury, in inquiring into the motives of the defendants, were not only to ascertain which of these conclusions was correct; but also whether a man might not have fairly inferred that the plaintiff was intoxicated, and whether the defendants had not formed that opinion in good faith.

In both points of view, therefore, the testimony was admissible, first, to fortify the conclusion drawn as to his intoxicated condition, and secondly, to exculpate the defendants from all malice in making the charge. In the latter point of view the judge erred in charging the jury, that the concurrent report at Albany was not admissible in mitigation of damages.

If it was generally believed, that the plaintiff was in the condition in which he was described to be, it demonstrates that there was good reason to believe what the defendants published concerning him, and that the defendants believing it, were not actuated by malice in making the publication. That the defendants made the statement in good faith is a complete answer to all imputation of malicious falsehood; and while malice forms a good ground for aggravating damages, the absence of malice affords an equally good reason for mitigating them.

These principles are so clear, that it is not a little remarkable that the judge should have ventured to charge in opposition to them, and the extraordinary reason he advanced for his extraordinary position deserves a particular examination.

The defendants stated that "they saw what they asserted," and therefore, said the judge, no concurrent report could have produced their belief in the charge. The honourable judge here fell into the common error of forming a general rule from particular instances, not altogether similar to the case under consideration.

If the charge had been made concerning a fact, about which an eye observer could have made no mistake, then the defendants' mode of stating it might have been evidence of malice. As if the defendants had stated, that they saw the plaintiff sentenced to an infamous punishment for a criminal offence. Here there could have been no mistake; and in stating that they saw what they stated, they evince malice by asserting what they must have known to be false. But when the charge is simply an inference from appearances, and men might honestly draw different conclusions from the same appearances, the fact that many drew the same inference, as to the plaintiff's condition, affords strong proof of the sincerity of their belief, and of their



good faith in making the statement complained of. It is one thing to be mistaken, and it is another to make an intentional misstatement, and although the injury to the plaintiff may be the same; the motive of the defendant, which in truth is the sole foundation of what are called vindictive damages, is entirely different in the latter case, and ought materially to mitigate the damages.

In the case of *Wolcott vs. Hall*, 6 *Mass.*, 514, which was relied on in the Supreme Court to sustain the doctrine of the circuit judge, the reports offered in evidence were not contemporaneous, and were rejected by the court on the ground that the reports might have been set on foot by the very slander in question. They were consequently properly rejected. This case is different, inasmuch as the reports were contemporaneous with the conduct alluded to, and the publication was subsequently made in a New-York journal. The true rule is laid down in *Leceister vs. Walter*, 2*d Campbell*, 251, and confirmed by this court, in the case of *Paddocks vs. Salisbury*, 2*d Cowen*, 814. There, a general suspicion that plaintiff was guilty of the offence charged, was admitted in mitigation of damages, and the doctrine is reasonable, as such a suspicion or belief prepares the mind to adopt the opinion on which the charge is founded.

But the judge also said, at the circuit, that the concurrent report was not admissible, unless it appeared that defendants said nothing more than was reported at Albany. This was also an erroneous view of the principle. The principle is, that all mitigating circumstances are admissible in mitigation. The proposition is so clear, and even identical, that an apology would be necessary for stating it, had it not been contradicted by such high authority. An exaggeration of a report is not so great an offence as a fabricated falsehood. The report showed that others entertained a belief, that the plaintiff was intoxicated at the time referred to; and the different opinions of men, as to the degree of excitement under which he laboured, could not so entirely alter the applicability of the rule, as to exclude the report from the consideration of the jury, in estimating the damages.

The judge was misled, by not preserving the distinction between a case where the offence charged is different in character from that about which the report prevails, and where it only differs in degree, and not in kind. Here the offence was of the same character, and because the exact degree of intoxication was not specified in the report, it is most extraordinary that the jury should not have been allowed to consider the concurrent opinions of other persons, as to the condition of the plaintiff, even as a circumstance in mitigation; that a general belief, which, if proved before the jury from the mouths of the multitude who were present, would have completely exculpated the defendants, shall not be regarded, even as a mitigating circumstance. This is the doctrine of the judge, and it is, in itself, a doctrine so repugnant to reason and common sense, that the simple statement of it, is a stronger proof of its absurdity, than any argument and illustration that I can offer.

I now pass to the ground assumed by the Supreme Court, to justify the exclusion of the testimony offered in mitigation of damages. It was perceived that the reasons offered by the judge, at the circuit, were unsound, and that this exclusion could not be maintained on that ground. A new position was consequently taken, and technical doctrines were interposed, which as effectually excluded the defendants from their legitimate defence. In preparing this cause for trial, the defendants believing that they could substantiate the charges in the publication complained of, had given notice of their justification with their plea. They had also given notice that they would prove, "that the conduct and appearance of the plaintiff, at the time alluded to, were such as to induce the belief that he was intoxicated, and to justify the obnoxious publication."

This notice was given in good faith, and in a full and honest belief of their ability to prove the charge. I would have a right, if it were necessary, even without proof, to assume this to be so. But it is not necessary. The good faith of the defendants is fully established by the statements of the respectable witnesses produced by them at the trial, who completely substantiated the truth of the belief, as far as human testimony could prove it.

It is true, that this evidence did not produce conviction in the minds of a *Delaware* jury, but it at least established one fact, that the defendants sincerely believed the truth of their statements. The judge himself said in his charge, that "there was no doubt of the entire credibility of every witness, upon either side." And this after the defendants' witnesses swore to every particular fact asserted in the libel.

Upon a review of the whole testimony, it is impossible to doubt, that the defendants made the publication with proper motives and in good faith, and that believing it to be true, they gave the notice annexed to their plea.

In this state of facts, the Supreme Court refuses the application for a new trial, on account of the rejection of all this testimony, developing the real motives of the defendants, because (as it is gravely asserted in the opinion of the court) the defendants admitted malice by undertaking to justify.

"By the notice annexed to the plea, the malice is confessed upon the record." "Such," say the court, after reiterating this doctrine in various parts of its opinion, "are the conclusions to be drawn from adjudged cases and approved principles."

Supposing, for the sake of argument, this doctrine to be correct, in what situation does it place defendants in actions of libel? If they intend to justify, they must either plead or give notice of justification. Unless they do that, they are not permitted to offer any testimony establishing the truth of the libel. These are *approved principles*, and they are conformable to equity and common sense. If the defendant means to establish the truth of the charge before a jury, it is reasonable that he should give the plaintiff notice of his intention.

But does it necessarily follow, that because defendants sometimes believe the charges they make to be true, they always make them maliciously? This publication was made concerning a public officer, then a candidate before the people for reelection. The statements made therein were concerning his public conduct. The subject matter was deeply interesting to the public. Now, I ask, if every accusation against a public officer necessarily proceeds from malicious motives? This is



the effect of the doctrine. Whether true or false, the accusation is malicious. It proceeds from a malignant motive, because the justification must be preceded by a notice, and a notice according to the court, "is an admission of malice upon the record."

If the defendants in this case believed the statements they made, they were bound to make the publication in question. They were bound, as good citizens and electors, to communicate these facts to their fellow citizens. If the plaintiff were intoxicated, or if they believed him to have been so, as citizens of a free country, as editors of a public journal, they ought to have communicated the fact. They did believe it. Their witnesses believed it. They therefore were not actuated by malice in publishing their statement, but by a motive having reference to the public welfare. At all events, their motives were the proper subjects of inquiry before the jury, and not matter of record. If their belief in the truth of their statement continued unchanged, they were compelled to give a notice of justification in order to defend themselves. They do not say by that notice, that they made the charge maliciously, but that they continue to believe it true, and mean to produce their evidence before the jury at the trial. Grant that they labour under a delusion! Is self-deception malice? Is good faith and sincere belief malignity? Or did any defendant ever dream that by giving such a notice in good faith, he gave a written admission of his malice, which he had already, in his previous plea, expressly denied?

If this doctrine be true, it must be true in all cases where this *admission of malice* is to be found upon the record.

To what conclusions would this lead us? Suppose the plaintiff, on the occasion alluded to, had feigned drunkenness—that, actuated by a holy zeal for his party, like the elder Brutus, he had concealed his sanity and sobriety under the guise of a brutish behaviour and sottish demeanour. The defendants, not penetrating his patriotic motives, believe him to be what he seems, and they say the man is drunk. They also give notice, when prosecuted, that they will prove the truth of their state-

ment. At the trial the truth appears. The plaintiff proves that on that particular day, so far from yielding to his ordinary habits of intemperance, he had wholly abstained from drink, that he might act more to the life the part of a drunken patriot. Are the defendants to be punished because they have been thus entrapped? and is their notice to be considered, as the court call it, an admission of malice on the record? Again, suppose the defendants to be informed of the peculation of a public officer, by credible persons, whose statements are fortified by documentary evidence. Upon this authority a statement is made, which is followed by a prosecution. A notice of justification of course is given. At the trial the men, upon whose authority the statement was made, do not appear; the documents are produced, and they are shown to be fabrications. The incorrectness of the charge is manifest—the character of a public servant has been injured, and his counsel call for high and vindictive damages for this *malicious* libel. The defendants now show that they were deceived; nay more, that this deception was set on foot by the plaintiff himself, who employed the informers, and fabricated the documents.

I ask if, in this case, the defendants' mistake is to be visited with vindictive damages? and yet, such is the legitimate consequence of this doctrine of "malice admitted upon the record." Can a court in this enlightened age assent to doctrines so repugnant to every principle of justice? Even the cases cited by the court to sustain this extraordinary proposition, are not similar to the one before the court. In the case of *Wolcott vs. Hall*, 6 *Mass.* 514, nothing was pleaded but a justification. The general issue, denying the averments in the declaration, (of which the malicious publication is a principal one,) was not pleaded. Nothing but the truth of the charge was pleaded; and under the rule that nothing comes in issue, but what is put in issue by the pleadings, the jury were confined to that simple inquiry. The case of *Matson vs. Buck*, 5 *Cowen*, 499, is placed upon the case of *Wolcott vs. Hall*. Here the general issue was pleaded with a notice, and in such cases all evidence in mitigation is admissible. Such was the law as declared by the

Supreme Court of Massachusetts, (the same court, whose decision in *Wolcott and Hall* met with such approbation from the Supreme Court of this state,) in the cause of *Larned vs. Buffington*, 3 *Mass.*, 546. In that case, the general issue was pleaded with a plea of justification, and the court there admitted evidence in mitigation, and said that where, through the fault of the plaintiff, defendant had good cause to believe the charge, it was a ground of mitigation. He may also prove that he made the publication with honest intentions.

The same rule was laid down in the cases of *Leceister vs. Walker*, 2 *Camp.* 251, *Moor*, 1 *Maule & Selwyn*, 811, and was recognised by the Supreme Court of New-York, in *Paddock vs. Salisbury*, 2 *Cowen*, 811.

The courts of our sister states have adopted the same rule. The Supreme Court of Connecticut, in *Bailey vs. Hyde*, 3 *Conn. R.* 463; that of Massachusetts, in *Remington vs. Congdon*, 2 *Pickering*, 311; of New Jersey, in *Cook vs. Barkely* 1 *Pennington*, 169, and that of Kentucky, in *Calloway vs. Middleton*, 2 *Marshall*, 372. In all these cases, forming one unvaried line of authorities, the true rule of the common law, and I must say of common sense, is to be found in clear and distinct language. That rule is, that where a plea of general issue is put in, either with or without a plea of justification, any evidence in mitigation of damages is admissible: where the plea of justification is put in alone, that evidence is not admissible. And yet the Supreme Court refuse to grant a new trial, because "the malice is admitted on the record," and therefore this evidence in mitigation is inadmissible. Nay more, in all these cases, the question of the admissibility of the evidence in mitigation arose under a plea of justification. Here it was a notice, and that of a qualified character. Now, in the case of *Vaughan vs. Havens*, 8 *John. R.*, 110, the Supreme Court of this state expressly decided that "the notice forms no part of the record, (I cite the words of the court,) and cannot therefore be considered as a special plea." "The notice is intended for the ease and benefit of the defendant. He may or he may not rely upon it. It has been uniformly held that it is not an admis-



sion of the matters charged in the declaration. The plaintiff is bound, notwithstanding the notice, to prove the facts alleged in the declaration." The notice here spoken of, like the one in this cause, was a *notice of justification in an action of slander*; and yet, notwithstanding the strong and emphatic language of the court in that case, the same court now holds that a notice is a part of the record, and an admission of malice—one of the material averments in the declaration.

I forbear all further comment upon the decision on this point in the cause.

It formed another objection on the part of the defendants to the judge's charge to the jury, that the jury was told that "the evidence of the plaintiff's character for intemperance was not admissible in mitigation of damages, unless of the same quality and degree charged in the libel," and this was reiterated to them in the morning when they came into court for further and more explicit directions.

The character of the plaintiff for temperance had been attacked—for the injury sustained, or likely to be sustained, from that attack, he had brought his action. His character, therefore, for temperance became the subject of consideration in estimating the damages, unless it is contended, that a man of infamous character is entitled to the same damages for any imputation upon his name as a person of unimpeachable reputation.

What the judge at the circuit meant by "general character of the same quality and degree," is explained in the next sentence of his charge. For instance, he says, "the defendants cannot be permitted to say that the plaintiff was drunk, and an object of loathing and disgust at a specific time, and then to diminish the damages by proving him to be generally reputed to be addicted to the free use of spirituous liquors, and often exhilarated by them." The doctrine of the judge therefore is, that if a man be charged with being dead drunk; a general habit of staggering drunkenness shall not be deemed a reason for mitigating the damages. In all the different degrees of intemperance,—that of booziness—half seas over—staggering drunk—beastly drunk, and dead drunk :—In speaking of a per-

son in that situation, you must be careful to graduate your expressions precisely to his general habit. A slight exaggeration of the degree will expose you to as fearful a retaliation as if, like Shylock in exacting the penalty of your bond, you had cut deeper than your pound of flesh. Is this reconcileable either with law or reason? For what are the jury called upon to give damages? For the injury done to the plaintiff's character for temperance and sobriety. If this be bad, no matter in what degree, it is a subject of consideration with the jury in estimating the damages; not only because the character of the plaintiff was injured by his own misconduct, but because if the plaintiff was at all addicted to the use of ardent spirits in excess, the defendants would naturally ascribe his extraordinary appearance and behaviour at the time alluded to, to intemperance. Their motives, therefore, would be shown to be free from malice, which, where it does exist, is universally admitted to be a good ground for aggravated damages.

It is not a little remarkable, and it adds to the force of this exception, that notwithstanding this direction of the judge to the jury, he had previously prevented the defendants from asking a witness (E. J. Roberts) on cross-examination, "How often he had seen the plaintiff intoxicated, and to what degree." Thus preventing the defendant on one hand from inquiring into the degree of intemperance in which the plaintiff habitually indulged, and then on the other hand charging the jury, that unless his general character for intemperance was of the same degree with that charged in the libel, it was not admissible in mitigation of damages. The striking injustice done to the defendants by these decisions was so manifest, that the Supreme Court did not attempt to sustain the judge's charge at the circuit, but assumed a technical ground for the exclusion of this testimony. Whether this new ground be more tenable, we shall now examine. The Supreme Court in its decision admits, that the character of the plaintiff is a proper subject of inquiry, but denies that any examination ought to take place into his character for temperance. Inquiry, says the court, may be made into his general moral character, but not into his character for

any particular quality. This extraordinary proposition, advanced I venture to say for the first time in a court of justice, is not only contrary to the ordinary practices, but also to the plainest principles. The very inquiry of the jury is concerning the character of the plaintiff for temperance, and for nothing else. 1st. Because his character in that particular had been attacked, and it was the duty of the jury to ascertain how much it had been injured.

2dly. Because the evidence would tend to rebut the presumption of malice.

The court, however, carried away by some idea concerning general character, which I must confess I cannot comprehend, determined that all inquiry into his character for temperance was inadmissible—as if in an action by a female for a libel stigmatizing her as a prostitute, the defendant should be prohibited from any inquiry into her character for chastity, but confined to an investigation of her general character, excluding that particular. Such are the reasons which induce the defendants to ask a new trial on that branch of the case touching the measure of damages, and it is but seldom that a case presenting a greater violation of principle has been brought before this court for supervision. The defendants complain, that great injustice has been done them in the charge to the jury, and that several novel and extraordinary principles have been advanced in this cause, and all militating against their defence. On that account we ask a new trial, but not on that account alone. These reasons all refer to an injury affecting the defendants personally, but there were other principles advanced at this trial touching the freedom of political discussion, compared with which the doctrines I have already commented upon sink into insignificance. These principles strike directly at the freedom of the press, and practically place it at the mercy of the judges, and I know I speak the sentiments of my clients when I say, that more on account of what they deem a violence perpetrated upon the cause of freedom and upon our liberal institutions, than because of the injustice done to themselves, (though that is not trivial,) they have deemed it their duty to resist this



judgment to the last, and not to submit to it, until it is declared to be the law of the land by the court of final resort. At the trial of this cause, the jury were told that the question of malice was a legal inference, and it forms the third point in the case presented to this court, that the question of malice was not submitted upon all the evidence as a question of fact for the decision of the jury.

To prevent any misapprehension, as to the principles for which we contend, I shall submit them to the court in the shape of distinct propositions.

1st. Where the subject matter of the publication is such that no good motive can be assigned, malice is necessarily inferred.

2d. Where public motives are assignable for the publication, malice then becomes a doubtful question; and whether it is to be inferred or not, is a question of fact for the decision of the jury.

3d. When a publication is made concerning the official conduct of a public officer, good motives, and probable cause for believing it to be true, furnish a good defence to an action for libel.

The last of these propositions may be deemed somewhat novel, and I am free to admit that it has not been distinctly sanctioned by the courts, either of England or in this state; but it should be also recollected that this question has never before been distinctly raised in our courts, and I intend to show that, on the law of political libel, the courts of England do not furnish a safe rule for the tribunals of the United States.

It is true that, by a provision of the Constitution of the state of New-York, the common law of England is adopted as the law of the state. But this adoption was never intended to extend to all the crudities and absurdities growing out of the feudal system, and entirely inconsistent with the institutions of this country. It was, indeed, an adoption of its principles as a body of jurisprudence, but when any of these principles are found to be inconsistent with our own institutions, they are either expressly or silently abrogated. The courts do not acknowledge the principle, that the executive can do no wrong, or that the

legislature is omnipotent, and yet these are principles of the common law. They are, however, repugnant to the spirit of our institutions, and the courts therefore reject them.

This qualifying principle must be carried with us in the examination of any doctrine of the British courts, not sanctioned by our own courts, and relative to the political concerns of society. It must especially be applied in all discussions of the law of libel. A law which, protecting as it does private character, also limits and defines the freedom of the press, the great instrument of reform in the science of government.

What then, I may ask, is the common law of libel? It is a legal principle aiming at the protection of character against malicious attacks. The principle, however, does not go to the extent of declaring, that all publications concerning private character are libellous; nor even that all false publications concerning private character are libellous.

There are things more highly valued by the law, than even the exemption of individuals from untrue aspersions of their good name.

Some of the dearest interests of society depend upon free discussion; and the law, wisely looking to the higher interest, does not concede to individuals any reparation for injuries to their characters sustained in these discussions. In general, individuals are liable for written publications affecting private character, provided they be untrue: but where the public has an interest in the discussion of the subject matter of the publications, they are then liable only for what is malicious as well as false. The malicious intent then becomes an averment, which the plaintiff must prove. It is always a necessary and material averment; but in general the jury are at liberty to infer it from the falsehood of the publication. In this class of publications, however, the proof of intent devolves upon the plaintiff, and is one of the preliminary objects of inquiry on the part of the jury. When that is established, or when grounds for them to adopt such an inference have been laid, it then becomes necessary for the defendants to prove the truth of the publication. Malice is never, as the judge asserted at the trial,

an inference of law, but always a question of fact, and a material averment. In 1 *Chitty's Plead.*, 226, it is said, that where the law intends or infers a fact, no averment is necessary. The same doctrine is laid down by Lord Coke, *Inst.*, 786. If, therefore, malice were a legal inference, no averment would be necessary. It may, indeed, be an inevitable inference from the circumstances, but it may also be a doubtful question, and the defendants were entitled to have the decision of the jury upon that point. Where no good motives can be assigned for the publication, the duty of the jury is plain. They then only inquire whether it be true or false, because if false it is malicious. But where public motives can be easily assigned for the publication, the law then requires the jury to inquire not only concerning its truth, but also into the motive of the defendants in making the publication. If it be false, the defendant is not necessarily to be condemned. He may have been mistaken, and the law will not condemn him when giving information, in a matter about which the public is interested in obtaining information, for an error in judgment. It concedes this much to human fallibility, and only condemns for what is wilfully or maliciously false. The intent then becomes the criterion of guilt or innocence, and whether the libel be true or false, if published without malice, and in good faith, the defendant is justified.

We contend that this is invariably the rule, where the public is interested in the subject matter of the communication. By reference to adjudicated cases, both in this country and in England, the court will find this proposition to be fully established. In the case of *Weatherstone vs. Hawkins*, 1 *Term. R.*, 110, which was an action brought by a servant against the master for giving him a bad character; the court decided that in order to sustain that action, it was necessary not only that the statement made by the master should be untrue, but that the plaintiff should prove it to have been made with a malicious intent.

So, too, in discussing the character of a person applying for admission into a volunteer corps, a communication to the committee of election must be shown to have been made from a



malicious motive. Its falsity is not sufficient. *Barband vs. Hookham*, 5 *Esp. R.*, 109.

The same doctrine is laid down in the case of *Hare vs. Meller*, 3 *Leon*, 138, where a statement was made in a complaint to the Queen: in *Lake vs. King*, 1 *Saund.*, 131, where it was made in a petition to the House of Commons: in *Ashley vs. Younge*, 2 *Burr.*, 810, in a course of judicial proceedings: in *Hodgson vs. Scarlett*, 1 *Barn. & Ald.*, 239, where it was made by a counsel in the discharge of his duty; and in *Benton vs. Worley*, 4 *Bibb.*, 38, in an application to justice for a warrant.

The courts of the United States have repeatedly recognised this principle. In *Jarvis vs. Hatteway*, 3 *John. R.*, 180, the Supreme Court of this state held, that a statement made in proceedings in a course of church discipline was not libellous, except malicious as well as false. The same doctrine was held in *Thorn vs. Blanchard*, 5 *John.*, 508, respecting a petition to council of appointment, to remove plaintiff from his office; and, by the Supreme Court of Penn., in *Gray vs. Pentland*, 4 *Serg. & Rawle*, 420, respecting an affidavit sent to governor as to the official misconduct of plaintiff, who held his appointment from the governor; and in *Fairman vs. Ives*, 7 *Serg. & Lowber*, 221, where the libel was in a petition to the Secretary of War, accusing a subordinate officer of not paying his debts. The principle, indeed, is recognised in its broadest extent, that in an application for relief to the proper authority, the charge is not libellous unless it is both malicious and false, and malice must be proved by the plaintiff. In addition to the cases above cited, the court will find the same doctrine sanctioned in 12 *Coke*, 104; *Cro. Eliz.*, 230; *Andr.*, 229; 3 *Camp.*, 296; 1 *Binney*, 178; 2 *Pickering*, 314; 3 *Taunt.*, 456; 1 *Sir Wm. Black.*, 386; 4 *Esp. R.*, 191.

In all these cases, forming an uninterrupted current of authorities, it was held, that where the public is interested in the subject matter of the communication, the inquiry is not merely whether the publication be true, but, if false, whether it were published from malicious motives. The plaintiff was held bound to prove the malicious intent. The jury were directed

to inquire whether the defendant intended to serve the public, or merely to injure the plaintiff; whether the motive was public or malicious; and if they found that it was published with a belief in its truth: the inference of malice being rebutted, they were directed to acquit the defendant.

In criminal prosecutions for political libels, it has indeed been held by the English courts that malice was a legal inference; and it is from that source that the honourable judge who tried this cause derived the doctrine then advanced by him. But this principle has not been asserted even in England in civil suits; and if it had been, I am prepared to show that the law of England on the subject of political libels is not and never ought to be the law of this country.

In civil actions of this class, the motive has been even there held to be an essential inquiry for the jury, and not, as the judge here called it, a legal inference. The jury are directed to decide upon the question of malice, and not, as they were here repeatedly told, to consider it as a question of law. In this case the question of malice was in effect excluded from the consideration of the jury; and if they might have inferred that the publication could have been made without malice, the charge was incorrect.

It is unnecessary for us to show, that such an inference might have been drawn. Happily the charge of the judge furnishes us with satisfactory evidence of the sincerity and good faith of the defendants in making this publication, where he tells the jury that entire credit is to be given to the statements of all the witnesses; although those of the defendants could not be believed without admitting their justification to be completely made out.

It is scarcely necessary to go into detail, to prove this case to belong to that class, where the public is interested in the subject matter of the publication. It was concerning the conduct of a public officer while discharging his official duties, and it accused him of what ought to have deprived him of the support of the people. His conduct, supposing this charge to have been true, degraded his office, and was offensive to decency. It was a public duty therefore to communicate it to his constituents

throughout the state. The motive might have been a public one as well as malicious, and the defendants were debarred from their legal rights in having that question withdrawn from the jury.

The doctrine, that malice is an inference of law, is drawn from the English criminal law concerning libels; and although in the government prosecutions for political libels, precedents in abundance may be found in which this principle is advanced, I shall contend that, that branch of English jurisprudence was never adopted in this country; that it is inconsistent with the character of our institutions; and that the general principle of the common law, that publications concerning subjects affecting the public interest are not libellous unless malicious, applies here to publications made with the intention of communicating in good faith information to the public concerning the official conduct of a public officer; that in all such publications the intent is a material question for the consideration of the jury—a question of fact, and not a legal inference.

The law concerning libels is not to be found in the earlier law books. It is intimately connected with the advance of society, and may be said to depend upon the progress of civilization. It originated in the aspirations of the people for freedom, and to obtain a greater share in the government than they had formerly enjoyed. When these movements became obnoxious to the ruling powers, they directed their attention to the subject, and suppressed political discussion without ceremony.

Shortly after the introduction of printing into England, we find the Star Chamber established:—As if this formidable tribunal, so hostile to freedom, and the abolition of which was its first triumph, was especially instituted to control the press. How government at first exercised its power in repressing political libels we may learn from Lord Bacon's History of Henry VII. In speaking of Lord Stanley's execution, this great philosopher, who, with all his sagacity, did not fully appreciate the rights of the commonalty, or the power of the press, says, "Hereupon presently came forth swarms and vollics of libels, which are the gusts of liberty of speech restrained and



the females of sedition, containing bitter invectives and slanders against the king and some of the council; for the contriving and dispersing whereof, *five mean persons were caught up and executed.*" In this summary manner was the offence of libelling the government punished under the Tudors; and although under the Stuarts the form of a trial was gone through, the proceedings were fully as subversive of the principles of freedom and justice.

During the reigns of James and Charles, as we are informed by Hume, (certainly no advocate for the liberal side of the question,) any book commenting upon the conduct or ordinances of the monarch was deemed libellous, and its authors brought before the Star Chamber for punishment. How that tribunal punished them, and what respect was paid by its members for civil rights, when they came in collision with the prerogatives of government, we can learn in the civil war and in the overthrow of the monarchical government brought about by their iniquitous judgments.

Even under the commonwealth, a government which rather exemplified the triumph of a party, than the prevalence of liberal principles, although this court was abolished, the restrictions on the press were confined, and a censorship was established, which produced from Milton his celebrated and most eloquent essay in favour of unlicensed printing. An essay from which I shall have occasion hereafter to quote, as high authority illustrating and enforcing the principles advanced in this cause.

The restoration of the Stuarts did not augment the freedom of the press, and after this event the state prosecutions for libels against the government begin to appear in the reports of the common law courts. The first case to which I shall refer is that of John Twynn, who was executed in 1663, shortly after the Restoration, for publishing "that when the magistrates prevent judgment, the people are bound to execute judgment without and upon them."

In 1680 we find the courts advancing the doctrine laid down by the honourable judge at the trial of this cause, and as this seems to be the origin of this doctrine, (and certainly it is not

of modern origin,) it will not be amiss to refer particularly to the case. It was at the trial of one Henry Carr, for a libel ridiculing the Jesuits, before Chief Justice Scroggs, that corrupt and unprincipled minion of power. This instrument of the crown then told the jury, that they had no power to judge of the intent, and that (I read from his charge, *7 St. Trials*, 1127,) "as for these words, illicite, maliciose, unlawful; I must recite what all the judges of England have declared under their hands: When, by the king's command, we were to give in our opinion, what was to be done in point of the regulation of the press:— we did all subscribe, that to print or publish any newspaper or pamphlet of news whatsoever, is illegal; that it is a manifest intent to the breach of the peace, and they may be proceeded against by law for an illegal thing. Suppose now that this thing is not scandalous, what then? If there had been no reflection in this book at all, yet it is illicite, and the author ought to be convicted for it. And that is for a public notice to all people, and especially printers and booksellers, that they ought to print no book or pamphlet of news whatsoever without authority. So as he is to be convicted for it as a thing illicite done, not having authority." "If you find him guilty and say what he is guilty of, we will judge whether the thing imports malice or no." *7th St. Tr.* 1127.

After this charge, in which the jury are repeatedly told that they have no concern with the question of malice, they retired, and in an hour after brought in a verdict of guilty. Whereupon they received from the lips of this immaculate judge, this high commendation, "you have done like honest men." And his worthy coadjutor, the then Recorder of London, Sir George Jeffries, replied, "they have done like honest men."

In this case is to be found the origin of the doctrine, which the honourable judge who tried this cause laid down as a rule for the jury, and we are willing that it should have all the weight due to its antiquity, and to its pure and venerable origin. Something, however, had now been gained in England by the efforts of the Presbyterians and Puritan whigs. Men were no longer caught up and executed. The Star Chamber was abolished,

and libellers were brought before the courts of common law. The crown, as before, was still hostile to the press, and with a view of keeping it in a state of complete control, the doctrine that malice was a legal inference was invented, as a substitute for mere arbitrary will and power. Juries were told to find guilty upon proof of publishing, and the courts would then determine whether malice was imported.

Juries, however, would not always acquiesce in this doctrine ; and in the celebrated case of the seven bishops, they took upon themselves to determine the question of malice, and acquitted the defendants. The conflict now between the court and the jury, had fairly commenced. The judges, always striving to retain the power of determining the real question at issue in libel prosecutions, i. e. the guilty or malicious intention of the defendants, and the juries generally acquiescing, but occasionally, in matters where the public mind was highly excited, acquitting, in spite of the directions of the judges. In this contest, although the destined victims of arbitrary power would sometimes be protected, it was always with an effort ; and in the natural course of events, they were sacrificed to the power of government.

Thus, in 1682, we find Thompson, Paine, and Farewell convicted and punished for publishing, that Sir Edmondbury Godfrey had murdered himself ; it then being an object with the alarmists to make the nation believe that he was murdered by the Jesuits.

So, too, in 1693, after the revolution by which the English people flattered themselves their liberties were secured, Wm. Anderton was executed for a libel. 12 *St. Tr.* 1246.

In 1719 Littleton Powys took occasion, in his charge to the grand juries at the assizes, to express his opinion, and that of his brethren, concerning "the base libels and seditious papers, whose number had become intolerable," and respecting which he declared "that the government would not be at the trouble of inquiring after the authors, but would consider keeper sof coffee houses responsible for what were found there."

In 1729, at the trial of John Clark, who was only a pressman,



and in 1731, at the trial of Richard Franklin, the publisher of the *Craftsman*, the same doctrine as to the malicious intent was reiterated, and the jury were told that it was a legal inference, which it was the province of the court to make, and that they had nothing to do with it.

At the same time, efforts were made to introduce the English law of libel into this country. In 1735, John P. Zenger, who then published a weekly journal in the city of New-York, was prosecuted by information for a libel upon the government of the province. Great exertions were made by the government to procure a conviction, and two respectable counsel were struck from the roll for signing his exceptions. All evidence of the truth of his publication was rejected by the court; but the counsel for the defendant contended, that the jury might find a verdict for the defendant from their own knowledge of the truth of the publications. This they did do, in defiance of the charge of the court, and thus ended the first attempt to introduce the English law concerning political libels into this country.

In 1752, another contest took place in England, between the court and the jury, respecting Wm. Owen, who was prosecuted for a libel upon the House of Commons, and the jury acquitted the defendant, although the proof of publication was clear. *18. St. Tr.* 1828. The court catechised the jury upon their bringing in the verdict, but they adhered to it. "Upon which, (as the report has it,) the court broke up, and there was a prodigious shout in the hall." This was the third contest, in which the jury prevailed. The first was in the case of Bushnell, and the second in that of the seven bishops.

The elements of a greater conflict, however, now were gathering. The movements of the ministry in reference to this country, then in a state of colonial dependence, were only indications of the spirit which animated the councils of the government, and of its hostility to civil freedom. The same feeling which urged our ancestors to resistance, animated the whigs of England, and caused violent domestic parties. Wilkes attacked the ministers in the *North Briton*. Junius overwhelmed them with invective, denunciation, and sarcasm, in the *Daily Advertiser*; and after

prostrating the servants of the crown, he laid his sacrilegious hands upon the Lord's anointed himself. This bold attack exposed the publishers and sellers of the celebrated letter to the king to state prosecutions for libels.

John Almon, a bookseller, was first brought to trial in Middlesex, where the jurors were more under the influence of the crown than in London. Defendant did not know of the publication, but the doctrine of the judges as to intention prevailed, and the defendant was found guilty. John Miller was next tried before a London jury, and the defendant's counsel contended that they were to pass upon the intent of the defendant, but Lord Mansfield told them that the intent, malice, &c., were mere formal words, "mere inference of law, with which the jury were not to concern themselves." "They were only to decide upon the fact of publication, and the meaning of the inuendoes." The jury, however, thought otherwise, and acquitted the defendant, to the great joy of the popular party. 20. *St. Tr.* 894.

The same doctrine was advanced in the very words I have just used, in the trial of Woodfall, the printer of the letter; and in this case the jury gave in a verdict of "guilty of printing and publishing only." *Ib.* 899. In this last case, a motion was made for arrest of judgment by the defendant's counsel, and a motion for judgment by the counsel for the crown. The court ordered a venire de novo, but the cause was never again tried. *Ib.* 921.

These decisions produced great excitement in England. The causes were considered, and justly considered, as trials of strength between the great political parties of the day; the one endeavouring to augment the powers of government; the other striving to restrain them within the limits of the constitution. This great contest, of which the elements had long before been gathering, was now at its crisis. The government aimed, by the stamp act and taxation bills, to reduce the North American colonists to a state of absolute vassalage, and to crush the opposition at home by a course of measures, of which the prosecutions for libels, and secretary of state's warrants, formed a part. These measures were all features of the same policy, and indicated the same despotic parentage.

The liberties of the Anglo-Saxon race were at stake, and fortunately for the cause of civil freedom, its defence was intrusted to men of uncompromising character, of clear minds, and undaunted resolution. Though Lords Mansfield, Bute and North, aided by the whole power of the British crown, threatened to crush all who thwarted their will; the friends of English liberty were encouraged in their resistance by Camden Chatham, and Burke, whose principles were also enforced by the American Congress.

The warrants of the Secretary of State were adjudged illegal in the case of Rochford *ads.* Sayre. The doctrine of the courts respecting libels, although destined to undergo a more protracted discussion, met with a similar fate.

The principles advanced from the bench, in the trials of Woodfall and the other printers, immediately became the subject of parliamentary animadversion.

Chatham commented upon them with great severity in his speech, relative to the Middlesex election, and stigmatized them "as contrary to law, repugnant to practice, and injurious to the dearest rights of the people." Lord Mansfield, who was then present in the House of Lords, was compelled by this public attack to enter upon a defence of his conduct. A debate accordingly occurred in the House of Lords, in which Lord Camden, the former Chancellor, took part. The remarks of this learned and upright judge are too pointed respecting the doctrine in question, to be suppressed. (I read them from *Dodsley's Annual Register for 1771, p. 27.*) He said, that, "having passed through the highest departments of the law, he was particularly interested, and even tied down by duty, to urge the making of the inquiry into the conduct of the judges: that if it should appear that any doctrines had been inculcated, contrary to the known and established principles of the constitution, he would expose and point them out, and convince the authors to their faces of the errors they had been guilty of: that he could not, from his profession, but be sensibly concerned for the present disreputable state of our law courts, and sincerely to wish that some effectual method might be taken to



recover their former lustre and dignity; and that he knew of no method so effectual as the proposed inquiry. If the spirit of the times has fixed any unmerited stigma upon the character of the judges, this will purify them, and restore them to the esteem and confidence of their country; but if the popular rumours have unhappily been too well founded, we owe it to ourselves and to posterity, to drive them indignantly from the seats which they dishonour, and to punish them in an exemplary manner for their malversation."

A motion was also made at the same time, in the House of Commons, proposing an inquiry into the conduct of the judges; and one of the specific charges brought against them was, that they had claimed the right to judge of the intention, which doctrine was stigmatized as illegal and tyrannical. This motion was resisted by the ministerial party, who prevailed on a division, 184 against 76, for the proposed inquiry.

The effect of these animadversions was, to produce a notice on the part of Lord Mansfield, for a call of the House of Lords on the following Monday on a matter of importance, which he had to communicate to them. It was generally supposed that this call was preparatory to a free and open discussion of the offensive doctrines, which he intended to bring on in the House of Lords. But upon the appointed day Lord Mansfield shrunk from the discussion, and merely informed the House that he had left a paper with the clerk, containing the unanimous opinion of the Court of King's Bench in the case of Woodfall, for the perusal of any one.

It was then asked if the paper was to be entered upon the journals of the House, to which a reply in the negative was given; and no motion being made by Lord Mansfield, Lord Camden stated to the House, that he was ready to maintain that the doctrine laid down as the judgment of the court was not the law of England, and pressed upon Lord Mansfield to appoint an early day for the discussion.

This challenge, however, was declined, and the courts continued in theory to assert the old doctrine, but not often venturing to enforce in practice, until Mr. Fox brought forward his declaratory act, repudiating the principle as slavish, and incon-

sistent with the spirit of the common law. In all the discussions relating to the passage of this act in parliament, the whig leaders, Fox, Erskine and Bencroft, contended that the intention ought to be submitted to the jury as a matter of fact. Lord Camden said it was always a question of fact. Lord Loughborough said that it had always been his practice to submit the whole matter in libel suits to a jury, and Pitt admitted that the law ought to be so. The act finally passed, and the question was decided in favour of the liberty of the press. The malice or intention of the libeller was formally declared to be a question of fact, and not an inference of law.

While this concession to freedom was thus slowly and by degrees wrung from the government at home, circumstances had prepared the way on this side of the Atlantic for a more general conflict, resulting in a complete and decisive triumph. The resistance of our ancestors, which at first aimed at securing to them only the privileges of Englishmen, eventuated in procuring to them and their posterity complete enjoyment of the rights of men. The British Colonies were separated from the mother country, and united under an independent government, republican and representative in its character. They adopted in the main, the laws and institutions of the parent kingdom, but made one great and material alteration. This variance, which lies at the root of the question I am discussing, resulted from the difference in the character and spirit of the two governments. In Great Britain it is held to be a maxim, that the king can do no wrong. The public officers throughout the kingdom are his instruments, and in some sort represent his authority; and though they are not vested with the same immunity, it is impossible to disregard the tenderness manifested by the law for public dignities, and their freedom from all constitutional responsibility. This exemption from political responsibility is a principle pervading the whole constitution. The king is incapable of doing wrong. Parliament is omnipotent, and the judiciary in fact independent of all but the executive government. In this state of things the press cannot be free. It is at most merely tolerated, and unless the government

means to foster an instrument, which must ultimately overthrow it, it acts wisely in thus limiting its power. In this country an entirely opposite principle prevails. The government was established by the people and for the people. It is founded on the great maxim, of rendering all public officers accountable to public opinion. This principle of accountability pervades all our political institutions. The legislature is accountable to the people: The executive to the legislature, and also to the people: The judiciary to the legislature, and indirectly to the people. Every officer intrusted with power is accountable either directly or indirectly. At periodical elections held in various parts of the country, this delegated power is laid down, and is either intrusted to new servants, or to the old ones whose services have been satisfactory.

This arrangement of our political institutions presupposes information to be communicated to the people through the press concerning their public affairs.

The government is based upon public intelligence, and the doctrine of accountability on the part of elected magistrates mainly depends upon a free press—upon a press to publish as freely of public officers, as according to the common law (which here is not warped to suit the views of government) it may publish of private individuals what it concerns the public to know, and to be held responsible only for what is maliciously, as well as untruly published.

This is the great result of our revolution in government—reformation in public measures by means of public opinion. The means of communicating information of course were intended to be free. This is the real object of that provision of the constitution guarantying the freedom of the press. It meant to secure the press from the power of the government, and to enable it to criticise with freedom public measures, and the conduct and qualifications of public officers. This was the only freedom the press wanted. It was always free in England as to publications concerning private character, when it conformed to the great principles distinguishing between publications strictly private or personal, and those aiming to sub-



serve the public welfare. It was shackled only so far as it attempted to discuss public measures, and the conduct and character of public officers. In this country, the same freedom was extended to political discussions, which were no longer to form an exception to the common law of libel ; but were to be adjudged upon as other publications affecting reputation and having the interest of the community in view, viz., to be justified where the intention is justifiable ; to be condemned where it is malicious. By the change in the form and character of the government, the reason which made the law concerning political libels an exception from the common law of libel is at an end ; and the maxim prevails *cessat ratio cessat lex*.

It forms no longer an exception, and all authority derived from the common law respecting political libels, is to be rejected as not applicable in this country.

The honourable judge who presided at the trial of this cause, not properly appreciating the distinction, was led into a mistake, and adopted the doctrine advanced in the case of Woodfall, and so much censured in Parliament. The Supreme Court fell into the same mistake in relying upon the case of *Lewis vs. Few*, 5 *John*. That case, indeed, is not altogether applicable to the point now under discussion ; inasmuch as the question was brought up upon a demurrer to the evidence, where the rule is, that whatever might be inferred by a jury, the court is bound to infer in favour of the plaintiff. Now we do not contend, that the jury may not infer malice from the publication itself, but that it is not necessarily inferrible, and may be rebutted from the other circumstances ; and at all events, that it is a question which the jury may decide in the negative.

The case of *Lewis vs. Few*, therefore, is not in point, inasmuch as there the court were bound to infer malice, because the jury might have inferred it ; but if it were directly in point, I should contend, that so far as it sustains the principle that malice is not a question of fact, but a legal inference, it is to be disregarded.

The authorities of the law for this country, in reference to political libels, are not to be found in the decisions of English

judges, influenced as they have generally been by the hope of court favour, or fear of its frowns, and of whose fallibility and arbitrary disposition you have such melancholy proofs in those records of human weakness and crime, interspersed with accounts of suffering patriotism, entitled English state trials. They are to be found in the expressed opinions of the eminent men, who have contended in behalf of English freedom against the arbitrary principles of the crown, promulgated by these very judges—in the acts of our revolutionary ancestors, and of their successors who established our political institutions—and in the character and spirit of those institutions. These opinions are protests against the arbitrary doctrines of the English courts; and followed up as they have been by the acts which gave us liberty and an independent government, they form an authority with which the technical and narrow precedents of the books are not to be brought in comparison.

Milton, in his eloquent speech for an unlicensed press, asserts this very doctrine for which we are now contending. Speaking of the power of the press in reforming abuses in a community, he says, "For this is not the liberty which we can hope, that no grievance ever should arise in the commonwealth; that, let no man in this world expect; but when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for." And a little farther, "Give me the liberty to know, to utter, and to argue freely, according to *conscience*, above all liberties. Though all the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously, by prohibiting and licensing, to misdoubt her strength. Let her and falsehood grapple; who ever knew truth put to the worse in an open and free encounter?"

This same doctrine was what Erskine contended for, throughout his long contest with the courts in behalf of the rights of juries and the freedom of the press.

At the trial of the Dean of St. Asaph for a libel, after alluding to the controversy between the courts and juries, respecting the right of juries to judge of the intent, he says, "now

prosecutions for libel are tried, and I hope ever will be tried, with that harmony which is the beauty of our legal constitution ; the jury preserving their independence in judging of that *malus animus*, which is the essence of every crime, but listening to the opinion of the judge upon the law and the evidence, with that respect and attention which dignity, learning and honest intention in a magistrate must and ought always to carry along with them."

During this trial, a contest took place between this intrepid advocate and Justice Buller, in consequence of the jury's wishing to give a verdict of " guilty of publishing only."

A motion was made for a new trial in the King's Bench ; and in the argument on that motion, Mr. Erskine laid down these distinct propositions, that " no act, abstracted from the intention of the actor, is a crime."

" That where the mischievous intention cannot be collected from the fact charged, because conflicting evidence is produced, it then becomes a pure unmixed question of fact for the consideration of the jury."

Again, in Stockdale's case, his ground of defence was, that his client's intentions were pure ; that the pamphlet was a bona fide defence of Mr. Hastings ; that this singleness and purity of intention afforded an excuse, even for intemperance of expression ; that this was the question for the jury to try, and that they might safely acquit his client on that ground, for that his principles of defence could not at any time, or on any occasion, be applied to shield wilful libellers from punishment, and that they were compatible only with honour, honesty and mistaken good intention. In concluding this most eloquent and masterly defence, a defence which, taken together with his argument in the case of the Dean of St. Asaph, contains more sound principle on the law of political libel, than the collected wisdom of all the judges of England, he told the jury, that the question to be decided was not in any sense a question of law, but a pure question of fact, to be decided upon the principles he had advanced in his defence.

The jury retired, after receiving a very precise charge from



Lord Kenyon, and in about two hours brought in a verdict acquitting the defendant.

These propositions of Mr. Erskine, in the case of St. Asaph, were distinctly approved by Mr. Fox, in the debate on the declaratory act, and he asserted, that the jury had a right to decide on the intention as a matter of fact, *3d vol. Senator*, 627. Mr. Burke, too, asserted the same principles, in his speech on Mr. Dowdeswell's motion for leave to bring in a bill settling the law on this point, made in Parliament, March 7th, 1771, and he further observes, that "if the intent and tendency be left to the judge as legal conclusions resulting from the fact, you may depend upon it, you can have no public discussions of a public measure." Sir James Mackintosh also adds his authority in behalf of the same position, in language particularly applicable to the case now under discussion. In his defence of Peltier, who was indicted in England during the short-lived peace after the treaty of Amiens, for a libel upon Napoleon, then first consul, he contends that "the essence of the crime of libel consists in the malignant mind, which the publication proves, and from which it flows. A jury must be convinced, before they find guilty of libel, that his intention was to libel—not to state facts which he believed to be true."

Such are the principles held by the great leaders of the whig party of England, in opposition to the arbitrary doctrines of the court. The principles of our revolutionary ancestors were no less clear and decided. At the commencement of the struggle, when it became apparent that no compromise could take place, but that their principles must be enforced, they despatched commissioners to Canada, to induce that province to join the confederacy.

These commissioners were directed to establish a free press as one of the essential requisites, to qualify the Canadians for a participation in the privileges of freedom, for which they were then entering upon a war of no speedy termination.

The constitutions of the several states also afford evidence of the peculiar importance of a free press, and of the views of our own ancestors of the common law respecting political libels.

The constitutions of Massachusetts and North Carolina, established during the contest, and even amid the din of arms, furnish strong contemporary testimony of their intentions. The sixteenth article of the declaration of rights, contained in the former, asserts, that "the liberty of the press is essential to the security of freedom in a state; it ought not therefore to be restrained in this commonwealth." The fifteenth article in the constitution of the latter declares in still stronger terms, that the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.

The Constitution of New-Hampshire contains the same provision as that of Massachusetts. Those of Maryland, South Carolina and Georgia, also declare the inviolable freedom of the press, and the trial by jury, as theretofore enjoyed in those several states, as if they meant to pointedly reprobate the conduct of the English courts, in denying the right of the jury to decide upon the intent in prosecutions for libels upon government.

The provisions in the constitutions of some of the sister states are still more pointed. That of Pennsylvania, article 9, section 7, declares immediately after the provision relative to the trial by jury, that "the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government, and no law shall ever be made to restrain the right thereof;" and after providing for the admission of the truth in evidence, it authorizes the jury, upon indictments for libels, to determine the law and the facts as in other cases.

The constitutions of Delaware, Illinois, Kentucky, Tennessee, Louisiana, Ohio, Indiana, and Mississippi, contain a similar provision, and refer particularly to the conduct of public officers, as a proper subject of privileged discussion.

The provision in the Constitution of Vermont, article 13, on this subject, is as follows: "the people have a right to freedom of speech, and of writing and publishing their sentiments concerning the transactions of government, and *therefore* the freedom of the press ought not to be restrained."

These provisions, all declaring the freedom of the press, and some pointing particularly at that subject of discussion, which in England had been a prohibited topic, i. e., the proceedings of government, and the conduct of public officers, furnish strong reasons, almost amounting to demonstration, of the abrogation in this country of the distinction which the judges of the court had so long endeavoured to preserve in England.

If the character of our institutions was not in itself a sufficient argument in favour of a free discussion of the conduct of public men; those declarations, by the founders of our political institutions, inserted in the constitutions themselves, plainly indicate, that their idea of a free press was one which freely discussed the measures and conduct of the officers of government, and that they intended expressly to reject the doctrine of the King's Bench as to malice being a legal inference.

The course of legislation sanctioned under these constitutions has been in conformity with this idea, and strongly illustrates the tendency of our institutions to still further enlarge the freedom of political discussion. The attempt which was made during the administration of John Adams, to bring libels against the federal authorities under the jurisdiction of the federal courts, resulted, as we well know, in the overthrow of the dominant party. In that contest the legislature of Virginia took the lead, and headed by Madison and Jefferson, after protesting against the constitutionality of the sedition act, declared that "Truth, if left to herself, will prevail. That she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless disarmed of her natural weapons, free argument and debate."

The legislature of Pennsylvania at a subsequent period, 1809, passed an act abolishing all criminal prosecutions for publications concerning the government, or investigating the conduct of public officers, and leaving individuals who had been injured by such publications to their civil remedies.

So, too, in New-York, when in *Croswell's* case, in a moment of high party excitement, part of the judges yielding to that propensity so often found in mere lawyers, to regard authorities



rather than principles, determined that the truth could not be given in evidence, in defence of a political libel; although they were prevented by an equal division of the bench, from introducing that monstrous doctrine into the body of American jurisprudence, the legislature determined that no doubt should exist on that subject, and by a declaratory act declared the truth to be a proper and legal defence.

Massachusetts has established the same doctrine, by a declaratory act, passed 1827, and has further declared that a plea in justification shall not be deemed evidence of the publication, or of malicious intent, even though the defendant fail to prove his plea.

From this minute and perhaps tedious examination of the history of the law respecting political libels, it appears, that in England this doctrine of which we complain was introduced into the common law by the influence of the government; that it then was at variance with, and formed an exception to the common law respecting publications, in whose subject matter the community was interested; that this doctrine was always complained of, and sometimes successfully resisted, as illegal; that the whigs of England, a party which was generally found on the side of constitutional freedom, always protested against it, and finally succeeded in triumphing over this encroachment on the rights of juries; that the doctrine itself is inimical to the freedom of political discussion, and inconsistent with the character of our government, and that in the constitutions of most of our sister states, the doctrine is expressly repudiated as incompatible with our system of government. Against these arguments, all converging to one point, what can the learned counsel for the plaintiff urge—the opinions of the judges of the King's Bench, in prosecutions on the part of the government for political libels—opinions originating in Chief Justice Scroggs, and ending in Lord Mansfield. They may indeed declaim against the licentiousness of the press, and of the impropriety of bringing a man's foibles before the public. But it is not the licentiousness, but the freedom of the press for which we contend. This vice of intemperance is not a foible, as has been

alleged. In public men it is a crime. I do not contend for a rigid and austere code, that regards all conviviality as an offence against sound morals, but the vice stigmatized in the publication complained of, is a great and growing evil. It saps the foundation of morals, and when it shall be once tolerated in our public functionaries, it will destroy the character of our institutions. In some cases it may demand our forbearance, and even our pity.

When a man, after devoting his talents, and expending his fortune in the public service, is seen struggling in the decline of life, amid embarrassments resulting from his devotion to his country,—deserted by the heartless flatterers who, in his day of power, sued for his smiles,—surrounded by money dealers, and merciless harpies; who, like vultures, flock round their prey, ere life and sense be gone, we cannot wonder that he should seek relief from the cold ingratitude of the world, by steeping his senses in forgetfulness. We mourn over the wreck of greatness, and while we condemn his weakness, we pity and forgive the infirmity of purpose, which shrinks from contemplating his changed and fallen condition.

Even when men of commanding intellects retire from the glorious conflict of mind, and the discharge of duties for which the most gifted men, alone, are qualified to indulge in this degrading vice: when yielding to its influence, they hide their shame and their infirmity in retirement, admitting the fatal effects of indulgence, but still clinging, with blind infatuation, to the intoxicating bowl, we may deplore while we condemn the weakness of human nature, and mourn over the loss of learning and genius; but here there is nothing of vice to reprobate, except its weakness, and the example has no extensive and desolating influence.

But when a man of strong passions and intellect, whose principles render him popular, and whose political course has elevated him to power, as the favourite of his party,—when such a man indulges in the stimulus of the bowl, there is danger in the example, lest it sanctify the vice, and render it contagious. Should such a man be found in a high and prominent station

where the notorious exhibition of his infirmities, must attract the attention of the community,—affecting the character of his constituents, not merely in the opinions of the world, but by the sure though imperceptible contagion which always follows vice, practised with impunity, and placed above condemnation by the rank and popularity of the offender,—in such a case it is the task of a patriot, it is the duty of every citizen, loving his country, and prizing the purity and stability of her institutions, to strip the mask from vice in power, and in strong and nervous language, to hold up the violator of public decency, to the merited scorn and indignation of society.

This is the case before the court, and we complain that the jury were not permitted to pass upon the motives of the defendants in making the publication complained of, as they would have been in the trial of any other libel, the subject matter of which was important to the public. The repudiation of the doctrines laid down at the trial of this cause is required, to restore the unity and harmony of the common law. Under the opposite principle, the intention then becomes, as it ought to be, the criterion of guilt. If the mind is not guilty, the act is not criminal. This is a maxim of the common law in all its branches.

If the publisher intend to tell the truth for justifiable purposes, the law does not infer that his intention is malicious. You prohibit free discussion for all useful ends if you adopt any other principle. You may indeed preserve the form; but the vigour and life of free discussion, the boldness of remark, the active spirit of investigation into public abuses will have departed. What indeed can be expected from writers, cowering under the uplifted scourge of such a maxim? whom no purity of intention, no singleness of purpose, nor patriotic views can save from being classed and punished with the criminal libeller and defamer? No matter how strong his belief, how unsuspecting his good faith; no matter how convincing the evidence presented to his mind; no matter how urgent the necessity of informing the public, if his communication does not conform to the evidence laid before the jury; if his assertions do not square with the conclusions of men equally fallible with himself, his



intentions are to be deemed malicious, and himself liable to punishment. It is no answer to say, let men in publishing strictly adhere to the truth. It is a sufficient reply to this, that it is not in conformity with the common law concerning libels of this class, which makes due allowance for human fallibility. If man were of a different nature, and possessed of unerring judgment and sagacity, no objection could be made to this rule. They then would know what truth was. They would not be compelled to inquire with Pilate, when the Saviour of mankind was arraigned before him for preaching false doctrines, what is truth? They would know, and if they erred, they would sin against light and knowledge. They would intend to libel, and their intention would render them guilty. But to make it their duty to speak, and to punish them for speaking what they believe to be true, is punishing them for their fallibility, and not for their guilt. It is visiting upon man what, if it be wrong, is the error of his Maker. A principle like this is the essence of tyranny. It loses sight of the eternal distinction between right and wrong, and would be monstrous in any government.

In this government, it is fraught with the most pernicious consequences. The chief subjects of political discussion in a representative form of government, must be the conduct and principles of those who administer it, or in other words, the conduct and principles of the dominant party. So long as these are examined in a fair spirit of inquiry, with the view of imparting information to the public, and with honest intentions, the limits of discussion cannot be extended too far. In other countries, public opinion most generally acts as a check upon the government, whose official interest is somewhat at variance with the wishes of the people. It therefore is naturally arrayed on the side of those, who are prosecuted for political offences, and is a sure ally in their defence against the power of the government. As in England, it is the judge between the accuser and the accused. But in this country, it is the source and origin of political power. It stands in the double character of party and judge; and unless it can be addressed with freedom and boldness on the conduct of public officers, no abuses on the



part of those in power can be redressed. The avenue to the public mind will be closed; for who will accuse a party of doing wrong, when the members of that party are to decide as jurors, simply upon the truth of the accusation, without reference to the motives and belief of the accuser? No reform, even in the worst state of public affairs, can be effected, when such a doctrine prevails in a court of law. But with a press protected in the legitimate scope of its functions, by an appeal to the integrity and uprightness of purpose characterizing its publications, a majority however overwhelming can be kept in check, and within constitutional bounds. An appeal to such motives, when they are recognised by the law as forming a good defence, will obtain a hearing even in the excitement and heat of political conflicts.

On the other hand, those who administer the government are protected from unbounded abuse and calumny, by requiring qualities entirely incompatible with intentional falsehood.

But if the law infers malice when the charge is untrue; if error is to be the criterion of guilt, and a jury is required to decide upon the truth of political publications, and not upon the motives of their authors, and in so deciding, perhaps to condemn the course of those whom they have elevated to power, the rights of the minority will be placed at the mercy of the ruling party of the day. The sacred walls of the temple of justice will resound with the clamour of faction, and the accused will be acquitted or condemned, not in conformity with the principles of equity and law, but according to the excited passions and erring judgment of a fallible and prejudiced jury. The only security which the minority now have, or can have, against the abuses of power, will be destroyed. The dominant party take possession both of the government and of the jury box, and exercise their authority without the fear of censure or control. The press in effect is silenced; and under the semblance of freedom, the worst kind of despotism is introduced,—the despotism of faction, which sacrifices the rights of the minority according to the forms of the constitution, and silences all remark, and suppresses all investigation according to the forms of law.

I am shocked to think, that a doctrine pregnant with such consequences should be advanced in a court of justice in this country; and that it should now be a question in the court of last resort, whether we should go back to the principles of the Tudors and Stuarts—to arbitrary maxims invented to suppress political discussion; or adhere to maxims which are in accordance with the just and mild spirit of the common law, when not warped to subserve the designs of government. Upon these maxims depend the freedom of political discussion. It cannot exist where they are frowned upon; and in the melancholy history of the progress of truth upon earth, you may see their violation, whenever a martyr for truth's sake was to be offered upon the shrine of human error and passion. When the Saviour of mankind came upon earth to promulgate the doctrines of charity and peace, his intentions were not questioned by the priests and rabble that called for his crucifixion; but they demanded his life because his doctrines were not true. For ages, his disciples were dragged to the stake as schismatics and heretics, or rather as victims to sustain the heathen superstitions, which they were destined finally to overthrow.

When this Church, established by their blood, became in after times corrupted through the inventions of man, seeking to gratify his avarice and lust of power by the aid of religion, did those who endeavoured to restore the primitive faith meet with a kinder hearing or a milder fate? No! Other victims were demanded, and the councils of Constance and the fires of Smithfield afford ample evidence of our weakness and fallibility, when error and truth appear as antagonists before human tribunals. Nor is it in religion alone, that error has wielded the tyrant's rod, while truth has suffered the martyr's fate. Even in the physical sciences she has usurped the censor's chair, and condemned the humble disciples of truth to imprisonment and death.

Need I name Galileo, imprisoned in the dungeons of the inquisition for declaring that the sun was in the centre of the solar system. That eternal truth was then deemed heresy, and the Italian philosopher suffered, not for his criminal intentions,



but for his promulgation of error? The history of politics is full of the violations of this principle, and of the injustice perpetrated by error in the ascendant, upon the advocates of a better and freer system of government; but in all these instances, it is consoling to find that the "good old cause" has constantly advanced in the opinions of mankind. Hampden, when contending for the exemption of Englishmen from arbitrary taxation, was condemned by the subservient judges who then sat in the exchequer chamber; but in a few years the judgment was reversed by the commons of England. Algernon Sidney expiated his offence, for denying the divine rights of the Stuarts, upon the scaffold; but the expulsion of that ill-fated family from their country, and the reversal of his attainder, followed close upon his condemnation. The decision of the King's Bench against the freedom of the press, in the case of Woodfall, was subsequently overturned by the declaratory act of Mr. Fox, passed with the almost unanimous consent of the British Parliament. Such has been, in past ages, the fate of all who ventured to question the conduct of those invested with power, to suffer in their own persons for the success of the cause; and such will always be their fate, until courts shall learn to inquire concerning the intentions of the accused, instead of setting themselves up as arbitrators between truth and falsehood;—until in trials for political libels, as in trials for all other offences, the intention shall be a question of fact, for the decision of the jury;—until good faith, integrity of purpose, and honest intentions, shall serve as a protecting shield for all who are compelled to pass through the furnace of political persecution.

I know that these doctrines are unpalatable to those who, for the time, are invested with power. They teach them to question themselves; to doubt of their infallibility; to examine their darling prejudices; to relinquish long established opinions; to review, and even to condemn their own conduct. They require them to listen, and sometimes to yield, to the remonstrances of a minority, which they are but too much inclined to oppress.

Yet with these maxims, has the principle of free political discussion,—that guardian genius of the rights of mankind, made her way through the world, in spite of the tyranny of governments and the prejudice of the governed ; against the teachings of the schools, the denunciations of the pulpits, the influence of the aristocracy, and the power of the crown. In spite of the rack, the axe, and the bayonet, she has established her dominion in the old, and extended her sway over the new world. The gloom of the cloister disappeared in her light ; the scholastic and feudal systems, the offspring of error and ignorance, fled from her glance ; the bastile and the inquisition crumbled before her march ; the colonial fetters of rising empires were shaken off at her command, until she who within two centuries endured imprisonment in the dungeon with Galileo, and bowed her head on the scaffold with Sidney, assumed the arbitrament of the claims of nations, and sat in judgment on the fate of monarchs. I trust in God that this triumphant career is not destined to meet with a check in this country, which owes so much of its prosperity and happiness to the prevalence of this principle ; and that this court, possessing a representation of the learning of the legal profession, happily combined and tempered, through the electoral principle, with the spirit of the age, will not lay its parricidal hands upon a principle, to which it is indebted for its very existence.





# HISTORICAL VIEW

OF THE

## FORMATION OF THE CONFEDERACY.

ADOPTION OF STATE CONSTITUTIONS.—ARTICLES OF  
CONFEDERATION.—LIMITS OF STATES.

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AFTER the conclusion of the war of 1763, the British ministers seem to have adopted a more rigorous and uniform system of government for the North American Colonies than they had before been subjected to. As this ministerial project was regarded by the Americans, (to use the words of the eloquent Burke,) “as a system of perfect uncompensated slavery, in which the restraints of an universal internal and external monopoly were joined with an universal internal and external taxation ;” they prepared to resist the designs of the mother country with the spirit of freemen. This determination was not a transient feeling ; but a deep, enduring sentiment, pervading the whole mass of society ; supplying the place of laws and government, and inducing the colonists to place their persons and fortunes upon the hazard of successful resistance. In order to concentrate their forces, and to act in their common cause as one people, the leaders of the opposition were invested with power, by the primary assemblies, to represent the different provinces in a Continental Congress, and to act in their behalf, for the purpose of procuring a remedy for the evils with which they were threatened.

The first meeting of this body was held September 5, 1774 ; and in that body twelve of the colonies were represented by

the consent of the people. In this Congress it was determined to adopt such measures of resistance to the designs of Great Britain as did not necessarily imply a hostile disposition. An agreement neither to import nor consume British goods, nor to export produce to Great Britain, was entered into by the delegates for themselves and their constituents, and remonstrance and petition employed to avert the crisis which was manifestly approaching. In these acts, and the pledges which were mutually given, both by the delegates of the several colonies, and by the people in their primary assemblies, is to be seen the germ of the American Republic.

The next year, on the ever memorable 19th of April, the inhabitants of Lexington and Concord, in accordance with public sentiment, and (it may be said) the tacit general understanding of the colonists, in resisting the British troops, commenced hostilities, and thus put the respective rights and claims of the two countries upon the arbitration of war.

On the 10th of May, the delegates of the same provinces met again in Congress, and formally made the cause of the provincial troops round Boston, the cause of the colonies. They acknowledged it to be their own, and prepared to prosecute it with the same spirit with which it had been commenced. Steps were taken to place the colonies in a state of defence; rules and regulations framed for the government of the troops; measures adopted to expel the enemy from the continent; a large force assigned for the siege of Boston; bills of credit, to the amount of \$2,000,000, issued, and the faith of the twelve colonies pledged for their redemption; negotiations commenced with the Indians, to engage their friendship and neutrality; and a resolution passed, "prohibiting all intercourse with Georgia, except St. John's Parish, (which had then renounced all connection with the rest of the province,) Canada, Nova Scotia, Newfoundland, the island of St. John, and East and West Florida, as dependencies of the common enemy, until the further order of Congress."

In short, Congress assumed, in behalf of the country, the character of an independent nation, to effect certain specified

objects ; and the colonists ratified their proceedings, and conferred upon that body, by the resolutions passed in their primary assemblies, the powers of national government, so far as they should be required for the accomplishment of the objects proposed. These were, by negotiation or force, to bring the mother country to a sense of what was due to the colonies, and to settle the existing difficulties upon a permanent and equitable footing.

About three months after the commencement of hostilities, Georgia acceded to the confederation, and, of course, made herself a party to the proceedings, views and responsibilities of the other provinces.

In the course of the contest its character changed. The more full developement of the ultimate designs of the British government had convinced the colonists that there could be no safety in any connection with England, and they resolved upon separation. On the Fourth of July, 1776, by an unanimous vote of the Continental Congress, "these United Colonies were declared to be free and independent states," and all political connection between them and Great Britain to be totally dissolved. This declaration was only a public acknowledgment and justification of the resolution, which had been previously adopted. Nearly two months previous to that period they had manifested their determination, by recommending to the several provinces to form new civil governments. It would be difficult, among the many acts of resistance to the royal authority, to point out in the proceedings of the leaders of the Revolution, the first act by which they first indicated their determination to be a separate nation ; but this manifesto gave the most satisfactory evidence of their resolution, and pledged all the colonies to its execution.

By this instrument, and the subsequent proceedings thereon, the American people declared themselves to be an independent nation, then at war with Great Britain ; but as such, the whole were responsible to all the world, for the acts of the citizens of each and every of the colonies. They were free and independent, not as isolated states, but as the UNITED STATES OF AMERICA ; and as such only could they be regarded by mankind.



As between themselves, they were bound together by their acts and declarations; although the terms and conditions of their union were not properly defined. They comprehended, however, all that was necessary to prosecute the war to a successful result. To this they had pledged themselves; and, however Congress might have been disposed to conciliate and to persuade the several states, instead of resorting to coercive measures, no doubt can be entertained, that a refusal to comply with its requisitions upon any of the states for the public service, was a violation of faith, and that a withdrawal from the confederacy by one of its members, would have been a good cause of war, and have justified the invasion and conquest of that state by the rest of the union. The force of circumstances had formed them into a nation, one and indivisible, and instituted a general government, long before the state constitutions, or the articles of confederation, were framed. As such they were regarded by other civilized nations; and in that character, anterior to the adoption of any federal constitution, or articles of confederation, they had entered into a treaty of commerce and an offensive and defensive alliance with France; and had undertaken, in conjunction with that kingdom, important enterprises, which pre-supposed the existence of a national government, and that that government possessed certain extensive powers over the people of the United States.

With Great Britain, they were in a state of war, striving to expel her troops from the continent, and to appropriate for themselves as much of it as they could gain by force. With this view, expeditions were undertaken against the several British posts within the thirteen states, in Canada, the North-West Territory, and St. Augustine, in Florida.

As to the other European powers, they were but one people, and known either as the United States of America, or as the insurgent colonies of Great Britain. While among themselves they were communities formerly distinct for all the purposes of local legislation; though subject in some matters, and especially in all matters relating to Indian tribes and their territory, to the legislation of the mother country and the royal authority; but

now united by common wrongs and common apprehensions in one cause, and obliged to provide new political institutions to meet the exigencies of their novel situation.

This subject early engaged the attention of the actors in the Revolution ; and the novel spectacle was presented of a people contending for freedom and independence with a power, whose fleets and armics threatened their extermination, and occupied with arms in their hands in laying the foundations and erecting the superstructure of their political institutions. Since the time when Nehemiah rebuilt Jerusalem, there had not been seen a community, of whom it could be so emphatically said ; “ every person with one of his hands wrought in the work, and with the other hand held a weapon.”

Although, in the first burst of resistance, the place of civil government was supplied by public sentiment, and the powers of the Provincial and Continental Congresses ; still the necessity of adopting a more regular, and better defined political system, was admitted by all. Congress, acting upon this conviction, on the 15th of May, 1776, recommended to the *people* of the several colonies “ to adopt such government as should in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.”\*

Pursuant to that recommendation, the local conventions proceeded to prepare constitutions for each of the several colonies ; and their delegates in the Continental Congress endeavoured to frame an acceptable system of government for the confederacy, by which the very indefinite powers possessed by that body might be distinctly marked out, and the respective rights and obligations of the general and local governments properly defined.

The inhabitants of the old British Colonies, thus proceeded simultaneously to institute the political system, under which they were to exist as an independent community, united for some purposes, and separated for others. The local governments,

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\* First Journal Old Congress, 339, 345.

being more simple in their nature, and less extensive in their operation, were more readily agreed upon, and earlier established; but the intention of forming a national government was so early and so universally adopted, that it may be safely asserted, that the American people never entertained the idea of existing in independent and separate states.

They meant to be one and indivisible; and the only difficulty was how to apportion the powers of government, so as to give to Congress such powers as would enable it to represent and protect the national interests, without encroaching upon the state authorities, to whom was confided the care of the local interests. Instead, therefore, of regarding the general government as formed by concessions on the part of the state governments; it is to be considered as equally the establishment of the people, who, for the sake of convenience, after framing its constitution in a general Congress, expressed their assent to its provisions through their local assemblies, and apportioned to each its political powers, by the constitutions provided to guide those to whose hands the administration of the government was confided.

This apportionment, however, only referred to what then existed, and not to what was subsequently acquired by the thirteen states in their confederated character. For instance, if any thing had been acquired by conquest from Great Britain, as military munitions, or a province not acceding to the Union, or uncultivated and unappropriated territory, it is clear that such acquisition would have belonged to the confederacy, and not to the states separately. It would have constituted a common fund, to be appropriated for the prosecution of the war, the reimbursement of the public creditors, or in any other way for the general benefit. What belonged to the colonists, either individually or as provincial communities, was apportioned at the commencement of the Revolution among the several governments; but all acquisitions by conquest necessarily fell under the jurisdiction of the national government. As the property of the crown, it became the right of the opponent of the crown; as an acquisition in war, it was vested in that party which car-



ried on the war. This opponent of the crown was the American people, represented in Continental Congress. The quarrel was theirs, and theirs only, and to them, in their collective capacity, belonged the acquisitions and results of that war.

It was soon, however, foreseen, that in case of success it would be difficult to define the boundary, between what was conquered from Great Britain, and what had previously belonged to the colonists as distinct communities. This question was intimately connected with another, touching the Indian title to the territory occupied by them, and the right of pre-emption of that title. This right of pre-emption, according to the English doctrine, belonged to the crown; excepting in the states of Massachusetts, Rhode Island and Connecticut, where it was vested in the colonists, and in Pennsylvania and Maryland, which were proprietary governments. When the authority of the crown was thrown off, it was natural and proper that those aborigines who were surrounded by the white population, and within the actual jurisdiction of the local legislatures, should be confided to their superintendence. Without any of the attributes of independence; unable to protect themselves from their neighbours, and even from their own passions; and almost on the point of dissolution, as most of the tribes surrounded by the whites soon become, it was humane and necessary that those who were able, should assume the power and right of protecting and governing them. They could not be regarded as fit subjects for the care of a government instituted for national purposes; but formed a part of the several communities in which they resided, as the gypsies formerly made a part of many of the European states.

On the other hand, those tribes which did not come in contact with even the frontier settlements of the colonists, as naturally fell within the jurisdiction of the general government. They were independent in fact; under the government of their own chiefs and national councils; and at the formation of our government, so far from claiming any authority over them, great solicitude was manifested, and great pains taken by the public authorities to conciliate them, and to preserve their friendship or neutrality in the impending contest.

Other tribes, almost in contact with the white settlements, without being enveloped by them, could not be so distinctly classed. They were too powerful and too well organized to be ranked with the former as under no government of their own, and still they were so connected with the colonists and the crown by treaties, as to be considered partly dependent.

The same state of things existed as to the western boundaries. With the exception of Maryland, Pennsylvania, Delaware, New-Jersey and Rhode Island, the chartered limits of the provinces were very indefinite. So far as the states had any existence independent of the royal charters, they were communities confined to the eastern side of the Appalachian mountains. To the extent of their continuous settlements, and, indeed, to the utmost limits of their usual and actual jurisdiction, no doubt could be entertained as to the right of the several states. As little could exist as to the right of the confederacy to that territory, which had been placed beyond the provincial limits by the crown, and which, consequently, was an acquisition, by war, from Great Britain. It was difficult to define the extent of these respective rights; and this difficulty was increased by the conflicting claims of the different states as to their own boundaries. Another question was also presented by the nature of the Indian title, and the doctrine that notwithstanding this title, the ultimate dominion, or right of pre-emption, belonged to the crown. Within the acknowledged limits of many of the states, the Indians still claimed and occupied large tracts of territory, to which their title had not been extinguished.

Here, again, were conflicting claims. The confederacy contended, that all this was royal property, and therefore became vested in the antagonist of the crown. The states insisted that they possessed the sovereignty over the soil, and that that carried with it the property. These complicated difficulties left no other alternative, than to arrange the matters by compromise and negotiation.

Under these circumstances, the local conventions and Provincial Congresses proceeded to institute state governments, and the Continental Congress to frame articles of confederation, for the direction of the general government.

RELATIONS  
BETWEEN  
THE CHEROKEES  
AND THE  
GOVERNMENT OF THE UNITED STATES.

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The relations existing between the government of the United States and the Cherokee nation, are now rendered more worthy of examination than ever, by the late proceedings at Washington.

The character of the confederacy of the United States, (which directly depends upon the proper adjustment of these relations,) is a subject of great interest, both to the present generation and to posterity. It is regarded by the contending parties throughout the political world, as the great exemplar of free governments, and upon its conduct and success depends the speedy advancement, or the temporary defeat, of the liberal party. Its force is not a physical, but a moral force. It consists in a national character, unsullied by injustice and oppression. The inquirer cannot find in their annals the records of successful and unprovoked invasions—of triumphs achieved over the rights of nations and humanity. The government of the nation has, on all occasions, appealed to reason as its standard, and by that standard it will be judged. After a profession of its principles, so openly and so often reiterated, it cannot shape its course according to the dictates of a temporizing, prevaricating policy. It must act up to its principles, or it must disavow them. The path of honour and justice is open, and it may travel on alone, sustained only by the moral strength, which a strict adherence



to the maxims of integrity gives to a nation ; or it may shrink from its high destiny, and, like the members of the Holy Alliance, stoop to share in the petty plunder, derived from stripping the weak and the defenceless of their possessions. If it be emulous of the fame of the partitioners of Poland, the invaders of Spain, and the plunderers of India ; an opportunity to equal, and even exceed them, is forced upon the government of the United States, by the conduct of the state of Georgia ; and upon the disposition of that question rests the future character of our country. By the rash and unjustifiable measures of that state, the national government is compelled to become a party to the forcible removal of the Indians within its limits, or to protect them in the lawful enjoyment of their rightful possessions.

In an age like this, with a free press, and thousands ready and willing to vindicate the rights of the meanest and most defenceless ; we cannot, if we would, dispose of thousands of human beings, like cattle, without inquiry. Their wrongs will go forth to the world, and the agency that we have in their final disposition, must make part of the national history. Let us, then, as we value the opinion of mankind, as we regard the approval of our consciences, examine well the relations between the white inhabitants of the United States, and the surviving aborigines, before any irrevocable step be taken.

Scarcely two centuries have elapsed, since the Europeans landed upon the American continent. They then found the country covered by the native tribes of the new world. The resources of the country were not so fully developed, as if civilized men had applied their faculties and arts to that end. Agriculture, commerce, and manufactures, did not flourish, as if under the control of civilization. This, however, did not give to Europe a right to depopulate America. To vacant territory, the white comer had as good a right as the tawny native ; but to occupied territory, to land appropriated to the purposes of planting and hunting, the Indian had a right, which was as valid as that of an English nobleman to his extensive manor and vacant park. The history of the early colonial settlements, shows

this right to have been generally respected; and purchases were made from the native chieftains by the first settlers, of large tracts of land, for which a valuable consideration was given. Notwithstanding the fairness of the public authorities, injustice was occasionally practised by individuals; and the ignorant and untutored savage was often driven, by these unauthorized wrongs, into indiscriminate hostilities with the colonists. If, in the conflicts, their numbers were wasted, and often whole tribes were exterminated, one could only lament the hard fate which seemed inevitable. The peculiar situation of the colonists, and the habits of their foes, impelled them to that course. With the founder of Carthage, they might have truly said,

“*Res dura et regni novitas nos talia cogunt  
Moliri.*”

In the lapse of time, however, this necessity ceased: and the philanthropic men who guided the councils of these states, when they were uniting as one nation, determined to make an effort to preserve the remnant of the American Indians from the destruction to which they were visibly hastening. A peculiar race of men was wasting away—a race, distinguished for many noble and exalted qualities, was daily diminished by the sword, the pestilence, and the vices which they had acquired from the example of the Europeans, without adopting the political and social system, which deprived those vices of their exterminating qualities. In a few more generations, unless some effort should be made for their preservation, they felt that the aborigines would cease to exist, and the race be numbered with those, whose language and habits only afford scope for the speculative inquiry of the antiquarian. This decay, too, had commenced upon the arrival of the Europeans, and seemed to be a consequence of their contiguity. As philanthropists, therefore, and as patriots, watchful over the national character, they were desirous to rescue the Indian from extinction, and to elevate him to the rank of civilized man. They felt this to be due, not only to the savages and to their own character, but it was a just tribute to their ancestors, who had founded this empire of civilized humanity in the American wilderness, to serve as a refuge from

the oppression and injustice of the old world. They could not bear, that their fathers should be reproached as the merciless extirpators of the aboriginal race. They had no ambition to be ranked with the Goths and Vandals, who destroyed the Roman empire ; with the devastators of Europe ; or with the unrelenting conquerors of Hispaniola and of Mexico, who laid the foundations of their sway in the destruction of the native inhabitants of those countries. While they anxiously sought to perpetuate and extend the Anglo-American republic, they were not regardless of the untutored savages within its limits. They intended, if possible, to elevate them to an equality with themselves, by affording to them all the helps of civilization ; and, at all events, to preserve themselves, in case of their extinction, from all participation in hastening that unhappy result.

As civilized men, and as Christians, they were bound to extend the benefits of their superior knowledge to the Indians. The preservation of the savage from extinction, and his advancement in the scale of creation, depended, in a great degree, upon the conduct of his civilized neighbours. This duty was rendered more imperative by the unauthorized wrongs to which the aborigines were subjected by individual rapacity, provoking, as they frequently did, contests, where, from the hard necessity of the case, the Indian, though not always the aggressor, was invariably the sufferer.

Whilst the British government claimed the sovereignty over the country, an adequate excuse was perhaps offered for not adopting any general plan for the improvement and civilization of the natives. Individual efforts were not wanting, and the names of Winthrop, Williams, Baltimore, Penn, Oglethorpe, Elliot, and Brainerd, are sufficient to rescue our ancestors from the charge of indifference on this important point.

Upon the assumption of independence, however, the whole responsibility devolved upon those who founded the American government. A wider field was opened for the exercise of all the noble and exalted qualities, which distinguish those who administer government for the benefit of society, from those who usurp it for themselves. By settling among the aborigines, and



by elevating their country to the rank of an independent power, our ancestors charged themselves with all the responsibilities which grew out of the relations existing between educated and civilized Christians, and the ignorant and savage heathen who surrounded them.

A principle had, indeed, been adopted by all Christendom, which vested, so far as European consent could vest, the sovereignty of the country in the first European discoverers or occupants, to the exclusion of all other European nations. This gave to the United States, upon the acquisition of their independence, the sovereignty within certain limits, as against any adverse European claimant. This was but a qualified sovereignty. It was a right of sovereignty as against foreign nations; and the government also assumed authority as sovereign over its own subjects, to prevent American citizens from interfering with the territory in possession of the Indians, which, upon the extinguishment of the aboriginal title, it claimed as public property. It did not, however, claim the right to appropriate the soil, without the consent of the native inhabitants. In no province did the colonists conceive their title to be good, so long as the Indian title remained unextinguished. To the honour of the country be it recorded, that in no instance did the public authorities sanction the abominable doctrine, that civilization gave to the white man a right to exterminate or enslave the native, or to confiscate or appropriate the property or land of his tribe. These Indians, whatever may be thought of the wisdom of that Providence who so ordered it, were the original occupants and owners of the country. They had enjoyed it from immemorial time. Our ancestors, indeed, had a right to land on this continent, and to occupy as much *vacant* soil as was necessary for their accommodation; but neither they, nor any other men, had a right to drive the aborigines from their possessions. This right of accommodating themselves, by occupying vacant land in a wilderness, must be so exercised as not to interfere with the rights of others. It is founded upon a presumption, that the Deity intended the soil for cultivation; but the Deity also created the Indian to enjoy the soil after his manner;

and unnecessarily to deprive him of his limited enjoyment, would not only be unjust, but cruel. Such are the great and immutable principles of morality and natural jurisprudence.

The Indians were not subjected by any right of conquest; and the abominable doctrine of the ancient Papal Church, that the property and persons of the heathen were the lawful prey of Christians, had been long rejected as one of the maxims of a barbarous age. The Indians were, therefore, to be treated as a separate and independent people, governed by their own customs and laws, and occupying their own territory. All interference with them on the part of the whites was regulated by treaty, and their territory was to be acquired only by compact. Such were the principles adopted by the government of the United States at its formation in regard to the aborigines. They had been generally conformed to by the colonial governments; but the national sanction then given to them was of a more deliberate and solemn character. At the same time, they undertook the fulfilment of the duties growing out of the superior relation in which they stood. In the moment of impending peril; at the commencement of their desperate struggle with the mother country—when they knew that years of suffering and trial must be endured before the attainment of their right of self-government, they forgot not their obligations towards the aborigines; but deliberately adopted, as a part of their national policy, a plan to improve their condition.

They exhorted them to stand aloof during the approaching conflict. An Indian department was organized, to be administered by commissioners, and in the same year that the Declaration of Independence received the sanction of Congress, resolutions were also adopted providing for the protection and improvement of the Indians, and recommending measures for the propagation of the Gospel, and the cultivation of the civil arts among them. With this view, provisions were made regulating the Indian trade, and a deliberate scheme of policy adopted for their gradual improvement and civilization. Treaties were made with the principal tribes, defining the boundaries between their territory and that belonging to the whites; and

the United States agreed to furnish, at their expense, the principal tribes with domestic animals, implements of husbandry, blacksmiths, and, in some instances, "suitable persons to teach them to make fences, cultivate the earth, and such of the domestic arts as are adapted to their situation." The object of these treaties cannot be misunderstood. It was an offer on the part of the national government to the savage of civilization. It was a manifestation of one of the most glorious attributes of superior intelligence, and breathed the purest spirit of a religion, which proclaims peace on earth, good will among men.

This offer was accepted on the part of the Indians. Amidst all the degradation which had attended their intercourse with the whites, they always manifested an earnest wish to preserve their race from extinction, and to partake of the improvement of their civilized brethren.

Upon this footing matters stood at the commencement of the independent existence of this Republic. The whites claimed sovereignty over the whole territory, to the exclusion of foreign nations, but did not assume to exercise any of its rights over the Indians. The tribes were treated as distinct and independent; and the boundaries between the respective territories of the two parties were marked out by treaty. Congress, under the old Confederation, did not presume to extend its jurisdiction over the territory which the Indians had reserved to themselves; and it always strenuously denied that the state governments had any right to interfere with Indian affairs. The United States were seeking to civilize the Indians, and to render them a stationary people, depending for subsistence on the cultivation of the soil. All this, however, was attempted to be done by the moral influence of precept and example.

It must be borne in mind, that, in establishing these relations, the white man was the lawgiver, and the Indian acceded to them, because he was made to believe that they would result to his benefit.

It was implied that they would ultimately eventuate in the establishment of the aborigines, as a civilized community, within the territory secured to the tribes by the treaty. On no other



supposition can the National Government escape from the imputation of holding out deceptive expectations to the Indians.

The good faith heretofore manifested by the federal authorities, conclusively shows, that this was the result which was desired. The first section of the act making an annual appropriation for the civilization of the adjoining tribes, affords a memorable proof of the sincerity of its intentions:—"For the purpose of providing against the further decline and final extinction of the Indian tribes adjoining the frontier settlements, and of introducing among them the habits and arts of a civilized life, the President of the United States is authorized, when he shall judge improvement practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation, and for teaching their children," &c.

The talk of Mr. Madison to the Indians, in 1812, affords another proof of its sincerity; and, as the manifesto of the American government, we shall submit a part of this document to the public.

"I have a further advice to my red children. You see how the country of the eighteen fires is filled with children. They increase like the corn they put into the ground. They all have good houses to shelter them from all weathers, good clothes suitable to all seasons; and as for food of all sorts, you see they have enough and to spare. No man, woman or child, of the eighteen fires, ever perished of hunger. Compare all this with the condition of the red people. They are scattered here and there in handfuls. Their lodges are cold, leaky and smoky. They have hard fare, and often not enough of it.

"Why this mighty difference? The reason, my red children, is plain. The white people breed cattle and sheep. They spin and weave. Their heads and their hands make all the elements and productions of nature useful to them.

"It is in your power to be like them. The ground that feeds one lodge by hunting, would feed a great band by the plough and the hoe. The Great Spirit has given you, like your white

brethren, good heads to contrive, and strong arms and active bodies. Use them like your white brethren of the eighteen fires, and, like them, your little sparks will grow into great fires. You will be well fed, dwell in good houses, and enjoy the happiness for which you, like them, were created. These are the words of your father to his red children. The Great Spirit, who is the father of us all, approves them. Let them pass through the ear into the heart. Carry them home to your people; and as long as you remember this visit to your father of the eighteen fires, remember, these are his last and best words to you!"

The beneficent policy which is here so simply, but beautifully recommended, has partially succeeded with many Indian tribes. In the Cherokee nation, however, it has produced the most triumphant results—results which establish the practicability of civilizing the Indians. It has been the good fortune of the Cherokees to have had born among them some great men. Of these, Charles Hicks, lately a chief, stood pre-eminent. Under his guiding counsels, and aided by the policy of the national government, they have outstripped the other tribes in the march of improvement. They seek to be a people, and to maintain, by law and good government, the security of persons and the rights of property. That they have made great advances in civilization, is generally understood; but, in order to present an exact picture of their condition, the following account, extracted from a letter of David Brown, resident in the tribe, and published among the official documents of the government, is here inserted:—

“Horses are plenty, and are used for servile purposes among them. Numerous flocks of sheep, goats, and swine, cover the valleys and hills. The natives carry on considerable trade with the adjoining states; and some of them export cotton, in boats, to New-Orleans. Apple and peach orchards are quite common; and gardens are cultivated, and much attention paid to them. Butter and cheese are seen on Cherokee tables. There are many public roads in the nation, and houses of entertainment kept by the natives. Numerous and flourishing villages are seen

in every section of the country. Cotton and woollen cloths are manufactured here. Blankets, of various dimensions, manufactured by Cherokee hands, are very common. Almost every family in the nation grows cotton for its own consumption. Industry and commercial enterprise are extending themselves in every part. Nearly all the merchants in the nation are native Cherokees. Agricultural pursuits engage the chief attention of the people. Different branches in mechanics are pursued. *The population is rapidly increasing.* In the year 1819, the Cherokees, east of the Mississippi, were estimated at 10,000 souls. In 1825, they amounted to 13,563 native citizens; besides 220 whites, and 1,277 slaves."

They have also established a constitution, whose provisions are better calculated, as it is expressed in its preamble, "to establish justice, insure tranquillity, promote the common welfare, and secure to ourselves and posterity the blessings of liberty," than many of the more elaborate contrivances of their European brethren. The government is representative in its form, and is divided into executive, legislative, and judicial departments. The trial by the jury is established, and the particular provisions of the constitution, while they are calculated to accustom the Cherokees to the principles of our system of jurisprudence, are peculiarly well adapted to the anomalous condition in which the nation is placed. The whole is well suited to secure to the tribe the improvements already made, and to stimulate them to further advances in civilization.

Another proof given by the people of their capacity of self-improvement is furnished in the Cherokee alphabet, invented by one of their native chieftains, named Guess. Like Cadmus, he has given to his nation the alphabet of their language. It is composed of eighty-six characters, so well adapted to the peculiar sounds of the Indian tongue, that Cherokees, who had despaired of acquiring the requisite knowledge by means of the schools, are soon enabled to read and correspond with each other. This invention is one of the greatest achievements of aboriginal intellect. Like the European and the Asiatic, the American savage has now found a means of perpetuating the productions



of mind. A barrier is erected against the encroachments of oblivion.

Henceforth his peculiar forms of expression, his mental combinations, and the sublime suggestions of his imagination and feelings will be preserved. An empire of intellect is founded upon a new and stable foundation,—and when did such an empire experience a decline, till by regular gradations it had attained the climax of human grandeur ?

A printing press established in the nation, issues a newspaper, periodically, imparting information and intelligence throughout the country.

The religion adopted by the nation, and now universally professed by the whole Cherokee people, is that promulgated by Him who was sent on a divine mission to the Gentile as well as the Jew—to the savage as well as the civilized man—the religion of Christianity, which, wherever it reigns, whether in Europe, Asia, Africa, or America, elevates its professors above those of other religions.

Such is the spectacle now presented by the Cherokee nation. It reflects honour on the past policy of the government, and affords irrefragable proof of the sincerity of its intentions towards the aboriginals, and a conclusive answer to the charge of cruelty and grasping cupidity in its transactions with them. When the British Quarterly accuses our government of deceptive attempts “to preserve appearances by fraudulent and compulsory purchases of land,” and states to Christendom (as it lately did, No. 61.) that “it has always been the boast of American policy, *that the Indians shall be made to vanish before civilization, as the snow melts before the sunbeam,*” we can appeal to this tribe for a refutation of the charge. Here, we can say, exists a community of aborigines, enjoying the lights of Christianity, and fast advancing, under the protection of the republic, to an equality with the white race in civilization.

Here is the evidence on which we rely for a refutation of the calumny, and, so long as it exists, it will afford the proudest evidence of the beneficent spirit of the government, of an unstained national character, and of the power of civilization.

Whether this testimony is to remain in the archives of the country, among the title deeds and evidences of national character, which were handed over by the late administration to its successors, has now become a question to be finally settled. The measures of the administration, since the accession of Gen. Jackson, commencing with his talk to the Creeks of March 23d, and the letter of the Secretary of War to the Cherokee delegation, of the 18th of April, 1829, indicate a departure from the ancient policy of the government. They are in a different strain from those previously presented ; but whether in a loftier, a nobler, or even in a fairer strain, is a question now to be examined. The President, in his talk, tells the Creeks that they must remove, because "you and my white children are too near each other to live in harmony and peace." This is a short and emphatic way of solving the difficulty. It is, indeed, a "straight talk," and comes to the point with military directness.

With the Cherokees, however, the administration is more argumentative, and certain principles and statements are appealed to, in order to justify this departure from its ancient policy. It is placed on the ground that, in the Revolutionary war, the Cherokees were allies of Great Britain ; and that the treaty of Hopewell, by which they were received into the favour of the United States, only allotted to them certain territory as hunting grounds ; that, upon the acquisition of independence, all the rights of Great Britain became vested in the original states of this Union, including North Carolina and Georgia ; that those states never relinquished the rights of sovereignty and jurisdiction over the soil to the Union, and consequently may now exercise those rights, notwithstanding any treaty made by the federal government : and that the guaranty given by the United States was not adverse to the sovereignty of Georgia, because the United States had not the power to give such guaranty. It would not be too strong to say, that these assumptions and statements are generally unfounded, and evince an entire want of the knowledge of our Indian relations ; but as we seek to inform the public, so that its opinion may have its proper and legitimate effect—we shall present a concise statement of these relations, from official sources.

By the treaty of Hopewell, the boundary of the lands "allotted for their hunting grounds" was marked out. By the same treaty it was agreed, that if a citizen of the United States attempted to settle on those lands, he might be punished by the Indians according to their own laws; and by the twelfth article it was provided, that the Indians should have the right to send a deputy of their own choice, whenever they thought fit, to Congress. This treaty was made in the year 1785, under the old Confederation, when Congress had the power of regulating trade, and managing all affairs with Indians, "not members of any state." These tribes were clearly not members of any state, and, of course, the management of their affairs fell under the jurisdiction of Congress. Georgia, however, did not assent to this construction of the articles of confederation. Although, during the fury of the contest, and while dependent for existence upon the arms and efforts of the Union, it had remained silent; no sooner was peace obtained than it sought to appropriate, for its separate benefit, the territory obtained by the common effort of all; and set up pretensions to interfere with the Indian tribes, to which Congress was compelled to oppose its high authority. The opinion that was entertained of the conduct of Georgia, in this respect, may be collected from the proceedings of Congress in the year 1787, particularly from a report dated August 3d, a resolution passed October 20th, and the instructions to the Commissioners for negotiating a treaty with the Southern Indians.

In all these, the conduct of Georgia is condemned, and its pretensions pointedly rebuked. The Federal Constitution was finally adopted, and in that instrument provisions were inserted, with the view of obviating the previous difficulties. The treaty-making power was vested in the President and Senate, and the states were prohibited from entering into any treaty of any description; and the limitation contained in the old articles of confederation of the power of Congress for regulating Indian affairs, viz., "provided that the legislative right of any state within its own limits, should not be infringed or violated," was omitted.



This change was designedly made, in order to prevent collisions between the state and national authorities, in relation to the Indians, like those which had taken place under the old constitution. The federal government was now invested with the exclusive power to regulate commerce with the Indians, and of making treaties with them ; and also of repelling their hostile encroachments.

To this constitution Georgia became a party ; and thereby relinquished all right of interfering with Indian affairs. The general government now proceeded to establish friendly relations with the Cherokees, who, with the Creeks, had been driven into a war with the whites, by the conduct of Georgia.

In 1791, a treaty was concluded at Holston, between the United States and the Cherokees, by which the boundary line was established, and the Cherokee claim to the land, east and south of the line, extinguished.

The 7th article of that treaty is as follows :—

“The United States solemnly guaranty to the Cherokee nation all their land not hereby ceded.”

It was further stipulated, that all citizens settling on the Cherokee land, should forfeit the protection of the United States ; and that any citizen of the United States committing any offence within the Cherokee territory, should be punished as if the same had been committed “*within the jurisdiction of the State or District* to which he may belong, against a citizen thereof.”

Provisions were also made for the improvement of the condition of the tribe, and that they “may be led to a greater degree of civilization, and to become herdsmen and cultivators, instead of remaining in a state of hunters.”

In 1798, a further cession of their territory was made by the treaty of Tellico ; and the United States, in the 6th article, agreed to “continue the guaranty of the remainder of their country FOR EVER.”

Other treaties were subsequently made, down to the year 1819, not altering the relations established by those treaties : but, on the contrary, by a treaty made in 1817, the old treaties were expressly confirmed.

These were the obligations which the United States had assumed previous to the agreement of 1802, with Georgia :— a solemn guaranty of the Cherokee lands for ever to that nation, and a promise to establish them as cultivators of the soil, and to promote their civilization.

The President declares this guaranty to be no longer binding, and that the United States have not the power to interfere to prevent their expulsion. No longer binding ! And why ? The Cherokees have not released them from their obligation. They have committed no act of hostility, by which the treaties have been annulled. On the contrary, they have adhered to the United States through good report and through evil report ; and when their blood has been shed in battle, it was in the white man's cause.

How then is our pledge redeemed ? The agreement between the United States and Georgia, of 1802, does not touch the case. This was a compact to which the Indians did not assent. It released the United States from no obligations to third parties. It only declared the boundary line between the public territory and that territory, which was thereafter to constitute the state of Georgia. Previous to that agreement, the western limits of that state had been the subject of dispute. Georgia claimed to extend its western boundary to the Mississippi: the United States claimed, as public territory, all west of the Ocmulgee river. According to the construction given by the United States to the charter of Georgia, its western boundary would have run through the present centre of that state ; and all between that line and the Mississippi, was territory to which both parties laid claim. After much discussion, these conflicting claims were settled by the agreement of 1802—Georgia ceding to the United States “her right, title and claim to the jurisdiction and soil of the lands” west of her present boundary ; and the United States ceding to Georgia their “claim, right, and title, to the jurisdiction or soil of any lands” east of that boundary. It must be borne in mind, that in no other instance where the claims of the United States and individual states to disputed territory were settled, was it thought necessary for the United States to cede

their claim to the territory reserved by the state as within its proper limits. The National Government accepted the cession, and the title of the state to the territory not ceded became complete. In the case of Georgia, however, it was deemed essential, in order to vest in the state a good title to a part of its present territory, comprehending the whole Cherokee country now in dispute, for the United States to cede their right. This cession, of course, comprehended no more than the United States could give, viz., a title encumbered with all their obligations to the Indian tribes occupying the territory ceded; and Georgia took it, subject to the guaranty of the United States to the Cherokee nation. The guaranty was prior to the agreement, and unless it be maintained that the United States and Georgia were competent to dispose of the vested rights of third parties, it must enter into the construction of that agreement. The cautious limitation of the obligation assumed by the United States to extinguish the Indian title, east of the boundary, "when it could be peaceably obtained upon reasonable terms," shows that this guaranty entered into the contemplation of both parties, and that they looked only to a voluntary cession. To this mode of extinguishing the Indian title, and the limitation of its sovereignty, which the prior obligations of the United States imposed, Georgia expressly assented, by an act of its legislature, declaring the articles of cession to be binding and conclusive on the state and its citizens, for ever. It now, however, claims the right to remove the Cherokees, by extending its sovereignty over them. The citizens of Georgia have become impatient at their long and continued residence among them, and they are clamorous for their removal. Their cupidity has been excited, and their avarice inflamed, by the fair and promised land which they occupy, and they call aloud for its division among them by a lottery. The spacious territory which has been so lately ceded by the Creeks, has excited, rather than satisfied their desire;

"As if increase of appetite had grown,  
By what it fed on."



and they demand the Cherokee country, with its cultivated fields, its luxuriant gardens and orchards, and its flourishing villages, with the view of further corrupting the people of the state by another land lottery. This is the object at heart. This is the real motive of all this craving desire to remove the Indians. For years the state has been urging it on the General Government, in a tone alike discreditable to its humanity and patriotism. In order to effect it, one fraudulent treaty was made, at the instance and under the direction of the state government, which the late administration, sustained as it was, in that particular, by public opinion, refused to carry into effect. Finding that they can neither persuade nor cajole the Cherokees into a cessation, they now attempt to intimidate them, by threatening to extend the jurisdiction of the state over them.

In this at least there is nothing to shock the moral sense of mankind. The jurisdiction of Georgia! Surely there can be nothing here but an extension of the benefits of civilization, under the direction of a civilized legislature! The inhabitants of Europe and America, who may feel solicitous for the fate of the Indians, can find here no substantial violation of guaranties, no disregard of national faith! It is but an extension of the social and judicial system of Georgia over the Cherokees! The whole procedure is in the spirit of benevolence, and forms only a part of the national policy!

Such is the plausible appearance of the outward aspect of this proposition; but in reality it is a decree of removal and expulsion. It is mild and pleasant, like the voice of Jacob; but the hands are those of Esau. The jurisdiction of Georgia is one thing to the whites; but another and an opposite thing to all of a different complexion. To the whites it speaks in the spirit of the common law, and secures to them freedom and equal privileges: to the Indian it speaks in the language of proscription, and divesting him of both civil and political rights, degrades him from the rank of a freeman, to the level of a disfranchised mulatto and negro. Without the privilege of voting, or of appearing in courts, either as party, witness, or juror, stripped entirely of his civil rights, and of his national character, he is placed at the

mercy of the government of Georgia ; at the mercy of a government maintaining in the face of heaven and man, such principles as have been disclosed in the official papers of that unfortunate state on this subject.

This would indeed be *committere agnum lupo*.

It is not easy for a government to divest itself of all concern, for those whose interests are committed to its charge. The worst governments have always more or less of public motive to excuse their policy ; but when a government has two classes of subjects, the one to enrich, and the other to impoverish ; when one becomes the sole object of its care, and the other of its rapacity, it is impossible to imagine a system of more unmitigated oppression.

Unchecked by human feeling, and with all its measures sanctioned by motives of expediency and care for the public weal, it deliberately proceeds to the perpetration of acts, from which individual wickedness would recoil with horror. Already have we seen under the sanction of these laws, the citizens of Georgia, invading the Cherokee territory as if it were an enemy's country, dragging its inhabitants before the state magistrates, and finally condemning them to prison as criminals, because they will not acknowledge the legality of these unconstitutional laws.

Well may the General Government take it for granted, that the migration of the Cherokee nation is the only alternative. With the high and exalted ideas entertained by the Cherokees of their national character, they never can consent to be disfranchised, and scattered like vagrants through the state, relying for protection only on the tender mercies of their persecutors. Better, at once, to oppose themselves to this systematic usurpation ; and, calling on the United States for a compliance with their guaranty, and relying on the justice of their cause, to resist, to the last, all invasions of their country, and of their homes. They have every thing which can animate them to resist. On one side, exile and extirpation ; on the other, their continuance as a civilized people. If they remove into the wilderness, beyond the Mississippi, nothing human can preserve them from the fate of the other tribes, which have been overwhelmed by

the tide of civilization. Civilized man has passed them in his onward march to the Pacific ; and they have not yet proved victims to a movement, which, like the car of Juggernaut, has crushed others into the earth. They have escaped from most of the frontier collisions and conflicts, which are produced by the advance of the pioneers of civilization into the wilderness. They have obtained a vantage ground, from which they can see the promised land ; where, according to the words of their American Father, "they may cultivate the soil, and increase their little sparks to great fires," under the protecting arm of this Republic. Let them cling to it as to the ark of their salvation. If necessary, let them resist unto death. Better, a thousand times better, would be the quiet of the grave, than protracting a miserable existence, rendered wretched by repeated and compulsory removals into the wilderness, before the advancing footsteps of the more powerful people who occupy their country, and treat its ancient possessors with persecution and heartless contempt. Tantalized with hopes of civilization which they are forbidden to realize ; deprived of the hardy vigour of the savage state, and then called upon to relinquish the comforts of their improved condition ; if driven beyond the Mississippi, they must share the fate of a race, which, like the autumnal leaves of their own forest, seem doomed to be scattered by every blast, but to whom no spring brings renovation.

From this fate they have no hope of escaping, but through the justice and integrity of the federal government. By an implicit (it is to be hoped not a useless) reliance upon its good faith, they have stripped themselves of every other resource under heaven. They have appealed to the highest tribunal in the land, and by its solemn judgment these laws of Georgia are declared to be unconstitutional and void, as violating the laws and treaties of the United States. There is no longer any question as to the validity of their claims. The Supreme Court of the United States, created by the federal constitution as the tribunal of last resort, has decided in their favour, and they ask to be protected in the land of their ancestors, from the violent invasion of Georgia, according to the plain import of the treaties. With



the solemn guaranty of the United States in their hands, they demand the interposition of the national arm to save them from degradation, exile, and death.

This appeal cannot be answered, by a reference to idle distinctions between the powers of the state and federal governments. The Indian affairs are a common concern. The faith of the nation is plighted to them, and its character is pledged to the world, that the Indian tribes within our limits shall be treated with delicacy, kindness and humanity. The eye of Europe is upon us, and we cannot escape from this high responsibility. These legal distinctions and constitutional subtleties, repugnant to the common sense, and unpropitious to the common necessities of mankind, will be regarded as mere inventions for the purpose of covering our participation in the plunder of the aborigines. The world will not believe—indeed it will not, that our constitution interposes insuperable obstacles to the preservation of national faith. The whole distinction will be regarded as a mere pretence, infinitely more offensive to fair minds than the open avowal of injustice. Far better would it be for the President of the United States to give to the complaining Cherokees the short answer of the Dey of Algiers to plundered merchants asking redress—“Do you not know that my people are a band of robbers, and that I am their captain?” Far better, and far more manly, would be this bold avowal, than a pretended distinction, which, under an affected reverence for legal observances and constitutional forms, abandons a helpless and dependent community to all the desolating consequences of arbitrary power, stimulated to action by the most intense and craving cupidity.

God forbid that the American people should sanction this distinction. I do not fear that they will. They spring from a generous stock of ancestors—from men who hazarded all, and suffered all, through a steadfast adherence to principle. The faulty part of their character does not savour of a spirit of selfish injustice, or of grasping rapacity. It rather inclines them to the opposite extremes. Their principles of government and of state policy, are drawn from that great reservoir of jurisprudence

established by their English ancestors, and enriched and liberalized by the free discussions and masculine understandings of their own revolutionary fathers. These principles, their glory and their protection—at once an ornament and a safeguard—have sunk deep into the hearts of the people of the United States. They are endeared to them by the associations of childhood and the experience of maturity. They are the great results of their past history—the fences and muniments of their present liberties—and the pledges of a long career of future glory and prosperity. They form the public sentiment of the country—a principle which, like gravitation, pervading and omnipotent, at once supports and controls their political system.

As long as they remain unchanged and unchangeable, giving aliment and life to public opinion ; as long as our government shall continue to be the embodying of the sentiments of an enlightened people—the concentration of the opinions of a free, educated, and Christian community,—the House of Representatives, with its awful power of impeachment bringing these opinions into action,—the Senate, the guardian of state sovereignty and of national faith—the body whose sanction gave existence and value to these sacred guaranties, and the tribunal before which all violations of these pledges must be arraigned ;—as long as these branches of our government shall continue to be guided by the will of the nation, so long will our plighted faith guard the rights of the Cherokees, and of all other dependants upon our justice, from the spoliations of rapacity, and the iron hand of oppression.





## A D D R E S S

BEFORE THE

## NEW-YORK HISTORICAL SOCIETY.

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1839.

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LOOKING back, with the eye of historical observation, a little more than two centuries, and the country we now inhabit was but one vast wilderness. The stormy Atlantic rolled its billows upon a desolate coast, where a dense forest, coming down to the ocean, and unbroken, except by the rivers which drained this great continent, bore witness to the complete triumph of uncultivated nature. This mighty wilderness of forest, prairie, and lake, extended from the Atlantic to the Pacific—its silence disturbed only by the water-fall, or the crash of some decaying monarch of the wood—affording shelter for the wild beast, or for the still wilder savage, who wandered through its mazes in search of food.

At the eastern line of the horizon, we may discover a vessel making for this solitary coast. It approaches, and, after a careful selection of a haven, a company of hardy men land upon the verge of this wilderness. They are not mere adventurers in search of gold; nor have they come to pay a hasty and temporary visit to this new world. The shores which they wistfully gaze upon are to be their permanent homes. These constitute the only country they now have. The habits of civilization they have brought with them, and the rudiments of civil and social institutions, are engrafted upon their minds. All around them is wilderness, and cultivated man is thus brought into direct

association with uncultivated nature. The forest is to be subdued, and social, religious and political institutions are to be established, to control and influence the people, who are destined to subject it to the uses of civilized man.

This is a brief description of the condition of the founders of the American settlements, whether we look to the followers of the chivalric and adventurous Smith ; the hardy Hollanders, who established themselves here ; or the stern and enthusiastic Puritans who landed at Plymouth.

In order to form accurate notions of their peculiar position in the history of mankind, we must glance beyond the ocean to the civilized world, with which they have for a time almost entirely disconnected themselves.

Looking at the old continent, it is impossible not to perceive a marked difference between the Northern and the other European governments. The former seem to have been founded upon one comprehensive and uniform principle, and consequently have been less affected by the movements of modern society. The governments simple and more absolute : education confined to the nobility : and villienage still in full existence in the North,—all attest how comparatively small has been the advance of those governments, and that they owe their origin to a common source,—the customs and institutions of the Sclavonian or Northern tribes.

The social institutions of middle and Southern Europe, on the contrary, have been founded on the ruins of a pre-existent state of civilization, and they are to be elucidated by reference to their history and long established usage. In this particular they resemble, as has been most accurately observed, the edifices of Italy and Greece at the present day. Their materials have not been quarried out of the living rock ; but collected from the scattered remains of the temples and dwellings of ancient days. While the sterner and harsher features of the political institutions of Northern Europe remind the observer of the primitive formations of their granite mountains.

Hence, in examining into the theory of the governments of Southern Europe, we are at once carried back to the era of the

fall of the Imperial City; for in the crumbling frame of the Roman Empire, and in the fusion or amalgamation of the invading barbarians with its conquered inhabitants, we are to look for the elements of European civilization.

The policy of the imperial government was, to render the provinces tributary and entirely dependent upon the capital. Her servants and favourites were rewarded by provincial appointments, in much the same manner as England now provides for her decaying nobility, by giving to the younger scions of the aristocracy some office in the colonies. The rights of peace and war, of legislation, and of levying taxes, were taken from the provinces to be exercised at Rome, and nothing was left to them, but the powers of administering the laws of the emperor.

The Imperial Code, afterwards so celebrated as the civil law, was extended over the whole empire, and was administered by prefects and judges appointed at Rome, and generally citizens of that city.

The maxim, that subjects had nothing to do with the government, was predominant in all parts of the system. They had only to obey; and the object of political institutions was not to protect the subject from the tyranny of the ruler, but to enforce justice, as between individual citizens, and to preserve order and tranquillity. For *this*, these laws were admirably adapted, but they provided no security for political rights. Regarding the emperor as the controlling mind, and requiring unqualified obedience from the subject, no provision was made for the improvement and advancement of the mass of the community; and from the necessity which man is under of advancing or retrograding, the Roman Empire had thus early implanted the principle of degeneracy, and of ultimate destruction.

This empire was broken up into various fragments, which, in the course of time, were united under different heads, and now form the existing kingdoms of Europe, by successive irruptions of the barbarous hordes from what historians call the northern hive of nations. From the earliest antiquity, this portion of the globe had periodically sent forth its swarms of hardy warriors, to invade the more favoured climes; and we



learn from the classic historians of Rome, as well as from those who, in a degenerate style, recorded the events of her declining years, that the invaders were accompanied by their wives and children, and that they came with a determination to find a country or a grave.

The first inquiry then is, what influence did the political institutions of the empire exert in establishing the existing constitutions of Europe? and for a solution of that inquiry, we must ask, what was the political organization of the empire? It is hardly necessary to inform this audience, that this empire was composed by the successive conquest of *cities*. Rome itself was in the beginning merely a municipality; and she extended her sway over Italy and Greece, by overcoming rival *cities*, which after the conquest merely acknowledged the supremacy and authority of Rome, and were permitted to preserve their municipal organization. The whole shore of the Mediterranean, from Byzantium to Carthage, was studded with cities, and France and Spain were divided into small districts of country, which were dependencies upon some large town or city. It was by the conquest of these that the Imperial City established her authority throughout Europe; and when she sought to extend her empire over the thinly settled countries of Parthia, Scythia, and Germany, her political system proved unequal to accompany the march of her legions.

As these dependent provinces preserved their municipal organization, their connection was easily dissolved, as soon as the military supremacy of the capital was at an end; and during the fifth century, the ascendancy of the northern hordes being fully established, the western empire fell a victim to her barbarous invaders.

The customs of the conquerors, like those of all warlike savages, were simple, and their laws aimed chiefly to secure military discipline, and an equitable distribution of plunder. They brought with them, however, two principles of paramount importance; not only in giving them victory and power for the time being, but in impelling the communities with which they were about to unite into a new channel of exertion. The *first*

was the feeling of personal independence, which characterized the German and Vandalic tribes, and which was widely different from the kindred sentiment among the Greeks and Romans, that led them to exult in their character as members of a political association, or citizens of a state. The *other* principle was the institution of military patronage, or the attachment of the followers to certain leaders, by means of which the parties gained the advantages of combined force, without assuming any general obligations to society.

After achieving an easy conquest over the degenerate inhabitants of the empire, they proceeded to appropriate the country to their own use. This appropriation was accompanied with the violence and confusion ordinarily attendant upon a forcible conquest, and for many years all the component parts of society seemed to be resolved into chaotic disorder, and Europe was given up to the dominion of rapacity and force. At length something like system and order began to appear. The land was divided into districts, over each of which a chieftain was placed, called a count, to collect the revenue, and to lead the military contingent in war. Their followers were rewarded by smaller portions of land, which they held in propriety on condition of serving in defence of their feudal lord. Several of these counties were placed under the supervision of a more powerful chieftain or duke. These in their turn owed allegiance to the king under whom the conquest had been achieved, and from whom their title to their possessions was supposed to be derived.

The Romans, or original inhabitants, were in some cases reduced to servitude; in others they were permitted to farm lands of their conquerors, and, in some favoured instances, they possessed them in propriety.

They were, however, every where held in less estimation in the eye of the law than their warlike masters, and no provision was made for their advancement, or for their participation in the government. *That* was still of a military character, and its laws looked more to the reward of valour than to the preservation of civil or political rights. The military commander and his chief followers constituted a favoured class. For the

preservation of their privileges they established a code, denominated the Feudal System, in which the two principles, to which I have referred, remarkably predominate.

According to this system, which was a primary process in establishing the European governments, every thing assumed the relation of lord and vassal, and all looked to a common lord or sovereign. Even the municipalities, which had survived the shock of barbarian violence, and remained almost as the sole relics of the empire, were compelled to own some feudal lord. To the sovereign, however,—the common head,—all ostensibly submitted, as the source of authority, whether judicial, legislative, or executive. In the performance of these political duties he was assisted by his chief officers, as forming a kind of council, and their decrees, which at first were judicial proceedings, finally assumed the authority of laws, and served as the basis of European jurisprudence.

In that age of violence, however, the authority of the sovereign was not always implicitly respected. Each chieftain had a numerous following, and choosing for his residence some elevated spot, he constructed his castle, and held himself equally ready to aid his sovereign against foreign invaders, or to resist him, in case he encroached upon his own peculiar privileges.

“*Might makes right,*” was the maxim of the age, and the law of force could only be executed by the strongest. Hence the necessity of associating in the government the feudal barons, and the reason of their great and peculiar privileges. The nobility formed a *real* body in the state, and had they been governed by one mind, the *real* power in the European governments would have been vested in the aristocracy, and the monarchs would have been merely the *nominal* head of the state, without authority. The nobles had valour, skill, landed possessions, and warlike followers, attached to their lords from early associations and by common dangers.

The monarch was, it is true, the supreme chieftain, had more extensive estates, and a more numerous band of retainers; but these advantages would not have enabled him to withstand any extensive combination of the nobility. Their own divisions,



the aid of the church, and of the burgesses, or the third estate, and a fortunate combination of circumstances, were all necessary to give the ascendancy to the monarch, and to enable him to triumph over his refractory dependents. This was finally effected, after bloody and protracted contests, marked by many vicissitudes, and lasting through a series of generations.

Thus in England, the crown was more than once endangered by the power of the great Earl of Northumberland; and all admirers of the English drama are familiar with the name of Nevil, Earl of Warwick—"the setter up and puller down of kings."

So, too, in France, the long and dubious wars between the crown and the Dukes of Normandy and Burgundy, and the Counts of Flanders and Brittany, too well attest the power of these refractory nobility.

To reduce these independent chieftains to the rank of subjects, the monarchs were obliged to call in the aid of the burgesses, or inhabitants of the cities; and to ensure their zealous support, their interests were enlisted on the side of the crown, by granting to them a charter confirming their municipal privileges. The cities, as I have already remarked, preserved their municipal organization from the wreck of the empire, and the victorious barbarians, although enforcing their supremacy, and occasionally exacting tribute, chose for their own residence the country, as more congenial to their taste and habits. The burgesses, in time, consequently acquired the sentiment of independence, which they found prevailing among the nobility, and fortifying their towns, occasionally evinced the same disposition to refer their rights to the arbitrament of force. Disputes constantly broke out between them and their feudal lords, and as one or the other party appealed to their common sovereign, a community of interest began to grow up between the kings and the cities. In the contest with his nobles the monarch, therefore, resorted to the burgesses for aid, and as the crown acquired power, the third estate was also elevated in the scale of society, and the nobility proportionably depressed. In this conflict between the monarchical and aristocratic interests originated the popular or democratic interest.

The church was also found on the side of the crown. In such lawless times it was natural that the church, in its anxiety to repress licentiousness and violence, should lend its aid to strengthen the authority which was appointed to restrain the turbulent and disorderly. The Catholic clergy, too, found their temporal views better promoted by an alliance with the king.

The church, therefore, imparted a spiritual sanction to the regal authority, and was repaid by being allowed to share in the temporalities of the crown.

As these disorganized elements settled into something like system, certain modifications took place. The councils, which at first were composed entirely of the nobility, were enlarged by the admission of the higher orders of the clergy, and the delegates or the municipal officers of the more important towns.

They went by various names, as the Parliament, in England; the States General or Provincial, in France and Holland; the Diet, in Poland and Germany; and the Cortez, in the Peninsula; and met, not periodically, but occasionally, when some special difficulty required a legislative remedy.

The laws promulgated in these assemblies were construed and applied by officers appointed by the king; although the Courts Baron of England, and the many local tribunals in that country, and in the continental kingdoms, fully demonstrate, that the nobility still maintained an independence of the head of the state, altogether incompatible with the existence of any settled and regular system of jurisprudence.

Under the influence of these causes, which were common to all the divisions of the Roman Empire, the political institutions of Europe were established; and although they were modified by the peculiar character of the different nations, by their customs and other causes, which there is not space to detail, the same general results were produced. A number of monarchies were erected on the ruins of the Roman Empire, in which the political power of the government was vested in the king; but his authority was disputed both by the nobility and the priests, and it was solely maintained by availing himself of the mutual jealousy of the various orders in the state. The basis was

feudal. The monarch was at the head of the government, as the source of honour and authority ; and the clergy striving to impart a spiritual sanction to his title, in the belief that they thus strengthened their claim to dispose of earthly crowns, as the vicegerents of the Deity ; the nobility, with great and undefined privileges, and substantial power to enforce them ; the cities acknowledging feudal dependence upon some neighbouring lord, but exercising many sovereign powers ; and the great mass of the agricultural population holding property and liberty entirely at the mercy of their superiors ; and even the burgesses claiming civil rights by virtue of some royal grant or charter. Ignorant of their own strength, without the means of general communication with each other, and brought up in habits of dependence and obedience, the lower classes remained in subjection to the higher orders of the state, without questioning their right of control. Even when some intolerable oppression drove them to rebellion, as in the insurrection of the peasantry, or the Jacquerie, of France ; of Jack Cade, in England ; and of Massaniello, at Naples ; it was rather a sudden ebullition of fury, than a systematic effort to improve their condition ; and temporary success only served to demonstrate their unfitness for self-government. The invariable result consequently was, the restoration of the aristocracy, which, rude and uneducated as its members were, was better calculated to preserve the community from anarchy, than the serfs and peasants of the middle ages.

The third estate by degrees, however, obtained power and influence ; and as civilization advanced, it began to acquire weight in the social system, and held itself ready to make its strength felt in the affairs of Europe.

As a preliminary to the distinct and independent appearance of that power in the state, it was essential that the power of the nobility should be so diminished, as to prevent their numbers and force from crippling the action of the popular principle. This was effected at about the same period, towards the end of the fifteenth century, by the rapid growth of the power of the crown in the several kingdoms of Europe, and the concentra-



tion of the authority of the state in the hands of their respective monarchs. Thus, in Germany, the house of Austria acquired the imperial diadem, and by rendering it, to all practical purposes, hereditary, caused monarchy to gain the ascendant in the empire. The crowns of Castile and Arragon were united by the marriage of Ferdinand and Isabel; and their power enabled them to complete the subjugation of the Moors, and to unite Spain under one head. In England, the great baronial families were broken down by the wars between the rival families of York and Lancaster, and Henry the Seventh and his son became virtually despotic. In France, the standing body of troops, which Charles the Seventh was compelled to keep on foot to defend his kingdom against England, imparted new power to the crown, and enabled its possessor to pursue a steady policy in increasing its authority. This was done by his successor, Lewis Eleventh, and the opportune descent of Burgundy upon a female during his reign, enabled that sagacious and unscrupulous monarch to reduce the nobility to a state of abject dependence, without calling in the commons to his aid. France thus became a pure unmixed monarchy; and the monarchical principle predominated throughout Europe. Partial causes, however, operated in particular kingdoms, which imparted peculiar features to their respective constitutions. Thus, in France, the chivalric feeling of the nobility, or what Montesquieu calls the principle of a monarchy, the sense of honour among the aristocracy, prevented that class from being reduced to the level of the commonalty.

They were deprived of the political power, which had been vested in their order, as a body; but their ideas of personal distinction remained unchanged, and they preserved their peculiar privileges as individuals belonging to a superior class of citizens. While this then in some degree served to check the despotism of the king, it tended still more to curtail the rights of the people.

In Spain, from an early period of its history, the authority of the nobility seemed to have been greater even than in France; and the Cortez, which, in Castile, Arragon, and their dependent

kingdoms, seemed to have been coeval with their constitutions, were more frequently convoked, and exercised a more marked influence in their affairs, than the legislative assemblies of the other continental kingdoms.

The representatives or municipal officers of the cities made their appearance in those bodies at an early period. The existence of the Moors as a hostile nation, of different religion and complexion, in the heart of the kingdom, compelled the kings to respect the privileges of the nobility, and to yield to the claims of the cities, which, as affording a refuge to the Spaniards against their Moorish enemies, were both numerous and powerful. The Spanish constitution would probably have exhibited a monarch with comparatively limited prerogatives, had not the crowns of Naples, Sicily, the Low Countries, Germany and Spain, been united on the head of Charles Fifth, and that at a period when the treasures of the new world rendered the crown, to a great extent, independent of the legislature for its supplies.

This empire, with the exception of his Austrian possessions, was entrusted to his son, Philip the Second, bigotted, cold, and despotic in his disposition, and of unrelenting determination. With these qualities, and aided by all the powers of the church and the newly established inquisition, he entered upon a crusade against the liberties of his subjects. In Spain he was successful. The people were naturally indolent, and the new world opened a field for all adventurers, who might have resisted the usurpations of the monarch, had they not been allured to the Dorados of America in search of honour and wealth. Hence, after a feeble contest, the whole power of the state was vested in the crown; and the government, from being a limited and occasionally an elective monarchy, controlled by a Cortez, in which the three estates met, and where they exercised supreme power, even over the sovereign himself, became an absolute monarchy, restrained only by the chivalric feeling and haughty independence of the nobility.

In the Netherlands, on the contrary, his arbitrary designs were frustrated. Here was a people not merely accustomed,

but compelled, by the nature of the country, to severe and unremitting labour. The feudal nobility did not find in the Low Countries the same motive to an early appropriation of a territory, which at best was but partially secured from the ocean, and which required constant exertion to preserve it for the use of man. Here, therefore, the arts and manufactures were early established, and the Netherlands were occupied with an industrious but hardy population of artisans and mariners. Hence the common people were not so degraded, when compared with the nobility; and the Flemish and Dutch cities were early noted for a pertinacious defence of their privileges against the encroachments of their rulers.

The doctrines of the Reformation, too, at this time, were diffusing themselves among the common people, and contributed to more rapidly develop the popular principle, that had appeared in the Netherlands. These doctrines, which recognised the right of private judgment, in questioning the infallibility of the church, prostrated one of the firmest supporters of the throne. Reason was called in to the aid of the popular cause. Having been taught to judge for itself in matters of conscience, it was no great stride to inquire into the sufficiency of reasons of state. A being with an immortal soul, accountable for the deeds done in the body, was entitled to question the propriety of the commands of his political ruler. Blind obedience could no longer be exacted from one, who rejected the doctrine of absolution, and who held himself responsible to the King of Kings. He was obligated to square his conduct with a law from above, and resistance to the unlawful commands of unjust rulers was inculcated as a maxim of religion. These principles soon brought the inhabitants of the Low Countries into collision with the government of Philip, and after a bloody war, that continued through more than one generation of men; Spain was compelled to relinquish her claims, and the freedom of Holland was established upon the lasting foundation of the Reformed Church. A government was formed, with a member of the Orange family at its head. The conduct of the foreign relations was entrusted to a representative body, called the



States General; but the real power was vested in the provincial states.

The government of this new power, which was called the Confederation of the Seven Provinces, was feeble and inefficient, and incapable of preserving its independence, except through the jealousy of the surrounding kingdoms. Still it promoted the happiness of the community, and presented the first instance of a government instituted for the benefit of the people.

Law, as administered by judicial tribunals, was substituted for the will of arbitrary rulers, and private rights were secured by an adherence to certain definite principles. The want of intelligence in the mass of the community prevented the lower classes from being the depository of political power, which was entrusted to the syndics and burgomasters; but these were directly connected with the labouring classes, with whom they were in the habit of daily intercourse, and were in fact their natural and proper representatives.

This was the first instance of the predominancy of the popular principle among what may be regarded as the European family of kingdoms; for the Swiss Confederacy was too isolated, and exercised too little influence with its neighbours, to be taken into consideration. The establishment of the liberties of the people of England took place at a later period, and was indebted to the same cause,—the influence of the Protestant religion, for its success.

The Magna-Charta, so often called the palladium of British freedom, was merely intended to guard the barons against the encroachments of the crown. Certain provisions in that instrument are indeed general in their expressions, and would seem to have been intended for the protection of all classes; but in that rude age the villeins or rustics were of too little consideration to be made the motive for limiting a phrase of general import: and the only article expressly for their benefit, by which their agricultural implements were exempted from distress for royal fines, was really for the benefit of their lords.

It is scarcely necessary to extract from the voluminous records of English history, proofs of this statement. From the

earliest periods down to the reign of the First Charles, English monarchs evinced an entire disregard of the boasted privileges of Englishmen.

Before that time the Star Chamber, acting as a court of extraordinary jurisdiction, had enforced the pretensions of the higher classes by such penalties and laws as it thought proper to adopt. In his reign the Presbyterians, holding similar opinions to those for whose sake our Puritan ancestors had just before left their native shores, came into collision with the head of the English Church; and a refusal to pay taxes imposed solely by the crown was a consequence of the quarrel. A majority of the judges, when the question was brought before them by Hampden, sustained the pretensions of the crown; but the decision was subjected to severe criticism, and the king being compelled by the Scotch rebellion to convene a Parliament, the House of Commons overruled the judgment of the court; extorted from the crown a surrender of its claims to impose taxes without their consent; and thus rendered it necessary to resort for the periodical supplies to Parliament, where the popular branch was held to have the sole power over money bills. This branch had now a recognised existence in the constitution, and was clothed with power to curb the ambition of the court. It had, however, in its composition a strong aristocratic tendency, and, by means of the borough system, it soon became an engine of the aristocracy, who obtained a complete control over the House of Commons. Hence there was not so much gained for the mass of the people by the constitution of Parliament, as by the checks provided against the exercise of arbitrary power in the bill of rights, and in the habeas corpus act, which have been justly regarded as the bulwark of British freedom. The whole political power was in practice entrusted to the aristocracy, and the liberties of the rest of the community were secured only as dependent upon them.

Parliament was, according to the phraseology of the common law, omnipotent, and was competent to modify not only the laws, but even the constitution of the kingdom; and this body was entirely controlled by the nobility and landed aristocracy.

The only security of British freedom, therefore, was in public opinion; and the history of that country at various times, and especially during the Scotch and Irish rebellions, and the French Revolution, has shown how insufficient a safeguard, that can furnish against an aristocracy constitutionally invested with the sovereign powers of the state.

Among the northern kingdoms of Europe, as Russia, Sweden, Denmark, and the Germanic powers, the popular principle did not so distinctly appear.

They did not form a part of the old Roman Empire, and consequently were not influenced by some of the elements which so materially modified the institutions established by their migrating countrymen in middle and southern Europe.

The fusion of their social elements is not even now accomplished; and at the era of which I am speaking, the action of public opinion and of the popular principle, had made no impression upon the original character of the governments of the Northern powers. Their legislative councils were composed of the more powerful nobility, who occasionally, but not at stated periods, aided the monarchs in making laws for the realm; and they were rather representatives of the military contingent, or force of the state, than of its civil interests. The legislation partook of the rude character of the age, and was a mixture of the Slavonian and feudal customs, somewhat modified by the principles of the civil law, which were fast extending themselves over all Continental Europe, and giving a marked character to its jurisprudence. The legislation and the government, however, resembled those of the more southern kingdoms, in those peculiar features which characterize the political institutions of Europe, and serve to contrast them with those of our own country. They looked to the preservation of the privileges of the favoured classes as a primary object, and upon the general welfare and popular rights as of too slight importance to be considered in establishing the constitution of a state.

These were considered as merely dependent upon the will of the crown, or of the aristocracy, and might be extended or resumed at the pleasure of the sovereign.



In this view of the governments of Europe, as they existed before the American Revolution, I have not specially adverted to what are, with great looseness, denominated the Italian Republics. These governments partook of the aristocratic character of the political institutions around them; but they were without a monarchical head, and thus were rendered more liable to civil feuds and domestic dissensions.

Belonging to the central portion of the old empire, and longer accustomed to municipal government, the Italian cities preserved more of their ancient institutions and a greater degree of independence than the cities of the other provinces. These municipal governments were administered by the more influential citizens, and although sometimes elective, there was nowhere anything like an instructed or enlightened popular mind acting upon the government. The mass of the community was too ignorant to act either in establishing the government, or in supervising its administration, except by impulse. The feudal aristocracy, who in Italy did not preserve the same degree of solitary independence as in the adjoining kingdoms, took up their abode in the cities. As citizens, however, they could not brook an equality of rights; and by their power, their pride, and their ambition, they kept the towns in a constant turmoil, and using the lower orders as their instruments, by inflaming their passions against their opponents, they drove their antagonists, as either party alternately prevailed, from their native cities. The exiles, despairing of being restored to their homes, would implore the intervention of some foreign power, and Italy thus became a prey to her more powerful neighbours, and was for centuries the battle ground of Europe. The political constitutions of that classic land were too unsettled to be used as illustrations of any position, except of the danger of small communities existing under independent governments.

In the other European kingdoms, the monarchical principle had now acquired a decided ascendancy, except in Holland, where the government was, to a certain extent, popular.

It was now, however, destined to come in collision with a principle, which had before shown occasional symptoms of hostility;

but which now began to assume a consistent shape, and to aim at a definite and recognised supremacy in the state. I refer to the democratic principle—the principle which looks to the welfare and happiness of the mass of society, as the only legitimate end of government.

Men had become tired of being pack horses for the privileged orders. The public mind—the general intellect, had been excited and quickened by the master spirits that appeared in Europe during the 16th and 17th centuries.

Vasques de Gama had doubled the Cape of Good Hope, and opened the way to the East Indies.

Columbus had boldly penetrated the waste of western waters, and informed the stirring spirits of the age, that beyond that until then impassable gulph, there was a world whose fertility and wealth far outshone all that poets had ever imagined of “Ormus and of Ind.”

Galileo, by the invention of the telescope, had subjected the heavenly bodies to the use of man : had given a new and boundless field to his aspiring mind, not as to the shepherds of Chaldee and Arabia, merely as a theme of wonder and contemplation ; but as the objects of practical science ; and by his mighty magic, had brought down the stars to serve as land-marks to the daring mariner in the midst of the pathless ocean.

Martin Luther and his coadjutors had boldly assailed the infallibility of the Pope. They had roused subjects to think and rulers to act in behalf of the rights of conscience, and thus led the way in the insurrection of the European mind against the intellectual tyranny of the church.

Francis Bacon, than whose no greater name stands on the annals of learning, had commenced a new era in science, by establishing it upon the sure foundation of observation and experience : and finally the invention of printing, that mightiest engine of human improvement, by the general diffusion of knowledge, and the multiplication of books, had secured the productions of human intellect from the corroding tooth of time, effectually prevented any retrograding in the march of mind ; and erected an eternal bulwark against the return of barbarism and ignorance.

Such was the condition of the European world, when, impelled by various motives, but all closely connected with the excited spirit of the age, our ancestors left the shores of Christendom to found the colonies of North America.

Whether we look to the eastern, the middle, or the southern states, we find the first settlers all animated by a thorough determination to shake off the shackles of antiquated prejudices, and to establish their social institutions upon the new principle which had begun to make its appearance in some of the governments of Europe.

In the southern colonies, and in this state, the colonists were commercial adventurers, and their laws were, of course, thoroughly imbued with those principles of equality and justice, which are essential to the prosperity of a trading community.

The colony of Maryland was composed of Catholics, who had been taught in the school of persecution the duty of charity and toleration; and the pacific followers of Penn, who spread themselves through Pennsylvania and New-Jersey, had learned from the precepts of their founder, to call no man master, but to look upon all men as their brethren.

Among the puritans of New-England, however, are to be found the qualities and principles that exercised a controlling influence in forming the character and shaping the destiny of the American people.

The extraordinary sect that founded the colonies of Plymouth and Massachusetts, were not only Protestants in religion, but they were dissenters from the political faith of blind obedience, which was then professed by the English nation. In their struggles against the religious supremacy of the crown, they were often tempted to question its temporal authority. When they were dragged before the council and thence to prison, it was not surprising that they should, in their hearts, throw off allegiance to a power which tortured the body, in order to enslave the mind.

They were, in truth, ripe for the resistance which, in the next generation, was offered by the stern Presbyterians to the usurpations of the crown, and would then have led the way to a



commonwealth, had the nation been prepared to second their efforts.

Their religious opinions, too, peculiarly qualified them for the task to which they had devoted themselves.

Their system of faith was one of self-denial, humiliation and prayer. It rendered every passion of the human heart subservient to a vehement desire of knowing and executing the will of Providence. All the temporal motives, ambition, avarice, self-love, all were swallowed up in this absorbing feeling: and yielding to its influence, they embarked with their families upon the tempestuous ocean, and turned their backs upon their native country, with a fixed determination never to return.

Upon landing on the wild and barren shore, which their bark first touched, how striking and original was the situation in which they were placed. They had not left their own country like the colonists of the ancient republics, with the countenance and under the protection of the parent country; nor had they come to America like the commercial adventurers whom modern Europe has so often sent to the East and West India settlements. They had deliberately and permanently adopted another country. There was no prior governments, upon the ruins of which their own political institutions were to be erected. The wilderness was before them, extending from the Atlantic to the Pacific; and here was intelligent, educated, and civilized man, about to found a nation, whose social institutions were to be established upon the basis of freedom and equality.

The colonists had been taught by bitter personal experience, that the political institutions they had fled from, were not fitted to promote the happiness of the mass of the community. They had no inducement to copy the frame of their government from those, which at home, were overgrown with the abuses of antiquity. Privileged orders had no charms for them. They were all equal in rank, in sufferings, and in sacrifices. They were not compelled from their relations with those around them, to erect a feudal system, or a magnificent hierarchy in the American wilderness. All this was indissolubly connected in their minds with imprisonment, persecution and exile.

But they were placed here in a new country, where a virgin soil offered its treasures to their industry, with all the arts of civilization and the lights of science, possessing all the experience which the failures in governments for four thousand years could teach, and free from the motives and interests that have imparted the principle of corruption and decay to the social institutions of other countries. In the vigour of youth, and unshackled by prejudice, they commenced their course from the goal which the nations of Europe had only partially attained after centuries of exertion.

The popular principle—the will of the majority—was recognized as the fundamental principle of the government of the new colony, and it was inculcated, as a primary duty of government, to cause general instruction to be diffused among the members of the rising generation, in order that the enlightened will of an educated community might control the policy of the government. \* \* \*

In all the North American settlements, whether founded for commercial purposes, or to serve as an asylum to those who had left the old world for conscience sake, the colonists were all equal in rank. Subordination there was; for without it no enterprise can be successfully prosecuted; but it was voluntary obedience, or such as resulted from the laws adopted by the common consent of the new community. It was not a subordination of classes, established by law or custom, (often so much more powerful than law,) which conferred upon a particular order of men peculiar privileges, because their ancestors served under Clovis, or came in with William the Conqueror. The colonists were all equal in rank, and of the same class of society. How unlike the condition of Europe in any stage of its progress, from the barbarous institutions of feudalism to the civilized governments of the nineteenth century. There were no cities nor municipalities, with rights and privileges derived from a pre-existent state of society. There were no feudal tenures to be granted, nor any feudal duties to be performed, for the purpose of sustaining their social institutions against the hostility of the old inhabitants of a country occupied by conquest. There was no expensive ecclesiastical establish-

ment, whose support constituted a perpetual burden upon the agricultural portion of the community. There was no hereditary monarch, with all the costly paraphernalia of a court, nor any privileged orders, to be maintained by exertions "wrung from the hard hands of peasants" by any indirection. The soil was not burdened with tithes nor with taxes, nor fettered nor tied up by entails, long trusts and intricate family settlements. It was all wild as the Deity had created it, and civilized man had now come to take possession of this rich inheritance, and to extend over it the social institutions of an educated and Christian community, upon the broad and natural basis of freedom and equality. This, however, was not to be done by military conquest. The wilderness was to be subdued, but it was to be subdued by labour. The treasure which was hidden in its bosom was to be brought to light only by industry, and the necessity of their condition imposed upon them laborious and simple habits as indispensable to their existence.

Situated as the colonists were, idlers could not be tolerated, and he stood first among them whose qualities rendered him most essential to their prosperity. The form of government was therefore necessarily elective, and at first purely democratic, the whole community consulting and deciding upon the course proper to be adopted in any emergency.

In the commercial settlements there was a royal governor, and sometimes these governors manifested an arbitrary disposition; but it is so difficult to sustain power unreasonably exercised in a new settlement, and the settlers so often evinced their determination to make the governors conform to the general will, that even in the royal and proprietary colonies, they were constantly obliged to consult public feeling; and at the first establishment of the settlements, its members formed rather a voluntary association of adventurers, than a community subject to regular government.

In the eastern colonies they were still more popular. The governors there were elected by the colonists themselves, and in the colony established at Plymouth, (the earliest, and in all important particulars the model of the New-England settlements,) the colonists, upon landing, entered into a written social



compact, (the first the world ever saw,) by which it was agreed, that the will of the majority should be the law of the colony. They then chose a governor from among themselves, and without the sanction of a royal charter, they laid the foundation of their popular institutions on that wild New-England shore, with the canopy of heaven for a covering, and four thousand miles of ocean flowing between them and the abode of civilized man. If we recur to the manner in which this colony extended itself, we shall see the reason why the democratic principles, which predominated in the establishment of its government, lost none of their strength and influence as the settlements became more numerous.

As the domestic relations of all the colonies were peaceful among themselves, whenever any number of colonists intended to found a new settlement, they chose some suitable spot, and cutting down the forest, commenced erecting their humble dwellings, with their own hands, for the protection of their families. Having established the few simple laws that were necessary for the maintenance of good order, some of the oldest and ablest of their number were appointed by common consent to enforce them. These were called the *selectmen* of the settlement, a title well known in the eastern states, and were annually elected, as they are at the present day, and constituted the municipal authorities of all the New-England towns.

To preserve them against the savage tribes, who were then formidable, both from their numbers and hostile disposition, every person able to bear arms was required to perform military duty; and their officers were chosen in the same primitive mode—the soldiers electing those who were to command them.

Their church organization was upon the same popular foundation, each society choosing its own pastor by a majority of the votes of the congregation, and responsible to the rest of the community only through the medium of public opinion. In this manner the whole system of government, political, military and ecclesiastical, was rendered popular and familiar. The people were accustomed from their infancy to self-government, and the system of representation and of political accountability, was

thus universally and familiarly practised from the first settlement of the country. Each distinct town was to many purposes an independent community, and all its members were thus early indoctrinated in the principles of popular government. There was another institution peculiar to the eastern settlements, of paramount importance in preserving such a government from the fate to which all other governments, founded upon a popular basis, have been hurried; and to its early establishment may be fairly attributed much of the success of our political institutions. I allude to the public establishment of common schools. In those colonies the principle was early adopted and constantly maintained, that it is the duty of the government to provide for the instruction of the children of all its citizens. Scarcely was the settlement established, and relieved from the necessity of struggling for existence, when the Legislature of the Plymouth Colony ordered, that a grammar school should be established in each township in the government, and that twelve pounds in each town should be annually raised by a tax, for its maintenance. Those sagacious and self-denying men were resolved, that the lights of science and knowledge, which they had brought from their ancient homes, should not be extinguished in the new world, and they determined, that what is elsewhere left to charity or to chance should here be secured by law. Knowing that their government was based upon the public *will*, they sought to preserve it by informing the public *mind*, and inspiring the salutary and conservative principle of virtue and knowledge at an early age. We ought not to omit, as a circumstance which also had a marked influence upon the character of our political institutions, that the chief property of the whole community consisted of real estate, and that their situation required a division of the lands among its members. The right of primogeniture was soon practically abolished, and estates were divided among the children of the intestate. The consequence of this was, a great equality of wealth, and the soil of the country was divided into small freeholds, all occupied by persons equal in rank, and competent by early instruction, and eligible by law, to participate in its government. In

this manner the political institutions of this country were formed; and although the British government soon extended her sovereignty over the colonies, it was merely nominal, except so far as its legislation affected their commercial relations. Whenever it was extended to other subjects, it excited discontent, and it was easy to foresee, that the colonists would never be satisfied with any thing less than popular governments established on this side of the Atlantic. Indeed, it may be safely asserted, that the Puritans, who settled in the Eastern Provinces, never contemplated any connection with England, implying submission on their part, and that they always regarded any interference with them as usurpation. We find Massachusetts, for instance, in 1635, shortly after its first settlement, upon its being reported that a general government for the colonies had been projected by the crown, resolving, that if such a governor were sent, the colony ought not to accept him, but to defend its lawful possessions. And not long afterwards that same colony took the lead in forming a confederacy, under the title of the United Colonies of New-England, with the view of resisting the encroachments of the Dutch settlers of New-Amsterdam. About the same time she began to coin money; formed leagues with foreign powers, without the consent of England; disputed the right of the British to fish upon her shores; permitted no appeals from the colonial courts, and refused to exercise jurisdiction in the name of the Commonwealth of England. Connecticut followed closely in her footsteps, and a spirit of independence was thus early implanted, which ultimately proved a great safeguard to the privileges of the colonists.

Immediately upon the restoration of Charles the Second, measures were taken to introduce a new system of government into the colonies, in order to curb their aspirations for independence. Commissioners were sent over to examine into the state of affairs, and the General Court of Massachusetts, with characteristic spirit, prevented the reading of the commission by the sound of the trumpet. They were finally compelled to return without accomplishing the object of their mission;



and the English Court then undertook to forfeit the charters of the colonies, with the view of rendering them entirely dependent upon the crown. They refused to appear to the summons of the British courts, and although the charters were declared forfeited, the sullen acquiescence of the colonists plainly indicated the brooding of a storm. This was not long in breaking out. Upon the forfeiture of the charters, Sir Edmund Andross was appointed Governor General of the New-England Colonies, and immediately upon his arrival he entered heartily upon the new policy of the court. A restraint was placed upon the press; town meetings were prohibited, except once a year; taxes were imposed upon all property and all importations. He threatened to shut up the congregational meeting houses: and finally, disregarding the long occupancy, and the Indian deeds produced by the settlers, which he declared "to be no better than the scratch of a bears paw," he undertook to act upon the feudal principle, that the lands of the colonists were held of the crown, and to exact a fine to be paid to the governor for a confirmation of their title. This tyranny, it may be easily supposed, was not patiently borne. The colonists refused to take out new patents, or to levy taxes; and the magistrates of Ipswich resolved, that they would not rate the inhabitants for taxes until they had an assembly. Neither was their resistance confined to mere resolves. In the spring of 1689, a report reached this country that the Prince of Orange had landed in England. The colonists did not wait to see what reception he met with, but on the 18th of April, a period particularly unfortunate to the supremacy of the mother kingdom, the country people crowded into Boston, and Andross was driven into the fort, and finally obliged to surrender with his satellites to the mercy of those whom he had excited to tumult by his avarice and tyranny. No unworthy violence or cruelty disgraced this sudden rising of the people, but, like men guided by principle and not by passion, they contented themselves with depriving their oppressors of power, and sending them home as prisoners.

The inhabitants of New-York followed the example set them in Massachusetts, and the Lieutenant Governor, Nicholson, who

held the province for James the Second, was driven from his government, and the people, headed by Jacob Leisler, took possession of the forts and archives for William and Mary. About the same time the inhabitants of South Carolina became involved in difficulties with their governors, and assumed the same power of sending them home. In 1689 they claimed the powers of government, and deposed James Colleton, the governor, and finally banished him from the province. His successor, one Sothel, met with even a worse fate. The Colonial Assembly undertook to bring him to trial for his official misconduct, and upon his conviction deprived him of his government and sent him to England. Virginia, also, in the early part of her existence, sent home her governor for his misconduct.

The triumph of the Presbyterian party in England affords another proof of the independent spirit of the people of this province. From a disinclination to the religious principles of the rulers of the Commonwealth, they resisted the squadron sent to enforce the authority of the mother country, and finally submitted upon terms which reflect great credit upon the lofty principles by which her inhabitants were actuated. They stipulated for a free trade; for a General Assembly; for freedom from all taxation not authorized by the Assembly, and that no forts should be erected or garrisoned without the consent of the colonists.

In Virginia another attempt was made by the settlers to control Governor Berkeley in the exercise of his authority, in the year 1676. This attempt was denominated Bacon's Rebellion, although the inhabitants had abundant cause, in the mismanagement of their public affairs and in the operation of the acts of navigation, for the revolt. The public mind was also much excited by claims under certain grants of lands already occupied by the colonists.

Claims of this sort upon the lands occupied by the inhabitants were a fruitful source of discontent. A rebellion in North Carolina was produced the year after Bacon's revolt, by a report, that the proprietors intended to augment the quit rents. Maryland, also, had her civil war, and Pennsylvania, with all

her peaceful habits, was often obliged to protest against a violation of her privileges, and on one memorable occasion resolved, in opposition to the arrangements of the British government upon the new modelling of the colonial governments by William and Mary, that the laws of the province, which were in force and practice before the arrival of the present governor, are still in force.

These several acts of insubordination and continual difficulties, all show the insecure tenure of royal authority over the North American Colonies. In truth they always evinced great repugnance to any interference with their local affairs. It was not the intention of the emigrants to be controlled by a government established on the other side of the Atlantic. They had fled from that government, and they had provided for their own legislation in America. It is worthy of remark, that the inhabitants of every colony, except Maryland, had settled the forms of their own government previous to the British Revolution; and the Assembly of Maryland, immediately after its settlement, refused by a vote of thirty-seven to fourteen, to receive the system of laws prepared by the proprietor for the province.

From every circumstance connected with the settlement and early history of these colonies, we are obliged to conclude, that the inhabitants were determined to govern themselves, and not receive their laws from the legislature of another kingdom, four thousand miles distant. They maintained, that the laws of England were bounded by the four seas, and did not reach America.

The General Court of Massachusetts made this answer to a charge against the colony, of having disobeyed the navigation acts. On the other hand, the mother country, as soon as the colonies were permanently established, in the true spirit of commercial monopoly, resolved to confine their trade to British channels, and to limit their market to England. The celebrated navigation acts, adopted directly after the Restoration, had for their chief object the monopoly of the colonial trade.

In this relation of the provinces to the mother country may be distinctly traced the causes of the Revolution. It was impossible in the nature of things, that communities with such



opposing interests and claims, established upon such different principles, and so severed by distance and sentiment, should long continue to acknowledge a common authority. The voice of nature had decreed the independence of the colonies, long before the Continental Congress resolved to vindicate that independence by arms.

The claim of England was to keep the colonies in a state of tutelage, to engross their commerce, to monopolize the profits of their labour, and so to shackle them by legislative restrictions, as to prevent their inhabitants from making the best use of their natural advantages. The claim of the colonists was to be really independent of Great Britain. They were indeed willing to acknowledge the supremacy of the crown, but merely as a title of respect. They would not consent to be restricted in the enjoyment of the privileges conferred by their location, to benefit a people to whom they owed nothing but the banishment of their fathers. We accordingly find these parties constantly striving; England to enforce her claim to absolute sway; and the provinces to emancipate themselves from the shackles imposed upon their trade and upon their local regulations.

After the termination of the domestic troubles of Great Britain, and the government felt itself firmly established at home, a more systematic project was entertained to render the colonies dependent. The New-England charters, which had been illegally forfeited under the Stuarts, were not restored after the English Revolution; but new charters were given, and the governors, except of Connecticut and Rhode Island, instead of being elected by the people as formerly, were appointed by the king. The New-England Provinces being thus annexed to the crown, the next step was to change the proprietary into royal provinces. The ministers therefore began to negotiate for the surrender of the charters. They found the proprietors less unwilling to surrender, on account of the refractory conduct of the colonists. The proprietors of New-Jersey were unable to control the inhabitants of that province, and in 1702, their agent made a public surrender, in behalf of the proprietors, to Queen Anne, who was then on the throne. The



provinces of Carolina were purchased in 1728, for £22,500, from the proprietors. In South Carolina, the settlers had previously abolished the proprietary government, on account of its being subversive of the interests of the colony. In 1752, the proprietors of Georgia followed the example of the other proprietors, and surrendered their charter to the crown. By this surrender all the provinces, except Pennsylvania and Maryland, became subject to royal government. An agreement had been also made for the purchase of Pennsylvania, but the proprietor was prevented by an attack of apoplexy from executing the surrender, and the propriety of the province remained in the Penn family until after the Revolution.

The greatest portion of the provinces, however, were re-annexed to the crown, and a systematic plan was adopted to make the colonists feel their dependence, and to compel them to supply their wants from the British workshops.

It is unnecessary to relate in detail all the acts of accumulated tyranny by which they were driven to arms. Their liberties were not merely invaded. They were destroyed, as far as legislative enactments could destroy.

The colonists were rendered liable to be dragged to England for trial. Their ports were shut, and thousands thrown out of employment. They were prohibited from fishing, with the expectation of starving them into submission. Their legislatures were disfranchised; their charters, under which they had lived for generations, and which they had been taught to reverence, were declared void; and troops were quartered upon them; as if the descendants of men, who had braved all and relinquished all, rather than submit to oppression, were to be dragooned into slavery.

While this system for the government of the colonies was preparing in England, and when the inhabitants were gazing with the most earnest attention upon the proceedings of the representative assembly of Great Britain relative to this attempt to enslave their fellow citizens; their understandings were insulted and their feelings exasperated by the contempt with which their remonstrances were rejected, and the contumely

and reproach that was thrown upon their character. They were represented as mean spirited hinds, that would scatter like sheep before the disciplined troops of England. Their habits, their religion, their origin, were all made the subject of ridicule ; and the British Parliament, when debating the great question of freedom or slavery, a question upon which the integrity of the empire depended, was entertained with anecdotes of American cowardice ; as if men, who were almost in a state of rebellion, were to be brought to better feelings by imputations upon their courage. While the high spirited and ardent were thus taunted and excited to violence, the deliberate and sober minded were stimulated to resistance by the conviction of the deadly hostility which governed the conduct of the ministry. The propriety of letting loose the savage upon the defenceless families of the colonists, and of arming the negroes, and visiting upon the southern provinces the horrors of a servile war, was seriously advocated by the leaders of the majority, and every American felt, that the only refuge of the colonies was in arms.

Their ancestors had fled from persecution, and now it had overtaken them here. They knew not the right of England thus to afflict them. Their lands were their own, purchased from the occupants, and changed by their industry from a howling wilderness into smiling gardens, orchards and fields. They had been defended against the savages and the French by their own valour. A father, a brother or a son, had vindicated their title to the country at the expense of his life, and it was dear to them, because it enclosed the remains of their gallant relatives. They owed nothing to England ; and when they viewed the despotic system she was preparing for them, their own and their fathers' wrongs rose to their recollection, and warmed them to resistance. They felt them as one man ; and when Patrick Henry lifted up his spirit-stirring voice in the Virginia Congress, and declared, that "after all we must fight," he merely gave utterance to the thought that burned in every American heart. It was the general sentiment of the country, and it only required a fitting occasion to manifest itself.



It must be remembered, that England had assumed the power of appointing the colonial governors, so that at this period, all the governors were in the interest of the crown; and they had the power of proroguing or dissolving the colonial assemblies. In order to prevent the expression of public feeling, this power was exercised, and the colonists were compelled, for the purpose of organizing opposition to the ministerial measures, to form new political institutions, whose resolutions were carried into effect by public sentiment. The leading whigs of the day were chosen to represent the town or district in a provincial convention or congress, where the measures of local opposition were concerted, and where delegates were chosen to represent the colony in a Continental Congress, to whose wisdom was confided the management of the general cause. As their first efforts were directed to induce the British government to retrace its steps, these congresses were at first in a great measure informal and their measures consisted chiefly of resolves. Among those resolves, however, was one to put the colonies in a state of defence; and this was carried into effect by the voluntary efforts of active patriots. At length the negotiation was brought to an end. The first blow was struck at Lexington, and the people in the neighbouring districts rose in mass to attack the regular troops, and then crowded round Boston to compel them to evacuate the town.

So great was the public enthusiasm, that large companies of volunteers were sent home, because there was no accommodation for them in the camp.

In this crisis was seen the excellence of the New-England mode of municipal organization, and how admirably it was suited to sustain a popular movement against an oppressive government. The camp at Cambridge was supplied by contributions furnished from the towns in the vicinity. The soldier often was assured by a vote of the town, that his family should be taken care of in his absence. Instances were not unfrequent, where small freeholders parted with the last measure of corn from their granaries to supply provision for the camp, and hire service for the ranks. Nobler records of

patriotism exist nowhere. The voice of the advocates of independence in the Continental Congress found its full echo in the little councils of the interior towns, and had that body been dispersed, the hydra heads of rebellion would have elevated themselves in every little town and municipality throughout the country. Hence it was, that without courts of justice, without tax gatherers, without revenue officers, or indeed without any of the ordinary departments of an established government, the Continental Congress found it so easy to carry its resolutions into effect. In the eastern states, where the war broke out, the municipal organization of the towns supplied the place of all other government; and the committees of safety in the middle and southern states, took upon themselves the performance of similar duties, until the new state governments had acquired some stability. Hence, too, it was, that the colonists found it practicable to establish new social institutions, when the royal governors and judges, by taking refuge in the British Camp, left them without any executive or judicial authorities. The people were accustomed to act directly in the management of public affairs; and when the Continental Congress, as preliminary to declaring the independence of the colonies, recommended to them to form new civil governments, it found them competent to carry the resolve into effect. It is important to observe here, and more especially, as throwing light upon a question much agitated among us, that in forming the political institutions of this republic, there was a reciprocal action of the people upon the body representing them, and of that body upon its constituents. Again, there was a reciprocal action of the national or central government in forming the state governments, and of the latter in limiting and defining the powers of the former. For instance, it was upon the recommendation of the Continental Congress, that the state governments were formed. On the 10th of May, 1776, that body, after mature deliberation, came to a determination to "recommend to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs hath been hitherto established, to adopt such government as shall, in the opinion of

the representations of the people, best conduce to the happiness and safety of their constituents in particular, and America in general."

This resolution was intended as a preliminary to the declaration of independence, which it was then determined to issue, as soon as the proper arrangements could be made. On the 11th of June, accordingly, a committee was chosen to prepare the declaration, and another committee to prepare a plan of confederation between the colonies. Before the first resolution was executed, and whilst the people of the several colonies, in compliance with the recommendation, were forming their state constitutions, the Continental Congress, acting in behalf of the whole country, issued the celebrated declaration, by which the Independence of the United States of America as one nation, was asserted in the face of Earth and Heaven, and the lives and fortunes and sacred honour of the members of that Congress pledged for its maintenance. By this instrument and the subsequent proceedings thereon, the American people declared themselves to be an independent nation, then at war with Great Britain: but as such, the whole were responsible to all the world, for the acts of the citizens of each and every of the colonies. They were free and independent, not as isolated states, but as the United States of America: and as such only, could they be regarded by mankind.

As between themselves, they were bound together by their acts and their declarations: although the terms and conditions of their union were not properly defined. They comprehended, however, all that was necessary to prosecute the war to a successful result. To this they had pledged themselves: and however congress might have been disposed to conciliate and persuade the several states, instead of resorting to coercive measures, no doubt can be entertained, that a refusal to comply with its requisitions upon any of the states for the public service, was a violation of faith, and that a withdrawal from the confederacy by one of its members, would have been a good cause of war, and have justified the invasion and conquest of that state by the rest of the Union. The force of circumstances had formed



them into a nation, one and indivisible, and instituted a general government, long before the state constitutions or the articles of confederation were framed. As such they were regarded by other civilized nations; and in that character, anterior to the adoption of any federal constitution or articles of confederation, they had entered into a treaty of commerce and an offensive and defensive alliance with France: and had undertaken, in conjunction with that kingdom, important enterprizes, which presupposed the existence of a national government, and that that government possessed certain extensive powers over the people of the United States. With Great Britain they were in a state of war, striving to expel her troops from the continent, and to appropriate for themselves as much of it as they could gain by force. As to the other European powers, they were but one people, and known either as the United States of America, or as the insurgent colonies of Great Britain. Among themselves they were communities formerly distinct for all the purposes of local legislation: though subject in some matters, to the legislation of the mother country and the royal authority: but now united by common wrongs and common apprehensions, in one cause, and obliged to provide new political institutions to meet the exigencies of their novel situation. This subject early engaged the attention of the actors in the Revolution; and the novel spectacle was presented, of a people contending for freedom and independence, with a power whose fleets and armies threatened their extermination, and occupied with arms in their hands, in laying the foundations and erecting the superstructure of their political institutions. Shortly after the declaration of independence, on the 12th of July the articles of confederation were reported to congress, and that body, acting in behalf of the whole country, and the people in the several colonies, proceeded simultaneously to institute the political system under which this new republic was to exist as an independent community, united for some purposes, and separate and distinct for others. The state governments being more simple in their nature, and not involving the adjustment of so many conflicting interests, were more readily agreed upon

and earlier established ; but the intention of forming a national government was agitated at the same moment, though owing to the contest about the public lands, the articles of confederation were not ratified until after all the state governments were in full operation. It therefore may be safely asserted, that the American people never entertained the idea of existing in independent and separate sovereignties. As the *United States*, they had declared their independence ; and as an united people alone could they maintain it. They meant to be one and indivisible, and as such they put in requisition the best talents of the country, to form for them a political system, which should provide for the administration of *local* interests by *local* governments, and for the advancement of the *general* interests by a *national* government. Instead, therefore, of regarding the general government as formed by concessions on the part of the state governments, it is to be considered as equally the establishment of the people ; who, for the sake of convenience, after framing its constitution in a general congress, expressed their assent to its provisions through their local assemblies, and apportioned to both the local and general governments, their political powers by the constitutions provided to guide those to whose hands the administration of the governments was confided.

All the political institutions of the country, whether national or local, were called into being at the same time by the fiat of the people ; and to that source of power and not to the state sovereignties, must be referred all those reserved sovereign rights which are not conferred upon the federal or state governments by their respective constituents. The old articles of confederation, which first served as a constitution for the national government, being devised under the pressure of the revolution, were not found adequate to the end ; and the moment that the country was relieved from the enemy, the confederacy seemed about dissolving, from the want of a more vigorous central government. The people again took the subject into consideration, and devised a remedy. Notwithstanding the jealousy of the state governments, and the hostility of those charged with their administration, a general convention was formed at

Annapolis of distinguished men, representing the several states, and in that body the federal constitution was framed, as comprehending the powers necessary and proper to be entrusted to the general government.

In that constitution, as well as in those established for the different states, the peculiar principles which characterize the political institutions of this country are distinctly recognised and steadily kept in view. The first of these,—that the people are the source of all political power, appears from the preamble of the constitution, as also does the second, which is not less important,—that the object of the government is the general welfare, and that not limited to the passing moment, but referring to posterity, as well as to the present generation. The solemn language of this most important part of the instrument, which serves as a key to its whole meaning, is, “to promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, we, the people of the United States, do ordain and establish this constitution.”

The authority of the people, and the legitimate object of all government, are here both clearly and emphatically expressed. The mode in which the federal constitution proposes to accomplish this object, leads me to the consideration of another principle of our institutions, which, although not so peculiarly our own, inasmuch as all popular governments have been obliged to adopt it, still it has been nowhere more clearly recognised, and nowhere, let me add, have greater efforts been made to induce a departure from it. I allude to the principle of representation, connected with the doctrines of periodical accountability to the elective body.

As it is impossible for a great nation to transact its political business in the primary assemblies, it is absolutely necessary for it to act through the medium of representatives from the various districts, assembled at one place, in one or more bodies; and to prevent the sudden impulses to which the mass of the people is peculiarly liable, from rendering the public policy as unstable as the popular breath, it is provided in the constitutions of all popular governments, that the representative should be chosen for a limited term.



During that term he acts for his constituents, not as their attorney or agent, but as their representative ; and when he is chosen under a constitution, he acts as their representative, according to that constitution. The powers conferred by that instrument upon the office held by him, are to be exercised by him for that limited term ; and if those powers necessarily presuppose judgment, deliberation and free agency in the representative, they are vested in him to be exercised only under the responsibility of accountability to the elective body at the expiration of the term. This principle so essential to the proper administration of all popular representative governments, is nowhere more fully recognised than in the federal constitution.

“ All legislative powers herein granted,” it declares, “ shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives ;” and in other sections it provides, that the members of these bodies shall be chosen for two years in the house and for six years in the senate.

This congress is not an assembly of diplomatic agents, but a legislative body, in which are *vested all the legislative powers* of the federal government, in the same manner as the executive power is vested in the president, elected for four years, and as the judicial power is vested in the Supreme Court, whose members hold their seats during good behaviour.

The whole nation is represented in congress, and in that body the whole legislative power is vested, to be exercised for the general, and not for local interests. Respect for the opinions of a man’s constituents indeed is due, and the greatest attention and care for their interests, and more especially as connected with the general welfare ; but the only obedience due from a representative is to the constitution and the laws, and to those general principles upon whose observance the prosperity of the nation essentially depends.

Another principle of our institutions is religious toleration ; and it was a fortunate circumstance, that the difficulties of our situation, and the necessity of union during the Revolution, compelled the founders of our government to take a step in advance of the public mind of Christendom, and to recognise the inhe-

rent right of every man to worship God according to the dictates of his own conscience. They early foresaw the impossibility of uniting the Puritan of New-England, the Episcopalian of Virginia, the Catholic of Maryland, the Huguenot of Carolina, and the Quaker of Pennsylvania, in opposition to the arbitrary designs of England, except upon the broad ground of religious freedom ; and sacrificing the pride of opinion to the love of country, they adopted the glorious principle of toleration, and made it the corner-stone of the American Union.

Such are the principles of our social institutions, and notwithstanding many inconveniences resulting from the adoption of the democratic principles in some states more rapidly and to a greater degree than the state of public education would at the moment have warranted, still their successful operation have more than equalled the expectations of their most sanguine advocates. The great increase of our population ; the augmentation of individual and national wealth ; the astonishing advance of the country in the manufacturing and mechanical arts ; the rapid extension of our navigation and commerce to every quarter of the globe, and of our towns and settlements in the interior, until they even now are found upon the shores of Huron and at the foot of the Rocky Mountains ; this wonderful growth of a country which the eloquent and philosophic Burke, at a moment when some, who are now lingering among us, were preparing to vindicate her rights, described as "that little speck, scarce visible in the mass of national interest,"—all these things bear witness to the great and unexpected success of our social institutions, and of their peculiar fitness to develop the resources and promote the prosperity of a community. It is also to be remarked, that while other countries have been agitated by civil commotions, this republic has remained tranquil.

The governments of Europe have nearly all undergone a revolution since our own was established. Kingdoms have given place to republics, and these in their turn have been followed by empires. The fever engendered by revolutionary

France has occasioned convulsions in the European body politic, which have shaken her social institutions to their foundations ; and we have seen the children of a humble advocate of Corsica, seating themselves upon the thrones from which the ancient dynasties have been expelled, and these again driven from their places by a reaction in public sentiment.

The magnificent structure of Imperial France, erected by the genius of Napoleon, with all its supporting buttresses of dependent principalities and kingdoms, fell under the accumulated disasters of the Russian campaign ; and the Bourbon dynasty, whose restoration cost Europe twenty years of war, and entailed upon England an irredeemable debt, was ejected from France in a paroxysm of rage and disgust, and the book of change and revolution again opened for the instruction and improvement of Europe. How is it, then, that whilst all other governments have been subject to such violent and sudden revolutions, our own has remained tranquil and unmoved ? The explanation of this problem is to be found in the popular character of our institutions. To render a government stable, it is necessary that its foundation should be broad and wide ; that it should be so constructed as to give to the mass an interest in its preservation ; that those who desire its continuance should be stronger than those who desire its overthrow. Stronger, not merely in numbers, which are not always decisive of the greater force ; but in education, wealth, courage, and talents, which are all elements of power, and in the most critical and final contests often bear off the victory from the greater number.

Hitherto the political institutions have been so administered as to satisfy the mass of the community, and although party disputes have ran high, and, in some instances, as during the embargo, the war, and in the late movements in Georgia and in South Carolina, they seemed to threaten the integrity of the Union, some mode has been always found to avert the crisis, and to prevent matters from coming to a violent extremity.

We must not, however, forget, that it has contributed no little to the stability of our political institutions, that while they



were maturing; the country was not subject to those disturbing forces and influences from without, which have retarded the growth of free institutions in other countries. We had no powerful neighbours to determine at a diplomatic congress, as in the cases of Belgium and Greece, what form of government was, in their judgment, most suitable for the infant nation. We were not disturbed by the intrigues of adjoining courts; nor annoyed by the interference of the rival factions of adjacent kingdoms, all striving to force their particular theories upon our notice. The ocean, which interposed so effectual a barrier against the military superiority of England; also preserved our institutions from the taint which too close a contact with foreign nations would surely have communicated. The moral influence which Europe exercises over the the social institutions of all civilized countries, seemed to be purified in passing over the broad Atlantic; and our ancestors were enabled to preserve the primitive popular basis in its original strength, and to carry it out through every department of the government.

But while the influence of Europe upon the character of the government of the United States has been scarcely felt: such has not been the case with that government in its influence upon the public opinion of Europe.

The popular principle which had survived in the old Roman municipalities, and which, after lying torpid during the dark age of barbarian and feudal violence, was called into action by the monarchs of Europe as a check upon the nobility, had been for ages slowly gathering strength, and was now nearly ready to demand a share in the government, and a reformation of ancient abuses.

The success of the newly emancipated colonies of England in establishing representative governments, gave a new impulse to this feeling; and when France, with a view of obtaining a reform in the finances, and of restraining the corruption of the court, shortly after the American Revolution, assembled (for the first time since 1614,) her legislature or states general, she found herself unable to restrain the popular feeling, which hurried the nation forward to a revolution.

It forms no part of my design to follow the revolutionists in their career of fury while demolishing the political institutions of ancient France; nor to relate the mode in which Napoleon constructed a new social system upon their ruins. It suffices to state, that when the imperial dynasty was for ever overthrown, the allied powers found the feudal institutions of France had been entirely destroyed, and the enthusiastic reception of Napoleon upon his return from Elba, by the French nation, afforded a striking proof of the danger of attempting to re-establish them. The Bourbons consequently were compelled to institute a legislature of two chambers, and the popular branch elected by an elective body, consisting of about 100,000 of the large proprietors and wealthy capitalists. This body, however, was decidedly liberal—showing that the nation itself had been rendered liberal in its political character by the revolutionary process it had gone through.

Indeed, the change in the law of inheritance, by which the principles of feudal succession and the right of primogeniture were abolished, has alone practically revolutionized France. It is impossible that aristocratic institutions should be permanently established, where the laws of succession, co-operating with the laws of nature, are constantly dividing and subdividing large estates. Hence we have found the popular principle, which was strong enough in 1815 to coerce the Bourbons, even when backed by the allied troops, to give a charter to France, so powerful in 1830 as to drive that dynasty from the throne, and to establish the government, not as emanating from a royal grant, but from the will of the nation.

Nor is it in France alone that the principle, so peculiarly our own, has made such striking progress.

In various parts of Germany, great modifications of their political institutions had been made even prior to the fall of Napoleon, indicative of the great revolution that is taking place in modern society.

In Prussia, for instance, military promotion was thrown open to all classes in 1807, and the next year three edicts were issued, by which all ecclesiastical property was appropriated to

the uses of the state; the exemption from taxes, formerly enjoyed by the nobility, was abolished; all the monopolies in trade were also abolished, and every citizen permitted to exercise his industry in any mode he might think proper.

In 1811, a still greater step was taken in throwing off the customs of feudalism. In the Rhenish Provinces of Prussia personal servitude had long before been abolished by France, and that year an edict was issued, emancipating all the villeins or serfs in the rest of the kingdom, and giving to them a portion of the lands held by them at will, upon their surrendering the remainder to the lords.

The effect of the changes in the political condition of the Prussians was manifested, when the nation was called upon to co-operate in expelling the French army from Germany. The Prussians rose almost *en masse*, and their enthusiasm in the cause, and their activity against their invaders, showed that they felt that it was for their *country*, and not merely for their *king*, that they were contending. Upon the close of the war a constitution was promised to them, in which provision was to be made for the representation of the people; and although that promise has not been performed, and their king has since making it joined the allied despots, to repress the popular movements in Europe; still it is easy to perceive that the nation is prepared for freedom, and that a war of opinion would soon place Prussia among the free governments of Europe. The promise, which was made when the German Confederation was established, viz: "In all the confederate states a representative constitution shall have place,"—a promise which demonstrates the great progress of the popular principle, and its influence in modern society, will not be lost sight of. Kings may find it convenient to *forget*, but their subjects will *remember*, and they will recur to it again and again, until their just demands shall be granted. In several of the smaller German states, the sovereigns have already complied with it, and have reformed the political constitutions of their kingdoms.

In Bavaria, Wirtemberg, and in the dominions of the Grand Duke of Baden, legislatures, in which the people are repre-



sented, were established shortly after the peace of Vienna, in 1818, and since the Revolution of Paris similar modifications have been made in the constitutions of Brunswick, Hesse Cassel and Hanover.

In Holland and Belgium representative chambers are instituted, and the kingdoms of Spain and Portugal are at this very moment in the stage of revolutionary transition. Among all these modifications in government, however, there is none that is likely to exercise a greater influence upon the destinies of Europe, than the late reform in the British Parliament.

England, from her position, her wealth, her moral force, and the intelligence and courage of her people, occupies a commanding station among the nations of Europe. No change can take place in her councils, no revolution in her government, without affecting the political character of the age, and causing other governments to watch its consequences with apprehension and anxiety. This reform, as it is called, which has lately taken place, is in truth a revolution.

Hitherto the House of Commons has been a body, not so much representing the people, as the aristocracy of England. By means of borough nomination, the peers and wealthy tory families had obtained a complete control over the majority of the Commons, which, for more than a century, has been little else than a tribunal to register the decrees of the ministry or of the leading peers, whose combinations determine who shall be the ministers.

All this is now at an end.

By the late reform fifty-six boroughs, sending two members each, have been disfranchised, and thirty boroughs reduced to one member each. These representatives have been given to the counties and large towns, such as Manchester and Birmingham, which before were not represented.

By this alteration alone the character of the house will be completely changed; but the alteration, extending the right of suffrage, has given to the popular principle, not only additional representatives, but has also conferred upon it greater power over the whole house. The House of Commons holding the

purse, and, by necessary consequence, the sword of the nation, will be henceforth in practice, as well as in theory, the representative of the people of England.

The popular principles must henceforth predominate in that government. Without that constitutional addition to its strength, which has been given to it by the Reform Bill in the House of Commons, it has in fact since the death of Mr. Canning, controlled and overawed the government itself.

To it the Duke of Wellington conceded Catholic emancipation, in spite of his aristocratic pride and his tory prejudices. The king, when he dissolved Parliament, in order to obtain the sentiments of his people upon the question of reform, bowed before its power; and the whole tory party, when they shrunk from the responsibility of forming a ministry in opposition to the public will, and suffered the Grey administration to resume the reigns of government, virtually admitted its complete supremacy.

With the new power this principle has obtained, its future control must be unquestioned, and hereafter the other powers of the government will subsist entirely at its mercy.

Pausing here, and looking back to the condition of the world when this country was first settled, and how great has been the progress of civil liberty.

At that moment all Europe was monarchical, and the rights of the subject were entirely dependent upon the will of his sovereign. Holland alone assumed to have shaken off the restraints of despotism, and this only as it regarded national independence, without any material advance in the principles of civil freedom as referring to the individual citizen.

Passing from that period to the era of the declaration of independence, and how small was the progress. England, indeed, had passed through a revolution, and the liberty of the subject was secured, but the whole power of the government was vested in the aristocracy. The rest of Europe remained torpid as before. But little more than half a century has elapsed since that event, and what a revolution! Stimulated by the success of this prosperous country, men every where have

awakened as from a dream, and have resolved to be free. England has reformed her government, and made it truly an embodying of the national sentiment.

France reposes tranquilly under the protection of a government emphatically popular; and Germany, no longer the land of misty philosophy and extravagant sentimentality; but practical and thoughtful, is moving on slowly and surely to the reconstruction of the empire, not under an absolute head; but a Germany of constitutional rights, and capable of acting its part efficiently in the great work of European civilization.

To the institutions and example of this country much of this improvement is owing. This republic has given assurance to the world, that an intelligent community is capable of self-government. Its stability has demonstrated, that no institutions are so secure as those which are intimately connected with the interests of the whole community. The prosperity of the country has convinced Europe, that a nation can flourish even when deprived of the protecting care of a monarch.

In the great contest between the ancient and the modern, between the European and the American systems of government, the latter has finally become the ascendant. Proscription and ancient usage are losing their hold upon the public mind, and principle is taking their place.

Men do not so much inquire whether antiquity is in their favour, as whether reason and justice sanction their course. The great truths, which our history has done so much to exemplify, are daily acquiring fresh strength and new converts.

The Holy Alliance has in vain interposed to prevent their progress and to restore the abuses of antiquity.

The three days of July at Paris, proved sufficient to overthrow the institutions which they had so long laboured to reconstruct; and at this moment circumstances clearly indicate, that the two great parties into which Europe is divided, are arraying their forces for a decisive, perhaps a final conflict.

How long this conflict is to last, and with what vicissitudes it is to be marked, it is not given to us to know; but he has read the history of the past with little profit, who does not foresee that the progress of freedom cannot be checked, and that the genius of constitutional government must ultimately prevail over the genius of arbitrary power.





## REPORT ON ROADS,

*At the Internal Improvement Convention of the State of New-York, held at the Capitol in the City of Albany, on Monday, the eleventh of January, 1836.*

The committee appointed at the convention lately held at Utica, on the subject of common roads, beg leave to report, that, pursuant to the resolution of the convention, a circular was addressed to the clerks of the several towns in the state, requesting information as to the length of the public and turn-pike roads, and the number of bridges in their respective towns, together with the annual cost of keeping them in repair. Answers have been received from 266 towns, and at the time of making the report answers are daily coming in, so that hopes are entertained of making a complete statement of the annual cost of the roads of the state, from actual returns. The results of the answers already received show, that in 266 towns, having 523,488 inhabitants, the length of public roads is 19,924 miles.

The number of days' work annually assessed for their repair is 416,271.

The amount of money annually expended in addition, for the same purpose, . . . . \$23,931

The length of turnpike roads is 579 miles.

The annual expense of repairing the same, . . . . 9,816

The number of bridges, 1,221.

The annual expense of repairing the same, . . . . 32,962

The whole number of towns in the state is 791, and the towns making returns are about one third of the whole; but the population returning is scarcely two sevenths of the whole

population, and the returns, therefore, may be fairly estimated at that ratio. According to that rule, we have the following results :

|                                                                  |          |
|------------------------------------------------------------------|----------|
| Length of all the public roads in the state, 69,734 miles.       |          |
| The number of days' work assessed for their repair is 1,456,948. |          |
| The additional money expended for the same purpose, . . . . .    | \$84,258 |
| The number of public bridges, 4,274.                             |          |
| The annual cost of keeping them in repair, .                     | 115,363  |

Estimating the value of each day's work at 75 cents, and the assessed labour will amount to the sum of \$1,092,711, to which the sum of \$84,258 must be added, and we have the enormous sum of \$1,176,969 annually expended in the State of New-York, for repairing common roads, besides \$115,363, annually expended for the repair of public bridges, besides double that sum in constructing new ones. This, too, it must be recollected, is independent of the sums expended for turnpikes and toll bridges.

If this vast sum, expended in each year, had produced results proportionate to its amount; if it had effected any visible or permanent improvement in the condition of the common roads, the public might be reconciled to the burden thus annually imposed.

It is manifest, however, that no such improvement is to be found. On the contrary, the public roads in this state have not visibly improved for years. Their condition in those seasons of the year when good roads are required, is intolerably bad. No epithet, however strong, can properly characterize their wretched state. When the snow has covered them in the winter, and when the summer's sun has dried and improved them, they are passable; but when these natural agents cease to exert their beneficial influence, and their improvement is left to man; judging only from the results, we should conclude that his sole object was to confine the traveller by walls and fences to an



artificial ditch, and thus prevent him from availing himself of the natural surface of the fields on either side of the road to accelerate his journey.

Such are the results of the present system, expensive and burdensome as it is to the people of the state. Your committee are naturally led to inquire into the causes of its total failure.

Among these, we are induced to assign the foremost place to the incapacity and inefficiency of the agents appointed to carry the road laws into effect.

The path-masters do not seem to have the least knowledge as to the true principles upon which roads should be constructed. Instead of properly locating, grading, ditching and constructing a road of hard materials, they content themselves with laying out a road, not according to the face of the country, but so as to suit the views of the owners of land upon the route; and the grading, ditching and providing the materials is one operation—consisting of dragging earth, and generally vegetable mould, from the sides to the centre of the space appropriated for the road, to be levelled, graded, and packed by the wheels of the wagons passing that way.

Roads of this description, made by heaping up mud from the sides, must necessarily be muddy in rainy weather. There is no charm in the action of the carriage wheels, to prevent the earth taken from the ditches from becoming mud on the road as well as on its sides. It consequently is soon carried from the road to fill up the side ditches, and the whole becomes in the fall of the year a quagmire, where there is no choice between the road and the ditches. The least reflection as to the nature of roads will show, that no other result could be expected.

A road is an artificial contrivance or machine for facilitating the transportation of heavy loads, and its efficiency depends upon the perfection of its construction. For instance, upon the common roads in their present condition, thirty bushels of grain are considered a load for a pair of horses; while upon a Macadamised road, the same team can transport with the same force seventy-five bushels.

The obstacles to be overcome are friction and gravitation,

which are increased, the first by the softness of the road, and the second by its deviation from a level line.

The proper remedies for these difficulties are to lay out the road as far as practicable through a level country, and to construct it of hard materials, so cemented together that they present a smooth and level surface for the wheels to move upon. The former remedy can be applied by any surveyor, who will take the pains to examine the face of the country through which the road is to pass, with the view of selecting a practicable route. The other remedy is more difficult of attainment. Where stones can be procured, it is necessary that they should be broken to a size that they can unite with the body of the road, and thus form one mass. Large stones only serve to break up the road, and to render it rough and impassable.

After a full trial upon the roads of England, MacAdam came to the conclusion that no stone should be used in covering a road that could not be passed through a ring two and a half inches in diameter. Stones of greater size do not cement with the others, and remain to break up the surface of the road.

Another difficulty to be overcome grows out of the action of the elements upon the road. Moisture and frost are the great destroyers of roads, by alternately softening and breaking the surface. To prevent this, the road, while its surface should be hardened so as to prevent the moisture from penetrating, should be so formed that the water will readily run off to the sides, where there should be ditches connected with the natural water courses of the country. The road will thus be kept dry, and the frost will have comparatively little effect upon its surface. The best shape of a road of thirty feet breadth, is a segment of a flat ellipsis, with the side channels about nine inches below the surface in the middle. This shape facilitates the passage of the water to the sides, and when the surface is properly constructed, will keep it dry and hard. The ditches should be sufficiently deep to be below the bottom of the metal or materials used in making the road, to serve the purpose of draining, and in April and October they should be cleared out so as to afford an easy passage for the water from the road.

The draining under the present system requires a complete reform, as it is of the greatest importance, and causes no great expenditure. With a surface constructed of broken stones cemented into one mass, and with good drains, roads are enabled to resist the action of the elements; and the large expenditure made in their construction is amply repaid by their greater efficiency and durability.

In some parts of the state, however, as where clay predominates, there is a difficulty in procuring stones of the kind used in constructing roads. This does not often happen; and when it does, there is an abundance of material to supply the deficiency. Bricks may be used, as in Holland, to form good roads, and when of suitable form, and united with mortar; they will make a covering for a road equally capable with broken stones of resisting the action of the elements. These bricks should be much larger than the ordinary building bricks, burnt hard, and placed in mortar upon a surface properly shaped and graded, so as to form a covering for the ground impervious to water.

It has also been suggested, that in those parts of the state where lumber is cheap, that good roads might be economically made, by using wood to cover their surface. This may be done either in the mode adopted in Russia, by placing square blocks upright upon the ground, and so closely packed together as to present a smooth and compact surface; or the track may be covered with planks raised a few inches from the ground, united together like a continuous bridge—the planks being placed across the road where undulating, and lengthwise where level.

Either of these modes would form hard and level roads; and although the committee are not prepared to express an opinion as to their relative cost and duration, they are fully satisfied that either mode would be economical, compared with the wasteful and useless expenditure of money and labour, made under the existing system. From the best information to which the committee have had access, they estimate the cost of a road of thirty feet track, properly Macadamised, to be \$5,000 per



mile; one of burnt clay, \$4,000; one of wooden blocks, \$4,000; one of planks, \$3,500. These, however, are mere estimates, and may vary much from the truth.

It would probably be the wisest policy to adopt the Macadamised system where practicable, and to make portions of roads upon each of the other modes, in order to subject them all to the test of experience.

On one point, however, there is no doubt in the committee, that the present system should be entirely abandoned, and a mode adopted, which shall sooner or later give a hard and uniform surface to the public roads. This is necessary, not only to facilitate the transportation of the produce of the state to market, but to redeem the community from the reproach of annually expending millions without effecting or even approximating the object proposed by the framers of the law, relating to common roads.

The mode of effecting that reform is a subject admitting of different opinions. To undertake at once to Macadamise all the roads in the state would be an effort, in the opinion of many, beyond the ability of the community. The cross roads in counties are not enough travelled to warrant such an expenditure at this time; and, in general, they are in better order than the more frequented roads. While the system of repairing roads, therefore, requires a total change in the agents employed to superintend its execution, it would probably be the best policy to apply the reform, in the mode of constructing roads in the first instance, to the post routes, and to devote the greatest portion of the money raised to render them perfect, before undertaking those of minor importance. When those are once well constructed, the annual expense of keeping them in order will be small; and the reform of the other roads upon the same principles can then be undertaken, until the public roads throughout the state shall be put in perfect order.

The changes which your committee think could be advantageously made in the present system, with the view of producing such a result, are an alteration of the present law, so as to establish five road commissioners in each county, who shall

be empowered to order the construction and repair of all the stage roads, and to employ a surveyor, under whose superintendence these roads shall be constructed and repaired. Instead of assessing the farmer so many days' labour, the assessment should be made payable in money, or in broken stone of the proper size and kind, to be delivered at specified places—such a quantity of stone to be an equivalent to a day's labour. The roads, then, could be repaired under the immediate superintendence of the surveyor, who should be held responsible to the commissioners for their condition.

What is done in this way, would then be thoroughly done ; and, in a few years, the marked improvement of the roads would demonstrate the superior economy of those thus constructed.

Indeed, so strongly is the committee impressed with the advantages of at once commencing this reform, upon an extensive scale, that they would recommend the anticipation, by way of loan on the credit of the state, of one half of twenty years' assessments ; the amount raised to be rateably divided, and at once applied, under proper superintendence, to the construction of the principal stage roads in the several counties of the state.

Inasmuch as the amount now annually raised for the repair of roads equals \$1,176,969 ; the sum to be thus raised by loan would be \$11,769,690, which could be immediately applied to the construction of those roads, leaving the sum of \$588,484, to be annually raised by assessment, and applied to the repair of roads ; and a like sum to be appropriated to the repayment of the loan. To this might be added the tolls to be collected on particular roads, in case the legislature should deem it expedient to make those who use the roads contribute, as in England, to their maintenance and repair. To this mode of maintaining roads may be fairly attributed the excellence of those in England, where the roads of particular districts are placed under the control of trustees, who have authority to manage the roads as a productive estate, and who are thus enabled to improve the roads at the expense of those who use them—borrowing money for constructing and repairing them, and repaying its principal and interest from the proceeds of the tolls.

If, after determining upon the construction of the principal roads upon proper principles, similar powers should be given to the county commissioners for roads, a great reform would be effected, and the means of transporting produce to market much facilitated, without increasing the annual assessments. The importance of this improvement in common roads, would well justify such a step on the part of the state. With good roads, every farmer in the state would be enabled, at a comparatively small expense, to carry produce, which is now useless, to market. The difference in the expense of transportation to the first purchaser, so important an item in the ultimate cost of produce, would be 50 per cent., making a diminution of one half of the present cost. Taking the average amount of produce raised on a farm of 100 acres, beyond what is required for the use of the farmer, to be equivalent to 400 bushels of grain—an amount believed to be below the real quantity; and with the present roads, fourteen journeys to the market town, with a two horse wagon, will be required to transport it to market—a labour which, if the average distance of each farm be estimated at ten miles, would employ a wagon, horses and driver, fourteen days. With Macadamised roads, the same labour could be performed in six days, with more ease to the horses and less injury to the wagon, making a saving, to every farmer in the state, of eight days in the transportation of the produce of a small farm, and a saving proportionably greater upon larger farms.

This illustration of the superior economy of good roads, might be applied to other branches of industry, and their results would show an enormous expenditure of time and money thus indirectly made by the people of the state, in transportation on bad roads, to the amount, probably, of \$10,000,000 annually, a sum sufficient to put all the roads of the state in good order. This saving in time and money is not the only benefit that would accrue to the state from the adoption of the policy proposed. By the expenditure of the principal sum raised by loan, in constructing and repairing roads in the several counties, money would be circulated, labour employed, and



the energies and enterprise of the whole community would be stimulated by the actual execution of a policy calculated to diffuse the benefits of public improvements throughout the state—not advancing one part at the expense of the whole, but giving to each county its just share, and conferring upon all equal, and at the same time, substantial benefits. Among these may be mentioned, a more rapid increase of the population of the state.

With good roads, the second and third class of lands may be made equally productive with the most fertile, where the roads are bad—the difference in the expense of transportation, being more than an equivalent to the difference in the quantities produced.

Emigration from the state will be thus checked, and the better and more substantial class of emigrants from other states will be induced to settle here. A similar policy is recommended in relation to the construction of bridges. All the bridges over small streams, and many of those over the large rivers, should be made of stone, or brick, where stone cannot be procured. Such structures would be permanent, requiring little or no repair, and though more expensive in the construction, are more economical than wood, when the expense of construction and repair is spread over twenty years.

A similar mode might be adopted in constructing the bridges, i. e., dividing the annual assessments into two parts, the first to be appropriated for twenty years to the extinguishment of a loan, equal to one half of twenty years' assessment, the loan to be applied, under the direction of the state, in constructing permanent bridges in the several counties, and the residue to be used for keeping those in repair whose permanent construction is to be postponed.

Your committee are aware, that the policy recommended is liable to the objections, that it will involve great expenditure, and that it is novel. Objections always ready with the timid, the unenterprising, and those who deem the existing condition of things as not susceptible of improvement.

The policy recommended, however, is not meant merely for the present generation. Like the public buildings and the canals of the state, and the aqueducts of cities, roads are intended to be permanent. They belong to the state, an existence that is to last through ages; and her public works should all be constructed with reference to an equally enduring existence. Economy in a state is not consulted in limiting the expenditure to merely what serves the present occasion; but in looking forward beyond the wants of the present generation, and having carefully consulted the ability of the community, proportioning the expenditure to the importance of the object to be attained.

The subject referred to the committee they deem of the highest importance, whether considered in reference to the present or the future, and they recommend, that a memorial should be addressed to the legislature, expressing the views set forth in this report.

All which is respectfully submitted, in behalf of the committee.

J. BLUNT, *Chairman.*

*New-York, January 9, 1836.*

## REVIEW OF IVANHOE.

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1821.

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THE unknown author, who has so long delighted the literary world by his lively descriptions of Scottish scenery and Scottish manners, has now turned his attention to the more southern part of that interesting island. From the formal manner in which he took leave of his readers in the last series of Jedediah Cliesbotham's tales, we felt apprehensive that he had bidden a final adieu; but, upon examination, we find that he had only finished his observations upon the Scottish character, aware, as he undoubtedly was, that his future essays to describe the manners of that nation could be but little more than copies of his former productions.

He has now began (as we hope) a series of novels, or romances, descriptive of the customs of that nation, whose early history and character interest us more deeply than that of any other nation's. England! the birth place of our ancestors; the abode of a people whose language and habits are the same as our own; whose fathers, until the year 1660, felt and acted in common with ours. They suffered and triumphed together. Their warriors, their statesmen, and their poets, acquired fame for their American as well as for their English posterity. Chaucer, Shakspeare, Spencer, Hooker, Bacon, Milton, Newton, and Locke, the greatest men who have appeared in England, confer honour, not upon the English alone; Americans own the same fathers, and have an equal title to that *inherited* glory. Though injuries and insults have caused a separation of the two countries, and have entirely destroyed all those tender ties



and recollections which might have bound America to England; though the present race of Britons are the men whom their injudicious policy has taught us to regard as enemies with little reluctance; still our descent from a common ancestry, whose ashes are deposited with them, makes us feel a deep and undisguised interest in their country, and in the character of its early inhabitants. We regard it as the cradle of our literature; the birth place and the resting place of those authors, whose works must delight while their language is spoken. Notwithstanding our growing strength renders us careless, and even contemptuous, of the prowess and power of England, and that we view her as a nation destined to be sorely humbled by our arms; we must always feel a lingering affection for our father's home, and reverence England as the Romans did Athens. Her literature will be more effectual, than her arms in averting our hatred and scorn.

Her historians and chroniclers are the recorders of the rude customs of our progenitors. Any investigation into olden times must, therefore, be interesting to us; and it afforded us much pleasure to find that the mighty unknown had dated his story before, rather than after the Restoration. We also think that the reign of Richard Cœur de Lion is a more appropriate time for a romance than any other monarch's. The whole human family had been disturbed and broken up by the operation of principles which were anomalous in the history of man, and excited him to actions that now appear to be unnatural, and even superhuman. The crusades, for instance, would be now viewed as incredible, if the testimony were not of the most positive kind. If any person should now propose a war to be carried on by individuals, for the possession of the holy sepulchre, we should regard him as either foolish or crazy. But then a bigotted zeal against the infidels had maddened all classes throughout Europe: army after army volunteered their services in conquering Palestine, and its soil was fertilized with the bodies of more than 3,000,000 Christians, and of an equal number of Turks. At the time of this tale, though the crusading spirit had not sensibly diminished, other motives began to

take the place of religious enthusiasm. The love of fame animated some, and the desire of wealth prompted others, to assume the cross. The permanent passions of ambition and avarice were gradually reassuming that sway over the mind, which for a time had been relinquished to bigotry and enthusiasm ; and the higher classes began to practice, as well as profess, the true virtues of chivalry. The courage of the soldiery of that period assumed a milder aspect, and courtesy was considered one of the qualifications of a knight. Such a picture as this book presents of the generous manners of these men is refreshing to a person disgusted with modern manners, and tired of the bargaining of merchants, and chicanery of lawyers: he breathes a new atmosphere. The stately knights of ancient times are there portrayed in living colours ; the reader is in their company, and actually conversing with them. He forgets his shop and his contracts, and, in imagination at least, grasps a lance, and spurs his horse upon an airy adversary.

But the interest this tale excites is not entirely owing to the general manners of the mass of society ; much is due to the characters of the two parties in the novel, and particularly to the characters of their leaders. We say *parties*, because, as far as we are conversant with works of fiction, it appears that they are nothing but relations of some contests between two sets of people, whose efforts to obtain what may be called a triumph make up the incidents. The hero or heroine of the tale acts in concert with a set of persons, who endeavour to afford protection against the machinations of some open or concealed enemies, who form an opposition party, and sometimes several parties, though all against the principal personage. This is the case with all those novels which now occur to us ; Clarissa Harlowe, for instance, is persecuted by Lovelace ; Amanda by Belgrave ; Tom Jones by Blifil ; Wallace by King Edward ; Peregrine Pickle, Roderick Random, Thaddeus, have all their enemies, and this author in particular has formed all his novels upon some party conflict. In this romance he has conformed to his usual rule, and with the happiest effect. His selection is remarkably judicious. Before Richard the First

ascended the throne of England, the Saxons were dissatisfied with the monarchs of the Norman line, and being more numerous than their conquerors, they engaged in frequent rebellions, which afforded some pretext for the numerous confiscations and cruelties that avarice or inhumanity prompted them to inflict. We do not find any Saxon patriot who endeavours to release his countrymen from their cruel bondage; no public-spirited individual appears among them of sufficient talents or influence to lead them. Even Becket, who had ambition and genius, was totally engrossed in ecclesiastical disputes, and in endeavouring to establish a tyranny equally degrading with the Norman yoke. Among the Saxons, therefore, we find nothing to love, admire, or interest. We feel pity for their sufferings, but our pity is mingled with contempt for a people who had not spirit or energy to shake off their chains.

The unfeeling, successful Normans were not more interesting until the latter part of the life of Henry II. Their insecurity before that time gave them full employment, and they were obliged to continually exert their courage in defending their conquests. But such petty rebellions of peasants against tyrannical masters afford no food for the romantic reader. He cannot sympathize in the sufferings of undistinguished individuals, and for their tyrants he feels unmingled detestation. But Henry, the father of Richard, a monarch remarkable for his prudence and enterprise, had so firmly seized the reins of government, that the Saxons began to despair of ever regaining their freedom, and relinquished all regularly organized opposition to the Normans. Some few, indeed, were driven by the tyrannical forest laws into open defiance of public authority, but the great body of natives sullenly submitted to a power which could not be resisted with any hope of success; and the Norman knights, finding no warlike employment at home, were compelled to seek abroad gratification of their thirst for action, in voluntary feats of chivalry and knight-errantry.

All readers of English history know, that Cœur de Lion was the first Norman monarch who loved or was beloved by his



English subjects. The wound inflicted by the battle of Hastings was not then wholly closed, but the two races had intermarried, and the line of division was gradually disappearing. The cause of a hatred so rancorous and lasting between the Saxons and the Normans, may be found in the history of the 11th century. Sufficient had been done by the Normans, in confiscating all the real property of the natives, to exasperate and inflame them; but their mutual animosity was increased by being continually opposed to each other. The predecessors of Richard had used the Normans to conquer England, and afterwards employed the Saxons to subdue the rebellious Normans. The descendants of the latter, who came over with William, had not yet lost their partialities for their native land, where many of them still owned castles, and consequently sided with their countrymen. These circumstances prolonged the existence of an animosity, which is not generally entertained by the vanquished against victors residing amongst them. But the crusade, in which Richard engaged, enlisted many of his subjects, Saxon and Norman, under his banners, and, as brothers in arms fighting for the Holy Sepulchre, they forgot those animosities which had made them enemies at home. His gallant character did much in appeasing these hatreds: his generosity, romantic courage, and, above all, his undeserved sufferings, gained the love of his subjects, who, groaning under the tyranny of the profligate John, hailed his return with the warmest expressions of affection, and considered him more as a restorer of freedom and a patriot, than as a sovereign with extensive prerogatives.

Here, then, were two parties, and the first founded since the conquest, who were qualified to become the parties of a tale or romance. Before this reign the Saxons were too much injured, and the Normans too ferocious and cruel, to grace the page of fancy. Vice ultimately successful, and virtue continually suffering, is contrary to poetical justice—a quality which we wish to see in fictitious tales, because, in truth, it exists in real life. Both these parties are interesting. The brutal Nor-

mans, the haughty templars, and the profligate monks, who favoured the ambitious designs of John, are not without some redeeming virtues; while the injured Saxons, and those Normans who accompanied Richard to Palestine, form another party, more deserving, because of their virtue and loyalty.

We are also much interested in their leaders. Richard, careless of danger, even to a fault—generous both to friends and foes—realizing in his own character all the virtues of a knight-errant, if he has not deserved the reputation of a wise and prudent monarch, has gained a brilliant name as a gallant warrior; and, in spite of the formal saws of wise moralists, such glory will always be envied and sought after by the high-minded and ambitious. To see a monarch voluntarily relinquish the luxuries of his palace for the hardships of a camp—exposing his life like the lowest of his subjects, commands our respect, even when his aim is to extend his empire: but when, like Richard, he is prompted by chivalric or religious enthusiasm, though the sage philosopher may condemn such a waste of life, his exploits become the theme of the poet's song, and his character is admired by every person, until intercourse with the world has chilled all romantic feelings. It is owing to such kings as Cœur de Lion, monarchs who descended from the throne to mingle with their subjects, led them in battle, even there manifested their superiority, "the first in danger as the first in place," that the kingly character became so highly respected. Hereditary monarchy was established by the merit and courage of the ancient kings; and since the ridiculous doctrine of an unalienable right to their thrones has been advanced, monarchs have degenerated, and are daily losing the respect of their subjects. They have confined themselves to courts—the people have transferred their affections to more prominent men; and, judging from the late occurrences in Europe, we should say, that the time has nearly arrived, when kings must resign their crowns, or deserve them. "To have done, is to hang quite out of fashion, like a rusty mail in monumental mockery." If kings will be slothful or stupid, their subjects forget their titles in commenting upon their characters, and will soon learn to consider

them as mere idle and stupid men. They will be restricted in power, or deposed, as many have been before them for the same cause. Interested persons, whom they have gathered around them, may uphold their cause for a time; but the will of the people is irresistible, and must at last be obeyed. It is worse than useless to oppose it. Opposition only influences the public mind, by retarding revolutions, until the accumulated force becomes unmanageable, and the revolutionists are rendered cruel and vindictive, by the resistance of prejudice and interest.

But to return. Of all the monarchs, who conferred lustre upon their stations, Richard had the most personal gallantry. He was a true knight-errant, seeking danger wherever it was to be found, and nothing was too dangerous for his romantic daring. It is related of him, that at Acre or Jaffa, with less than four hundred followers, he sustained the assault of thirty thousand Turks, and afterwards rode from one end of their line to the other, without meeting an antagonist, who dared to cross him in his career, or to accept his often repeated challenge. Such a monarch is fit to become the hero of a romance.

At the head of the other party was John, a prince, cruel, mean and cowardly, whose whole life is nothing but a tissue of ingratitude to his father and mother, treachery to his allies, and tyranny to his subjects. Yet this man, with all his baseness, interests us, and we would willingly learn more of his character for two reasons; 1st. That he signed the Magna Charta; and, 2d. That the immortal Shakspeare has made him the subject of one of his tragedies. Either of these circumstances had rendered him too remarkable to be forgotten. And now, in the words of an old English ballad,

“ Let us leave talking of Little John,  
And think of Robin Hood,”

“ that prince of robbers and most gentle theefe,” who was a cotemporary, and governed his outlaws with as much justice and order, and more prudence, than many a monarch of true men. This redoubtable archer is himself a sufficiently interesting person for the hero of a tale. His exploits and adventures



would fill up a larger book than this. For near a century his various conflicts and robberies gave full employment to the old ballad makers, and at length he became so popular, that, on May day, the English yeomen used to assemble and perform a singular farce, in memory of the Hero of Sherwood and his merry bowmen.

Such a life as theirs is represented to be, supplying the table by deer hunting, enjoying alternately the pleasures of the chase and the revels of a feast in the open air, with companions, whose bold and frank manners were untrammelled with the shackles of civilization, has something in it inexpressibly charming to an ardent imagination.

Their insecurity only enhances their pleasure. Though men be desirous of preserving their lives, yet there is something so attractive in a life of peril, that to men of fearless dispositions no moments are so full of enjoyment, as when they have to exert all their faculties in extricating themselves from dangerous situations.

Their outlawry was the consequence of opposition to their oppressors, not of crimes; and at that time thieving was a reputable and honest way of obtaining a livelihood. These circumstances being considered, it is not surprising that the bold-hearted Robin should have preferred plundering the rich oppressor, and slaying the king's deer in the forest, to cultivating the soil, or tending the swine, of some tyrannical Norman.

Though many hardships were necessarily attendant upon such a life, still it was better than slavery. Habit had steeled them against the weather. They had many a jovial feast even in the winter, and spring brought them all their pleasures in full perfection.

“ When shaws been sheene and shraddles full fayre,  
And leaves both large and long,  
Itt's merry walking in the fayre forest  
To hear the small birds songe.”

It is to be regretted that such an interesting character should be so slighted; he was entitled to a tale of his own. If this author had devoted all his powers to these outlaws, and been

more careful in writing, we believe, though it is almost profanation to whisper our belief, that he might have made the Prince of Outlaws and Friar Tuck equal to the madcap Hal and Falstaff of Shakspeare. We think that there is no small resemblance between these characters. Certainly Robin Hood and his merry men are not deficient in jollity, humour, or in any marked outline of character, to the merry prince and his jovial crew; and in courage they have the advantage over all except the Prince of Wales. But it is useless to fancy what the author might have done: let us be thankful for what he has done, in describing the outlaw's life. As to Robin Hood, the untimely death to which he adverted was assassination. He was taken suddenly ill in a convent, and the friars bribed the physician who was employed to bleed him, to suffer him to bleed to death.

“ Thus ended the life of this good yemen;

“ God send him eternal blysse;

“ And all that with a hand bowe shoteth,

“ That of heaven they never mysse. Amen.”

The Normans, Saxons, and outlaws, were peculiar to England; but there were orders and classes of society, who, though spread all over Christendom, had manners of their own, and entirely different from their countrymen's. Those great principles which had so disordered civil society, had created communities, whose members did not feel as Englishmen or Frenchmen, but as belonging to a particular order. These orders were formed by certain principles operating upon passions, which, though always existing, were never so highly excited before or since; and the actions of their various members displayed some points of the human character to great advantage in the eye of the poet and the philosopher.

The Christian religion had then obtained such a commanding influence over the passions, though not over the reason of men, that it induced many of its votaries to thwart and oppose the dictates of nature; considering a self-denial as the most meritorious act of piety. Hence many enthusiasts took upon themselves vows of perpetual celibacy and poverty. If these vows had been obeyed, no great evil could have resulted from socie-

ties which frustrated the great command of nature, "Increase and multiply." The members would not have been very numerous while performance of their obligations was rigidly enacted; but unfortunately for their morals, the power of dispensing with the obligations of oaths, and of pardoning sins, being vested in the priests, deprived the vows of their binding force. The monks, like the jovial Tuck, "confessed the sins of the green cloak to the gray friar's frock, and made all well again." The vow of celibacy being thus dispensed with, many inducements were offered to the common people to enter monasteries. They found there food, clothing, influence; indolent dispositions were indulged, and their sacred station protected them from violence, which was, in those turbulent times, no mean privilege. The monasteries consequently became numerous and full; for the lazy, the sensual, and the cowardly, all flocked thither, that they might safely gratify their appetites under the cover of a friar's frock. But minds of a higher order could not be so easily contented; an ascetic piety, joined with a spirit of chivalry, prompted many of the nobility to enter into military associations of the monastic character, for the defence of the Holy Sepulchre; and these knights displayed consummate prudence and romantic valour in prosecuting their holy designs, worthy of men who had sacrificed the pleasures and vanities of this world upon the altar of religion. The veneration paid by their more peaceful Christian brethren to these military monks, though perhaps deserved, was undoubtedly flattering to their self-love and pride, passions which were not a little nourished by those around them. The inhabitants of Palestine had been for many centuries the humble vassals of some imperious conqueror. Their spirit was broken and subdued; their habits slavish and cowardly. Such a people must necessarily have disgusted the high-spirited Frank, who could not refrain from drawing conclusions favourable to his own character. Their foes were not more calculated to lower these flattering opinions. They were infidel dogs, whom it was meritorious to extirpate; pagans, doomed to feel the warlike prowess of the Christians in this world, and to everlasting



wrath in the next; and it is not surprising that the Templars should have been haughty and proud; neither is it matter of great wonder, that in a country whose cities were subject to continual siege and pillage, whose climate was favourable to the indulgence of the passions, and whose black eyed girls were not greatly averse to a suing lover, that sometimes the warlike monks were tempted to enrich the church with the plunder of infidels, or that, in an unguarded moment, they forgot their vows of celibacy. Such a breach of sacred obligation might then have excited universal indignation; but now, when eight centuries have allowed prejudice and passion to subside, we must candidly confess, that we are not greatly surprised that these vows were repeated oftener than they were performed.

Brian De Bois Guilbert, one of the principal characters in this romance, is the representative of the Templars, possessing all their faults and virtues, strongly marked. To gratify his desires, he does not scruple to sacrifice the happiness and peace of any who may jostle him in his course. Like all the votaries of ambition, he looks upon men as mere tools for his use. But his coolness in danger, his scorn of duplicity, and his firmness of mind, which he well describes, when in the interview with the Jewess in her prison, he says, "I am, Rebecca, as thou hast spoken me, untaught, untamed, and proud that, amidst a school of empty fools and crafty bigots, I have retained the pre-eminent fortitude that places me above them. I have been a child of battle from my youth upward, high in my views, steady and inflexible in pursuing them. Such must I remain—proud, inflexible and unchanging, and of this the world shall have proof." Such sentiments compel our respect. We bow with awe and veneration to the mind, that towers above the accidents of fortune, and seems the arbiter of its own fate. This haughty Templar is a character very similar to Marmion; so much resembling him, that we have no doubt *that the same fancy portrayed both*. This opinion is confirmed by several scenes and personages in Ivanhoe, which bear nearly the same relation to Bois Guilbert that their originals bear to Marmion. Rowena is a copy of Clare; Ivanhoe of De Wilton; and the manner in which the

latter are introduced are alike in both works. They come before their rivals disguised as Palmers. If Wilton with his solemn augury intimidates

“Marmion, whose steady heart and eye  
Ne'er changed in worst extremity,”

Ivanhoe cowers the Templar by intimating his disgrace at Acre; if Marmion fell before his rival on Gifford Moor, Bois Guilbert is defeated by Ivanhoe in the lists of Ashby. The resemblance is striking, and confirms our belief that Walter Scott is the author of these novels.

Another class of warriors little less interesting than the Templars, was the Free Lances. In those days, no trades or professions were honourable. There were no regularly educated politicians. War, religion, and love, were the occupations of all the high-born and ambitious, and unfortunately marriage had not then become a money-making business; consequently the church or the camp was the only alternative of an impoverished nobleman. If he had a peaceful disposition, and a love of learning, he sought promotion in the church; but if, like De Bracy, he formed “his letters like spear heads and sword blades,” he was a military genius, and associating with himself others, who were as rich in family and as beggarly in pocket. he offered his services to any prince who could not raise troops among his own subjects. Men of this description must necessarily have been hardened by the many cruel scenes in which they were obliged to participate. Like all other mercenary soldiers, their manners were licentious, frank, even to rudeness, and their dispositions generous and fearless. As their object was plunder, they were rapacious; and as they were poor, they were uneducated and illiterate.

Of these men Maurice De Bracy is a favourable specimen. Illiterate, poor and rapacious, like his comrades, he has many good qualities to redeem him from reprobation—such as inviolable faith, great personal gallantry, and a tenderness of disposition, which, though not so great as to entitle him to the appellation of a humane man, was remarkable in a Free Lancer. His conduct towards Rowena and Ivanhoe, in Torquilstone; his

reckless courage in the defence of that place; his indignant refusal of John's proposal to waylay Richard, all prove a soldier, with much knightly pride, and some arbitrary notions of honour, though living in turbulent and licentious times.

We noted one fault in the author's description of De Bracy. He is made to tell John of the slaughter at Torquilstone, in the scriptural language of the messenger to Job—an intimacy with the Bible, which we should not have expected in one, who represents the Israelites as applying to the Pope for absolution from the vow, which they had made in Mizpeh, that they would not give a wife to any of the tribe of Benjamin. The author is guilty of the same fault, when he puts the words of Jacob's children in the mouth of Wamba, who, however shrewd, and even learned in jests, cannot be supposed to be well versed in Scripture, at a time when it was locked up in the dead languages.

But the most interesting personage in this romance is Rebecca. A Jewess, who, notwithstanding the contumely heaped upon her nation, preserved her character free from that meanness which the peculiar circumstances in which they were placed compelled them to practice. The security of the nobility themselves, in those turbulent times, was due to their own power, more than to the restraints of the law. It could not be expected then, that the humble, persecuted, and unprotected Jew should escape; especially when the bigotry of the times commanded, and the interest of the rapacious nobility was promoted by, the oppression and plunder of this wealthy, but spirited people. This reign was remarkable for the prejudice which existed against the Jews. Directly after Richard's coronation, though without his sanction, a terrible persecution was commenced against them at York; five hundred were massacred by the common people, who plundered their houses. But Rebecca, notwithstanding the insults and injuries to which she, in common with her people, is daily exposed, preserves her dignity of character. She appears sensible, that talents, like hers, entitle her to respect, and, in spite of the disadvantages of her situation, displays a strength of mind, and amiable disposition, which command our esteem and sympathy.



Her father, too, is well described ; but as our limits will not permit us to analyse every character in the work, we will barely mention one or two faults in the author before we conclude.

There is a great carelessness in the composition. Many violations of grammatical rules, and some few of historical truth—such as miscalling William Rufus the grandfather of John. Rufus had no children, and was the brother of John's great grandfather. We also think, though it may seem bold to make such an accusation against such an author, that he has condescended to borrow from Godwin's novel of St. Leon. Page 277, Isaac uses the same language with the Jew, who afforded St. Leon a shelter from the inquisitors. Front De Bœuf has the same outlines, though he is a far inferior character to Bethlem Gabor. His interview with the Jew greatly resembles the conference between Bethlem and St. Leon ; and the destruction of their castles, and the escape of their prisoners, have so much resemblance, as to warrant a belief, that the author of *Ivanhoe* had the story of St. Leon fresh in his mind, when he was composing this part of his romance.

These, however, are trivial faults, and we would forgive them, though ten times more numerous, to be as much excited as we were, while reading this book. We could hardly persuade ourselves that the scenes were unreal ; that we were reading a romance, instead of witnessing a tournament ; and our first feelings were regret, that we did not live in those times, when, as the gallant Froissart observed of Sir Reginald De Roye, a man's being "young, and in love, made all his affairs prosper."

But the days of chivalry and knight-errantry have gone by. Men now seriously apply themselves to business, and neglect everything which has not some immediate relation to their interest. No generosity can now be shown to an enemy, without incurring the charge of fool-hardiness. An unsuccessful officer would be cashiered, if he should refuse to take odds. This apparent selfishness compares but poorly with the frankness and fearlessness of our ancestors, and our feelings are highly excited by the boldness, generosity, and hardihood of men,

whose situation was calculated to elicit the ruder virtues. This author possesses great talent in describing such characters, and has given interest to Scotland, and conferred much honour upon the Scottish character, by his celebrated novels, whose stories are laid in that country.

He is now about to give the same glory to England. And have we no genius, who, possessing himself of the requisite knowledge, will employ his pen in perpetuating the rude manners of our own immediate ancestors? Is America, the younger sister of the family, to be without her fairly acquired fame?

While we give due praise to the scenery and customs of other countries, let us not forget that our own are equally interesting. The religious enthusiasm, the enduring fortitude and firmness of our New-England ancestors, make them not inferior to the persecuted Cameronians.

To see them quitting their country, their wives, and their children, and seeking religious freedom in a wilderness, notwithstanding the terrors of the ocean and of savage cruelty, shows no less courage and reliance upon Providence, than the lifting up of a standard against Charles the Second by Burley and his brethren. Even the poor Indians, who once inhabited this country, but who now, alas, have vanished at the approach of civilization, like the mist of the valley before the morning sun; their hunting grounds have been turned into cultivated fields, their little wigwams removed to give room for our populous cities; they have long since joined their fathers beyond the great lake, and the place which once knew them knows them no more. These hunted and persecuted people have characters, which may vie in intent with those of the proudest and most ancient European nations. Sassacus, Canonicus, and Nanunthenoo, Indian chiefs, display magnanimity, fortitude, and patriotism, which would cast even Roman virtue in the shade. In what do Robin Hood or Rob Roy surpass Philip, Sachem of the Wampanoags, who, by his valour and policy, brought the colonies to the very brink of destruction? In what part of European or Asiatic history do we find men, the workings of whose minds were more powerful or productive of

greater results, than those of our revolutionary fathers? Why should the names of Hancock, Adams, Henry, and Randolph, be less dear to us than Scotch and English heroes?

Is there less originality in the American character? By no means. Captains Church and Standish, Roger Williams, Cotton Mather, William Penn, Old Putt, and Mad Antony, as the old soldiers used to call Wayne, with many others whom we could mention, display as strong and marked outlines, as much boldness and originality of character, as any of the most interesting personages in any other countries.

Our history, too, is equally stored with interesting events. The assault of the Narraganset fort; the battles of Lexington and Bunker Hill are not inferior to those of Loudon Hill and Bothwell Brig. The manner of fighting is as personal and singular, the feelings of the combatants as much excited, and greater interests depending upon the result of the conflicts.

The persecutions of the Quakers, the condemnation of the witches, and the warlike preparation which the first settlers were obliged to make, even when then they went to the house of prayer, afford additional materials also for such novels. Neither is our scenery uninteresting. Nature has formed every thing in this country upon the grandest scale. She has piled up mountains and poured down cataracts with a bounteous hand. She has left us nothing to complain of. Whether we view the broad swelling Catskills, or the towering White Mountains, which are cloven down to their base, and afford a channel for the Saco, whose precipitous banks are there several thousand feet high; whether we fearfully listen to the thundering, foaming Niagara, or watch the stream of the Catskills, which reaches the bottom of an immense precipice in the form of dew; whether we linger on the verdant banks of the lovely Housatonic, or admire the lordly Hudson, as he rolls his swelling flood through a bold and romantic region, we find fresh cause of exultation, and are ready to exclaim, with the patriotic Syrian, "Are not Pharphar and Abana, rivers of Damascus, better than all the rivers of Israel."



ADDRESS  
OF  
THE HOME LEAGUE,  
TO THE  
PEOPLE OF THE UNITED STATES.

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1842.

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ON the first of July next, a new era commences in the history of the United States. Unless some modification shall be made at the next session of Congress, on that day the impost system of the United States will be placed upon a basis as yet untried in this, and, as we believe, in any other civilized country. From that time all discriminating duties are to be abolished—the protection hitherto extended to the manufacture of articles essential to the independence of the country, is to be laid aside—the legislation of other nations adverse to our national interests is to be disregarded, and under a fixed and permanent duty of 20 per cent., the navigation, manufactures, and agriculture of the United States, so far as they are affected by foreign trade, are to be committed to the caprice and hostility of foreign legislation; and to be regulated, prohibited, or encouraged, as the interests of other governments shall prescribe. How far such a departure from the established national policy of the United States is justified by a recurrence to our past history, or by sound maxims of government, is well worthy of consideration.

The American people are fully aware of the grasping and monopolizing character of the policy adopted by the nations of Europe, for the government of this continent. That knowledge

grows out of their public history. It is identified with their recollection of the councils and achievements of the revolution, which was in itself an effort to emancipate this continent from the shackles of the colonial and commercial system of Europe. So far as related to the territory of the United States, that attempt was successful.

The establishment of our independence put an end to all direct control and interference on the part of England, with the industry and commerce of the United States.

The indirect control of the colonial policy was as great as ever. So far as related to our commerce with the territories and islands adjacent to the United States, we were still in a state of vassalage. It is true that we could trade with Europe, and we had an equal voice in the regulation of the trade between the United States and the colonial possessions of European powers; but their jealousy forbade all intercourse which was not exclusively regulated by them for the interest of the mother countries, and in this manner the United States were isolated and debarred from intercourse with all neighbouring colonial possessions.

The southern part of this continent was in possession of Spain, and her jealousy excluded all trade with those colonies. On the north, England exercised a similar control, and with the same hostility to American commerce. The vast and fertile valley of the Ohio was denied all access to the ocean, because the mouth of the Mississippi was owned by Spain; and the equally extensive and fertile shores of the great lakes were subjected to the same inconvenience, because the St. Lawrence flowed past one of those military out-posts with which the commercial policy and grasping ambition of England have encircled the globe.

Even when under the pressure of war any European power opened her colonial ports to our commerce, it was deemed an infringement of the principles of the colonial system: and our vessels have been subjected to capture and condemnation for participating in a trade, which was stigmatised as a violation of the European law of nations. The resources and commerce

of this hemisphere were deemed the property of Europe, and all intercourse and trade among its inhabitants were to be wholly prohibited, or so regulated by her parental legislation, as solely to promote European interests.

Such a prohibition was an arbitrary exercise of power, injurious to the interests and rights, not only of the colonies, but of the United States. It was in contravention of the natural rights of the inhabitants of this hemisphere, and would justify them in resuming those rights by force, whenever their interests would permit recourse to the dernier resort of nations.

The sagacious statesmen of the revolution felt that the contest was not yet at an end. The victory was only partially achieved. The bonds of colonial vassalage had been shaken off; but the broken bars and shackle-bolts still lay scattered around, encumbering the ground, and obstructing our path to prosperity and greatness. A system of policy was to be adopted, which should secure to the country the substantial fruits of independence. Among the first objects which attracted the attention of the federal government, was the shipping interest; and a law was enacted which, by a discriminating tonnage duty, compensated American vessels for the burdens imposed upon them by the British navigation acts, and enabled them to compete upon an equal footing for the carrying trade between the two countries.

Measures were also adopted to open the Mississippi to the trade of the rich territory beyond the Alleghanies, and to enable its productions to reach the ocean by the way of New-Orleans. At the same time, steps were taken to obtain a fair share in the commerce between the United States and the West Indies; or at all events, to put an end to the monopoly of that business, which the British government sought to secure to its own shipping. This was effected, after a long and protracted contest, by the passage of laws prohibiting all trade with British colonies, in which American vessels were not permitted to participate.

Among the chief inconveniences to which the new republic was subjected, was one growing out of the impost systems



adopted by the great European powers. It found on all sides an interdiction, which prevented it from selling in their markets such productions as it found itself best able to raise.

With the view of encouraging their own manufactures and industry, or to raise the means of maintaining the vast expenditure of their governments, they had imposed duties so high upon importations as to almost exclude us from their markets. Against the productions of this country, so lately in the hands of colonial thralldom, and still obnoxious to the European prejudice that America was an inferior portion of the globe, created and cultivated solely for their use, these impost systems bore with peculiar force. The statesmen of the old world could not forget, that, until the Continental Congress of 1776 had broken the thralldom, not a hob-nail, nor a yard of cloth, could be made in America, without the consent of European legislation; and England, especially, remembered that her laws prohibited any manufacturing in the colonies, which could interfere with her staples, or disturb a policy that doomed the colonists to the cultivation of the soil, with the view of providing a market for her manufactures.

It was in the face of this system—this general enmity—that the commercial and manufacturing interests of the United States were to be built up; and the policy adopted was that of reciprocity. We proclaimed to the world that we sought free trade, but to those that refused it we would extend retaliation. Our statesmen seemed to have been governed by the feeling that dictated the stern and stirring motto of old Massachusetts:

ENSE petit placidam sub libertate quietem.

Discriminating duties were imposed upon importations, having a due regard to the ability of the country to manufacture for itself. Under this system, the great interests of the country have advanced with unexampled rapidity. The navigation of the Mississippi was obtained by a vigorous negotiation, which more than intimated energetic action. The flag that had so lately appeared among those of independent powers swarmed in every sea; and within the first half century of our national

existence, we stand second only to Great Britain in the amount of our commercial marine. Yielding to the necessity of providing for her West India Islands supplies that could only be drawn from the United States, England was obliged to permit our vessels to trade with the colonies upon terms approaching to equality.

The exports of the country, which in 1791 only amounted to \$19,000,000, had increased in 1830 to \$74,000,000, and in 1840 to \$132,000,000. After the modification of the tariff, more particularly with reference to the promotion of manufactures, American fabrics began to make their appearance among our exports, and the United States, which, at the formation of the Union, exported scarcely any thing except agricultural produce, and was dependent upon Europe for nearly all manufactured articles, had so far advanced in that branch of industry, as to export, in 1823, \$3,352,000 of domestic manufactures, and in 1840, \$10,614,000.

Of these the cotton manufactures, which were not enumerated among our exports until 1826, amounted to \$3,550,000, and those of iron, to \$1,101,000.

These indications of increased skill, which now appeared in the exports, were but faint evidences of the great benefits conferred upon the country by the establishment of manufactures at home. The supply of the domestic consumption vastly exceeded in importance the amount contributed to its foreign commerce; and the creation of a home market for its produce, gave a new impulse to the settlement and improvement of the country. The rural districts were enriched and enlivened by the establishment of single factories on the streams that had, till then, flowed in solitude to the sea; while the manufacturing towns in other districts, sprung up with a vigour and strength, that, in fifteen years, have made them worthy rivals of the great manufacturing towns of the old world. It seemed, however, that the prosperity of those portions of the Union, which devoted themselves to commercial and manufacturing pursuits, excited dissatisfaction and jealousy among the planting interests. An opinion began to prevail, that by obtaining our supplies from

domestic industry, the American market for foreign fabrics would be curtailed, and that there would be a less demand for their peculiar productions abroad. Influenced by this sectional feeling, an opposition was set on foot against the established policy of the country, and after a vehement contest, in which other considerations, which it is unnecessary here to recapitulate, besides those of public policy were mingled, the opposition so far prevailed as to materially modify the commercial system, adopted at the formation of the Union.

The effort to regulate the trade between the United States and the British West Indies was relinquished on the part of this government, and is now carried on under the sole regulation of British legislation.

How far this has promoted the navigating interest of this country may be inferred from the fact, that while both governments exercised a joint control over the trade, nine-tenths of the commerce was carried on in American vessels; and that since the acts of Congress regulating the intercourse were repealed in 1830, by the proclamation of the President, the British navigator has so far gained upon the American, as to divide the trade equally with him.\* In fact, the intercourse between the colonial possessions of England and the United States, is regulated solely with the view of furnishing employment to British tonnage; and the convenience and interests of these great portions of the western hemisphere, which would be so much promoted by unrestrained commerce, are set aside and disregarded, in order to augment the maritime strength of Great Britain. The trade with the West Indies is coerced by burdening the direct trade with heavy duties, into an indirect

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\* Tonnage employed in the trade between the United States and the British Colonies:

|             | <i>American tonnage.</i>    |                          | <i>Foreign tonnage.</i>                                           |                          |         |
|-------------|-----------------------------|--------------------------|-------------------------------------------------------------------|--------------------------|---------|
|             | <i>British West Indies.</i> | <i>British Colonies.</i> | <i>West Indies.</i>                                               | <i>British Colonies.</i> |         |
| 1825, . . . | 102,000 tons.               | 60,000                   | 7,000                                                             | 6,000                    |         |
| 1826, . . . | 97,000                      | 75,000                   | 8,000                                                             | 9,000                    |         |
| 1839, . . . | 43,000                      | 384,000                  | } of this $\frac{2}{3}$ were<br>} on Lakes Erie<br>} and Ontario. | 24,000                   | 322,000 |
| 1840, . . . | 55,000                      | 373,000                  |                                                                   | 29,000                   | 388,000 |



trade through New-Brunswick and Nova Scotia, in which the long voyage, or that between those Provinces and the Islands, is exclusively confined to British vessels.

In like manner, the grain trade between the Western States and England is monopolized by British navigation. The wheat that in the ordinary course of business would come down the Erie Canal, giving employment to American millers, forwarders, merchants, and mariners, is forced, by heavy discriminating duties imposed upon the direct importation, into the route of the St. Lawrence, to build up Kingston, Montreal, and Quebec, and to increase the overgrown marine of the mistress of the seas.

The commerce on the Lakes has been increased from almost nothing, to a tonnage of half a million annually entering the ports of the United States from Canada; but the whole transportation across the Atlantic is monopolized by British vessels.

The same opposition was made to the policy of fostering domestic manufactures by discriminating duties, and with like success. After a contest, in which the opposition was carried to a point inconsistent with their obligations to the Union, its opponents succeeded in obtaining from Congress an act providing for a gradual reduction of duties until 1842, when they are to be brought down to 20 per cent. on all articles, without reference to any of those views and principles which have influenced statesmen in imposing discriminating duties. From the gradual reduction that has hitherto taken place, our mechanics and manufacturers have been as yet prevented from feeling the full effects of unrestrained competition with European labour. The great barrier has not yet been thrown down; still our merchants and mechanics have already felt the evil consequences of government's withdrawing its parental care. The reduction of duties has encouraged excessive importations of foreign manufactures, and increased the disorders of our currency. Extravagance in the consumption of foreign luxuries has been encouraged in the same degree, that domestic manufactures have been repressed. Importations have been increased, and the country has grown poorer. The whole ex-

ports of bread-stuffs from the United States in 1839, scarcely paid for one third of the silks imported ; while the exported whalebone and oil, the produce of the labour of our hardy mariners who are engaged in the whale fisheries, did not pay for the cigars which were imported into the United States the same year.\* A policy which produces such results, can scarcely fail to end in general distress and national bankruptcy.

Our importers and shipping merchants, also, complain of the disregard of their interests. The vessels of other powers are supplanting ours in the trade between this and the South American states, and four fifths of the importations of foreign goods in this city, have fallen into the hands of French and British agents.

Had this occurred in a competition where both parties stood upon the same footing, the same cause of complaint would not have existed. But such is not the case. The terms of the contest are unequal. On one side there is freedom, on the other restriction. Our ports and markets are open to other nations, while theirs are hermetically sealed to all articles, which may come into competition with any branch of native industry. This state of things ought not to be tolerated by any independent government ; least of all by one whose very existence grew out of successful opposition to the same system of commercial monopoly. Our interests, as well as our honour, require that our intercourse with foreign nations should be placed upon terms of equality and reciprocity ; that it should not be regulated and controlled solely by foreign legislation. This was the commercial freedom aimed at by our revolutionary ancestors, and we, their children, ought not to be satisfied with less.

In applying a remedy, practical statesmen will look at the actual state of trade between this country and foreign nations.

| Imports.          |              | Exports.                                    |             |
|-------------------|--------------|---------------------------------------------|-------------|
| * 1839—Silks, . . | \$23,088,000 | Bread-stuffs, . . .                         | \$8,545,000 |
| Cigars, . . .     | 1,027,000    | Rice, . . . . .                             | 2,460,000   |
|                   |              | Whale oil, bone, and<br>spermaceti candles, | 868,000     |

For instance, in its intercourse with England, a power enjoying one half of our whole foreign commerce, it meets with two inconveniences, resulting entirely from the commercial legislation of that government. The first is its colonial policy, by which the carrying trade between the United States and the colonies is practically confined to British vessels. To these pretensions this country should offer a constant resistance. All the territories and islands owning a common head, or controlled by one government, other nations can only regard as one country or empire. Such is the character of the various states and territories represented by the federal government at Washington ; and such too we ought to consider the various islands, provinces and colonies, controlled by the imperial government at London. While we admit the right of all nations to designate the ports which foreign vessels are permitted to enter ; we must also regard as unfriendly the exercise of that right in a manner plainly intended to secure the greater part of the carrying trade to that party.

The mode of retaliation, and the time when it is to be enforced, may depend upon many other considerations ; but setting those aside, and none can doubt, who is jealous of his country's rights, that the grasping and monopolizing character of the laws of England, regulating our intercourse with her colonies, would justify us in confining the admission of her vessels to the ports of the Chesapeake, or any other part of the Union, which should have the effect of diminishing her share of the carrying trade.

The second, and indeed chief inconvenience, to which American commerce is subjected by her laws, grows out of the general principle pervading her commercial system, by which she seeks to secure the supply of her own consumption to her own subjects. Her revenue laws all aim to secure her home market to herself. The importation of everything that can be advantageously produced by British capital, or British industry, is either prohibited, or subjected to heavy duties, which operate as a bounty to the British producer.

Practically, these laws exclude the agricultural productions



of the whole northern and western states from the British market, or compel them to seek admission under the guise of colonial produce, and with the view of fostering the growth of her commercial marine.

This policy of excluding bread-stuffs from the British market is the more objectionable, as it was adopted at a time which would warrant the conclusion, that it was specially intended to operate against the United States. Before their separation from England, the duty on wheat imported into that island was merely nominal. But directly after the formation of the federal government, a new policy was adopted towards this country. The first step was to exclude American vessels from the colonial trade. The second, to impose a high duty on the importation of bread-stuffs. This was done in 1791; and it may be safely asserted, that the Corn Laws of England, which form so great an obstacle to free trade between the two nations, have originated as much out of jealousy of this country, as out of a regard for her landed interests. Their effect certainly is to prevent those states, which depend chiefly upon agriculture, from paying for their importations in the productions which they can most readily raise; and to compel them, either to devote their industry to other employments less suitable to their condition, or so to reduce the price of their produce as to force an admission into the foreign market in spite of the duty. The operation is injurious to the grain growing states; and any injury to so great and important a portion of the Union, cannot be too carefully looked into, nor too speedily redressed.

The practical remedy adopted at an early period of our history, was, by discriminating duties, to encourage all manufactures essential to our national independence, and to compensate for the loss of a market abroad, by promoting a variety of employments in the country, and thus creating a market at home.

The results of this policy are manifest to all. Indeed, it would be difficult to find a more forcible illustration of the advantages of this policy, than is afforded by the contrast between those states whose citizens have adopted a variety of employ-

ments, and those that have devoted themselves to agricultural pursuits, during the late convulsions of the commercial world. While the planting and agricultural states have been (and are still) in the greatest distress from the low price of their staples, which they are obliged to sacrifice to pay for their foreign importations; the manufacturing states, more independent of supplies from abroad, experience but little difficulty, and no actual distress.

The question now to be decided by the American people is, whether this policy shall be given up, and the commerce and manufactures of this country abandoned by a government, which was established chiefly for their protection, to the care and guardianship of foreign legislation.

The argument used in favour of the abandonment of this policy is, that it conflicts with the principles of free trade. If these advocates of free trade could show, that those powers with whom we had commercial relations, practiced upon that theory in their intercourse with the United States, there might be some ground for urging upon this country an adherence to its maxims. But such is not the fact. The great maritime powers of the world have surrounded themselves with a commercial quarantine.

England takes nothing from the United States that she can produce at home; and France is equally careful to protect her own subjects from American competition. Our trade now chiefly consists in purchasing from them freely all that we require; and then the productions of our industry are forced off in all markets to which they are admitted, in order to provide the means of discharging the debts incurred to those countries. In such a state of commercial intercourse, our conformity to the theory of free trade is but exposing our interests, without defence, to the systematic assault of open enemies. It is relying upon the pacific principle of non-resistance, as a sure protection against a world in arms. Under such a policy, our citizens are influenced or controlled in the direction of their industry, not by the force of natural causes, but by legislation, alien in its character, and hostile in its views. So far as the hope of a

foreign market is to influence them in the choice of employments, they are compelled to devote themselves to the production of such articles as can find admission in that market.

So far as these laws now operate upon the United States, they confine their citizens to the cultivation of the soil, and even such productions are received only in a raw or unmanufactured state. Nor is this the worst view of the question. The grain growing states, whose agricultural productions amount to nearly twice as much as those of the planting states, are interdicted from sending any portion of the results of their industry to pay for their consumption of foreign goods. The consequence is, a forced and unnatural course of trade, deeply injurious to more than three fifths of the Union, in point of numbers, and a much greater proportion, when wealth and resources are taken into consideration.

To compensate them for the loss of a foreign market, the revenue laws have co-operated with the laws of political economy, in creating a domestic market.

Our fellow citizens have been induced, by discriminating duties, to adopt other employments; and those who are thus drawn from the cultivation of the soil, become consumers of the productions of those who remain.

Since the adoption of this policy, a large portion of the community have become manufacturers and mechanics; and agricultural produce, which before that event was too low to compensate the farmer, has found a market at home at good prices.

Nor has this advantage been counterbalanced by a corresponding advance in the imported articles, to the manufacture of which our countrymen have been induced to apply themselves. Whether it has been owing to domestic competition, as asserted by the friends of domestic industry, or to other causes, as has been maintained by their opponents; it is certainly true that the chief articles, whose production in this country has been encouraged by discriminating or protecting duties, have been lower in the United States since the adoption of the protective tariff. For instance, cotton and woollen cloths,



bituminous coal, have all fallen considerably in price since 1824; and the last article has fallen in the face of an advance in England. Indeed, it does not require much sagacity to foresee, that the production of an article here, must operate against the foreign manufacturer; nor to infer, that if the United States had imported from Europe all the articles that the protective system has induced us to produce at home, they would have been compelled to buy them at greatly enhanced prices, and that our indebtedness abroad and commercial distress would have been much increased. In fact, it may be advanced as an axiom in political economy, that no great and populous country can be dependent on foreign countries for either of the great articles of national consumption—food, clothing, or fuel. They may import a portion of any, or all of them; but a reliance on foreign industry for the greater part of these chief necessities for man, imposes a restraint on the growth of a country, which must for ever prevent it from taking rank in the first class of nations. Since the United States have approximated to that rank, their ability to supply themselves with those articles, has greatly increased under the encouragement and protection of our national policy, and they have been thus enabled to sustain themselves in their onward career.

For instance, the domestic trade in anthracite coal commenced in 1825, and it has now grown to the enormous amount of one million of tons annually; sufficient to employ double the tonnage employed in the trade between this country and Great Britain, in transporting it to the United States; and it is scarcely necessary to observe, that such a demand must have made a serious impression on the coal market in England. Our dependence on foreign manufactories for woollen and cotton cloths, has also been diminished. In 1830, just before adequate protection was given to the woollen manufacture, Great Britain exported 101,294 pieces of woollen cloths to the United States, and in 1840, this exportation had fallen off to 46,945 pieces.

In the article of cottons, the triumph of the American manufacturer is still more complete. In 1825, the year when a similar degree of protection was given to that branch of industry, so

much of the domestic consumption was supplied from abroad, that the importation of white cottons amounted to \$3,326,000, and the printed cottons to \$7,710,000. Since then, there has been a gradual reduction, and last year the importation of white cottons amounted to but \$917,000, and those printed to \$3,894,000. We have, too, become competitors in this article for the foreign market. Our exportations of cotton cloths of American manufacture, which did not then appear in our list of exportations, now almost equals the importation,—amounting last year to \$3,550,000.

Are we to pause in this career? Are we to recede from this position? Is the policy which has produced such results, filled our land with manufacturing villages and towns, and brought about a state of prosperity and happiness rarely equalled among nations, to be totally abandoned?

An abandonment of the policy would bring the labour of Europe into direct competition with our own, and expose us to all the fluctuation and occasional distress to which the manufacturing population of the old world is subjected. The first result would be, to compel the American operative to work for the same wages with the under-fed and over-worked labourer of Europe,—remunerated for his unremitting toil at a rate hardly sufficient for a scanty support, and sustained in adverse seasons by a pauper allowance from the parish. Such is the natural and inevitable effect of unrestrained competition. This he must do, or abandon his business. But to what employment would he resort? The same competition and the same fate would attend him in the shop of the mechanic; and the mechanics, as well as the manufacturers, must expect to be brought down to the same wages as those of Europe, or to adopt some pursuit where they will not be exposed to European competition. If they devote themselves to agriculture, it is possible that the fertility of the soil and the low price of land might enable them to compete with the European cultivator; but such an increase of agricultural produce in our market, must inevitably reduce the price at home, until they shall be driven back to the workshop with depressed spirits, and at such a rate

of wages as will enable the American manufacturers to compete with the European.

It is no answer to this, to say, that our agricultural produce can be sent to a foreign market. This cannot take place, until its price is so low, that it becomes profitable to sell it abroad in the face of an onerous duty, intended to be prohibitory. That is, until the American farmer is willing to pay three or four dollars per barrel on flour, towards the support of a foreign government, in order to have the privilege of selling it at the current price.

The policy of free trade, as advocated by these new teachers, aims at a reduction of wages in the United States; or, in other words, to place the American and the European labourer upon the footing of free competition. Such is the proposition, and no reasoning can avoid the conclusion, that an abandonment of the protective tariff would produce a general reduction of wages in the United States.

It is unimportant whether this results from immediate competition in branches of manufactures that continue to be carried on, or from a relinquishment of many now prosecuted, and the devotion of the labour and capital thus released, to the prosecution of those which would be still kept up, except that the latter mode would cause greater confusion and distress. It is undeniable that such a result must follow an abandonment of our long established national policy; and the immediate consequence of any great prostration of our mechanical pursuits, resulting from such a change, would be to render the country dependent on other nations for essential supplies, without any diminution of price, except for the short period required for the overthrow of our own manufactures. By this implicit adherence to the theory of free trade on our part, without requiring it from others, it is not pretended that any reduction in prices is to be effected except by a reduction of wages. A reduction in wages is the ultimate end to be accomplished. This is the great object, for the achievement of which, our factories are to be prostrated, and our workshops shut up.

Are the people of the United States desirous of such a result?



Upon the existing rate of wages in this country depends much of the peculiar structure of society. It is owing to the higher compensation of labour, that the mass of our labouring population are enabled to educate themselves, and to maintain their families in a state of comfort and happiness unknown to the operatives of other nations. This makes them a free and independent nation—not merely independent of foreign control, but in their individual feelings and habits of thinking and acting. To this they owe that state of contentment and tranquillity, which has preserved the country from domestic commotions, rebellions, and civil wars—that conservative spirit and respect for the law, which has proved a more efficient guardian of the public peace than standing armies, or legions of military police. To this they owe the enlightened spirit which, in spite of occasional outbreaks of party feeling, has predominated in our public councils, and guided us to a position among the powers of the earth, that make us alike an object of jealousy and dread to despotic governments, and a beacon of hope to the friends of liberal institutions. Labour here is honourable ; and the chief men in our republic are all indebted for their rank, and the respect paid them by their countrymen, to the unremitting industry by which their fortunes have been built up.

The higher rate of compensation given in the United States to labour, is the chief cause of attraction to the enterprising and industrious of older nations ; and it has made this country the asylum, not merely of those oppressed by political or religious intolerance, but of that more numerous class, who, by adverse circumstances and the iron grasp of poverty, are prevented from obtaining an honest maintenance in their native land. In truth, it is to this very cause that we owe nearly all that distinguishes us from other countries ; and far, far distant be the day which diminishes the compensation of labour, so as to reduce the free American labourer to the same dependent and wretched condition, in which aristocratic institutions and unjust laws have placed the operatives of Europe.

All that is paid by the property of the country for the protection of domestic industry, and the reward of American la-

bour, is not a useless expenditure. It is a contribution for the maintenance of our republican institutions ; an expense incurred to increase the mechanical and manufacturing skill of the country ; a tax paid for the support and education of that class, which, like a broad foundation, sustains the superstructure of the state ; and he cannot be regarded as a friend of the republic, who advocates a policy that will curtail the wages of the free American labourer, and bring him down to a level with the over-worked and degraded operative of the old world.

On this point we take issue with our opponents, and we call upon all Americans who are zealous for the independence and prosperity of their country, to aid us in our efforts : to collect and circulate information upon those important subjects, until public opinion shall exhibit itself in a fixed resolve to protect and cherish American interests. Let the popular will show itself determined to promote those views, which were deliberately adopted at the formation of our government, by Washington, Jefferson, Hamilton, Madison, and the other patriots, who then met in this city, to put in operation the free institutions which their wisdom had contrived, and their valour had established. To the people, and them firstly and lastly, we appeal, to carry out this policy, and by their enlightened and deliberate determination to vindicate, through their chosen agents, their commercial independence, and the rights of American industry, against the insidious and hostile legislation of foreign governments. To promote domestic interests, the Home League was established, without reference to former party distinctions ; and to impress upon our public representatives the propriety of guarding and promoting those interests, our efforts will be directed. The occasion is propitious, and the necessity urgent, and we call upon all who love their own country above all others—who prefer domestic to foreign interests, to unite their exertions to ours, until the concentrated efforts of the advocates and friends of American interests shall be crowned with complete success, and a policy truly American and national be found to prevail in every department of our government.





REPORT  
TO THE  
NATIONAL CONVENTION  
OF THE  
*Home League,*

HELD IN THE CITY OF NEW-YORK,

OCTOBER 13, 1842.

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It is with no ordinary feelings of satisfaction that the members of the Home League are enabled to look upon the occurrences of this year. The headlong career of the government in prostrating our most important interests to gratify the cupidity of European manufacturers, or to practically refute the visionary theories of nullifying abstractionists has been arrested, and under the strong and determined expression of the public opinion of those who live by their own industry, a tariff has been passed, which, by affording ample protection to American labour, has given a new impulse to the enterprise of the country, and justified the confidence of those, who regard their own countrymen as able to furnish from their own skill and ingenuity the chief articles of domestic consumption. But although a decided step has been taken towards re-establishing our domestic prosperity, much yet remains to be done. By the policy systematically pursued by the government for the last twelve years, a severe blow has been given to the public credit of the United States. In the great forum of nations, our national character has been impeached; and if we set aside all high considerations belonging to a patriotic and statesmanlike view of this question, still, in reference to mere pecuniary advantages

attached to unsullied honour on the part of a government, more has been lost by the reckless manner in which those who during that period have been entrusted with the management of affairs, have contracted debts without providing any means of repayment, than all the sums that they ever promised to save when, smitten with the rage of reform, the people placed them in power.

The public debt of the states thus contracted, forms one of the greatest obstacles to the restoration of general prosperity; and while it continues to exist without provision for the payment of either principal or interest, it must be productive of great national injury and loss. The amount of this debt at this time is \$198,000,000, of which \$103,000,000 was incurred by eight states, that neglect or refuse to pay the interest. Of these only one, Mississippi, has openly repudiated: the others plead inability; although in the cases of Pennsylvania and Maryland, the plea of inability is as dishonest as open repudiation. Be this as it may, it is clear, that in the existing state of the currency and of business, the Western states have incurred debts they are unable to pay.

They have no wealth but agricultural produce, and the expense of transporting it to market renders it of comparatively little value in reimbursing their debts. In order to enable them to pay them, they must be aided; and nowhere can they look for aid except to the general government. That government is interested in restoring their credit, as its own credit is intimately connected with that of the several members of the Union. Credit depends not only upon means but upon character. A reputation for integrity, a high sense of national honour, affords better pledges for the faithful discharge of national obligations, than all the wealth of the Indies in hands which are insensible to the suggestions of justice.

The credit of the Union, as well as that of the states, has already been deeply affected by the failure on the part of some of them to pay their bonds. The public opinion of the world has already arraigned the whole Union as defaulters in their engagements. They have been regarded as members of the

same family, and it is not remarkable that they have been identified in reputation.

This Union under one government, through which only they are known to other nations, makes them one not only in peace and war, but in good and evil repute. We cannot avoid this responsibility by asserting, that Mississippi alone is responsible to the world for her debts as a state. By our Constitution we have exempted her from being sued to enforce the performance of her contracts. As a state, she is only responsible under the law of nations, for the performance of her obligations towards the citizens of other powers. Their governments, in enforcing their performance, can only do so in the mode provided for the arbitrament of national controversies—by negotiation or the sword. But in the adjustment of all claims on the part of other countries upon the states of this Union, the Federal Government alone can be addressed. The separate states cannot treat nor enter into any agreement with a foreign government. That is their sole representative in their relations with foreign powers. If a demand be made by France or England, in behalf of their subjects, for payment of state bonds, it must be presented through the national government. If war is to be declared, in the absence of all other remedy to enforce payment, it must be waged against the United States, and it is the blood and treasure of the whole Union that must be expended to sustain the dishonest cause of repudiating states.

It is then absurd for us to say, that we have no concern with those repudiated bonds. The consequences of the act must fall upon the whole Union, as well as upon those dishonest states who have violated their engagements. It is a matter of high national concern to wipe off this stain upon the country. No subject is more deserving the attention of an American statesman than that of resuscitating public credit.

It cannot be done entirely by direct taxation. The debts of Indiana and Illinois are beyond the ability of their population. Their discharge can only be effected by the aid of the general government; and by that aid, efficiently given, provision can be at once made, by which the credit of these and other



states can be restored, and the prosperity of the whole country re-established.

Is there not something, too, in the character of these engagements, which peculiarly recommends them to the attention of the national government?

The greatest portion of the state debts was contracted during and subsequent to the first administration of General Jackson. Previous to his accession to the Presidency, the currency of the whole Union had been especially under the supervision of Congress. It had been thought, that to regulate so essential an element of national prosperity, and to provide a medium of domestic exchanges, was not unworthy of attention. So, too, the improvement of the means of internal intercourse: the removing obstructions from harbours and those vast rivers formed by nature to bind this extensive country together under one government; the aiding, by liberal appropriations, the enterprising efforts of state corporations to construct canals and rail-roads, were deemed fit objects for the encouragement of Congress.

This policy, commenced during Mr. Jefferson's administration, was enlarged in proportion to the augmented means of the treasury; and as the period for the extinction of the national debt approached, the country looked forward with hope and eager expectation to the time, when, by the release of \$10,000,000, annually appropriated by law to the sinking fund, ample means would be placed at the disposal of Congress to promote internal improvements throughout the Union.

The necessity of making a great effort to improve the internal communications between different portions of the country was every where acknowledged. While the cultivator of the soil was compelled to transport his productions to market over roads, which in spring and autumn resembled ditches rather than roads; or down rivers, where snags and bars often destroy the labours of a season, the cost of transportation absorbed too great a proportion of his crop. He felt, that an improvement in the means of transportation was a direct benefit to him; and that it would render a numerous class rich, who were now

kept poor by the enormous expense of carrying their produce to market. In the West this feeling pervaded the whole community. The practical benefits conferred upon this state by the Erie Canal had opened their eyes to the great advantages of an improved system of communication with the seaboard; and in looking round for the means of constructing canals and roads to that great avenue, and removing the natural obstacles, which time had created in their magnificent rivers, they found that the great source of indirect revenue—the customs—was vested in the national government, and that the proceeds of the public lands were periodically drawn from the West, to be expended under the same authority.

Under such circumstances, it was not surprising that they should expect some aid towards objects of such paramount importance from the general government. The national interests required such expenditure, and their own deficiency of means compelled them to ask it from that source. The practice under almost every administration had sanctioned such appropriations; and after the deliberate sanction given by Congress in the last year of Mr. Monroe's administration to a system of internal improvement, under the authority of the general government, they had good ground to look forward with confident hope to the time, when, upon the extinction of the public debt, the large surplus revenue, that would then be at the disposal of Congress, would be applied to the construction of public works, which should command the approbation and promote the prosperity of the country.

That moment at length arrived; but it brought with it bitter disappointment and still more bitter fruits. The government was in hands that no longer sought to promote the general welfare, but to find a mode to curtail its powers and abridge the sphere prescribed in the constitution for their exercise. The expenditure of its surplus revenue for the internal improvement of the country was declared to be beyond its authority, and, after rejecting a national bank as both inexpedient and unconstitutional, the regulation of exchanges and the currency, and the promotion of internal improvements, was abandoned to the

care of the state governments. It was in the assumption of these powers that the financial difficulties of the states originated. The performance of these duties, which required expenditures beyond the means of the new states, but which were imperiously demanded by the wants of their population, caused a rapid increase of state debts.

Previous to the repudiation of these powers by the national government, the state debts amounted to but \$26,470,420. During the interval, from 1830 to 1835, new debts were created, amounting to \$43,512,766, and the next five years produced a further increase of \$134,896,318, making in all \$204,879,504. It is a striking fact, too, that most of this great augmentation took place in the states that now make no provision for their interest. The following table shows the debts of those states in 1830, and their present debt :

|                     | 1830.       | 1840.        |
|---------------------|-------------|--------------|
| Pennsylvania, . . . | \$6,300,000 | \$33,016,149 |
| Maryland, . . .     | 676,689     | 15,000,000   |
| Indiana, . . . .    | none.       | 10,064,000   |
| Illinois, . . . .   | "           | 11,772,550   |
| Michigan, . . . .   | "           | 5,340,000    |
| Arkansas, . . . .   | "           | 3,100,000    |
| Florida, . . . .    | "           | 3,950,000    |
| Mississippi, . . .  | "           | 12,000,000   |
|                     | <hr/>       | <hr/>        |
|                     | \$6,976,689 | \$94,242,699 |

The increase in the whole public debt of the states from 1830 to 1840 amounted to \$178,409,084, of which \$87,366,010 took place in the defaulting states.

This great increase of indebtedness was the legitimate result of the new policy of the general government, and might have been easily prevented by the exercise of ordinary sagacity on the part of those to whose hands it was entrusted. Annual appropriations of the large surplus revenue by Congress for internal improvements, would have satisfied the public expect-



tation with the gradual construction of all necessary public works, and would have prevented those spasmodic efforts, that were made when the national government withdrew from the performance of its duty.

It was easy to foresee that these efforts would be made. The greater portion of the works proposed were indispensable. The community required them from the same motive that a mechanic requires tools, or a farmer agricultural implements, and the public mind was excited in devising means to construct them. They were beyond the reach of individual or even corporate means, and the government alone, as it was believed, had adequate means to complete them.

The refusal of General Jackson to sanction any appropriations from the public treasury for such purposes, left no alternative but to apply to the state legislatures, and they readily assented to the request.

At this period, there was a large and increasing surplus in the national treasury, and its removal, by his orders, to the state banks, gave an impulse not only to private enterprises, but also a powerful support to state credit. The ease with which money was obtained induced the states to embark in great undertakings, many of which, under a more prudent administration of public affairs, would have been postponed to a more convenient season. A large amount of government stocks was authorized to be issued, which in a few years swelled the sum of the state debts to \$205,000,000.

The objects for which these stocks were issued, show how directly this debt originated in the state governments being compelled to assume the performance of duties properly appertaining to the general government. Of this debt, stocks to the amount of \$112,072,599 were issued for canals and rail-roads, and \$52,640,000 for banking purposes. The latter being deemed necessary, and actually recommended by the men then in power, to supply the capital withdrawn by the United States Bank from the southern and western states.

Under these circumstances, is it a just and proper course to be adopted by the national government, to turn its back upon

the indebted states, and to leave them to the embarrassing consequence of their imprudence? Is it not in some degree answerable for their being involved in this load of debt? Had those entrusted with its constitutional powers exercised them with a due regard to the interests of the whole country, and followed the wise and prudent course, which in the preceding administration had been sanctioned by experience and justified by success, can there be any rational doubt, that the wide spread desolation and distress resulting from the novel policy of the government would have been averted? Is there not, then, a strong obligation resting upon the general government to do something to remedy evils in no small degree attributable to the repudiation of its own powers? Especially when by so doing it raises its own credit, redeems the honour of the country, does justice to the foreign creditor, and avoids the discussion of those questions which, sooner or later, must be forced upon its consideration by foreign powers, when they shall find no other mode of obtaining payment.

This surely is an object as well worthy the attention of an American Congress as any that has heretofore engrossed its deliberations.

It remains to inquire in what mode this desirable end can be attained by the interposition of Congress.

The aid contemplated under Mr. Clay's bill for the distribution of the proceeds of the public lands is not in itself sufficient. It is very desirable as far as it goes; and ought to be insisted on, not only as an encouragement to the states to make an effort to meet their engagements, but as a restitution of property which was vested in the general government for national purposes, and which is now relieved from all lien by payment of the public debt.

It is, however, inadequate to accomplish the desired end, although it serves to indicate a means by which it can be accomplished.

A certain portion of the public lands can be set apart and pledged to the specific purpose of redeeming a stock issued by the general government, bearing a low rate of interest, say

3 per cent :—this stock to be issued for the redemption of state stocks at par, to such as should choose to make an exchange.

A large portion of the stock of the defaulting states would be thus absorbed ; and the residue, improved in value, would be held by its owners, in the hope of obtaining payment in full. The states not requiring aid could take their proper portions, either in lands, 3 per cent. stocks, or in the stocks of their sister states, at option. A tract of less than 80,000,000 of acres, set apart for this purpose, would serve to absorb this debt, that now hangs like a mill-stone upon the community.

It would not, it is true, discharge all the state debts, nor is it necessary that this should be done. It would, however, extinguish so great a portion of those on which no interest is paid, as to encourage the defaulting states to make a vigorous effort to comply with their engagements. If further aid be required, let it be extended by liberal appropriations made by Congress to complete those great national works in Indiana, Illinois, Michigan, and in other states, which are now lying useless for want of means to complete them. An immense amount of property, now valueless, would be brought into active use ; and the benefits proposed from the construction of those works being realized, would not only stimulate the people of those states to exert themselves, but would add to their ability to discharge their obligations. For instance, the Illinois and Michigan Canal, which unites the upper lakes and the valley of the Mississippi, is already partly finished ; when completed, it would yield a large and increasing revenue ; but it is now entirely valueless, from the inability of the state to appropriate another dollar towards its construction.

A comparatively small appropriation by Congress, for which ample security could be taken by a lien on the tolls, would serve to complete it, and in so doing would not merely give value to the work already accomplished, but would improve the property in its vicinity, and encourage and enable the citizens of that state to make proper efforts to meet engagements that now seem beyond their means.



In many other states a similar condition of affairs exists, and like effects could be produced by the same means.

The objection that has been sometimes urged from the alleged want of constitutional power to make internal improvements, is utterly devoid of all reasonable pretence. Even the administration of General Jackson, hostile as he was to appropriations of this character, was compelled by sheer necessity to assent to them to such an extent as to obliterate all distinction, on the score of the Constitution, between those it sanctioned and those it condemned. It would be difficult to find any internal improvements which could not be justified in principle by the appropriations made from 1830 to 1837, for roads in Ohio, Indiana, Illinois, Maine, Michigan and Arkansas, and for improving the Genesee, Huron, Black and Grand Rivers in Ohio and Connecticut, and Ashtabula Creeks.

There is as little force in the objection made to these appropriations on the score of expediency.

Setting aside the considerations growing out of the peculiar circumstances in which the debtor states are now placed, and viewing it merely as a mode of granting public aid to internal improvements, there are strong grounds for exercising this power, especially in works of a national character, by Congress. While the aid granted does not go beyond the surplus funds in the treasury, it is impossible that it should give rise to a spirit of extravagant speculative improvement. The vast extent of country over which these improvements are to be extended, forms in itself an obstacle to improvements of this character. If made simply from surplus revenues, the means provided from that source would be scarce adequate to the construction of works of indispensable necessity ; and if, by any combination in Congress, appropriations should be made beyond that limit, the people would take the alarm and check extravagant expenditures, before they had involved the government to an unwarrantable extent.

A public debt, that would appear small when incurred in separate sums by twenty-six states, would have shocked the public mind in the aggregate as extravagant and monstrous for one government.

It cannot be believed, even by the most bigoted partisan, that so large a public debt would have been authorized by Congress, as that which was incurred by the states, when the general government shook off its responsibility, and disclaimed any interest in, or control over, the great question of internal improvements. If the policy of applying the surplus revenues to that end had been continued, a gradual improvement would have been made in the most important channels of intercommunication without inconvenience to the country, and the crisis brought about by a departure from that policy would have been averted.

The improvements, too, would have been more judiciously made. The national government has already in its employ a corps of competent engineers—men not depending for employment upon local proprietors, who, in many instances, have set on foot the state canals and rail-roads, but independent in their position, and looking to the location of the works solely in a professional point of view.

Receiving authentic information from such a source,—representing the whole Union, and with so many indisputably essential works pressing upon its attention, is it not certain that Congress would not have been betrayed into the construction of many of the merely speculative projects, that have so materially augmented the load of state debt.

Independent of the reluctance evinced by a certain class to any expenditure of public money, the local predilections of members whose districts were not immediately benefited by a proposed improvement, would present an obstacle almost insurmountable to an appropriation for any object not clearly national.

If, by improper combinations, any extravagant charge should be made upon the treasury, its amount would be much more likely to affect public attention, and to draw down the rebuke of the people when in the aggregate, than if distributed among the several states.

Under such a policy the great national routes would be gradually established, the Western rivers cleared of the obstructions which have been deposited there in the course of ages, and

the harbours on the Atlantic and on the lakes improved to meet the wants of our growing commerce.

A national character, too, would be given to such works, and they would be combined into a system, so as to promote the general welfare more perfectly under the supervision of Congress than of the states. We should not see Maryland nor New-Jersey levy a tax on the citizens of other states passing through their territories, under the pretence of granting charters to rail-road companies.

The absurd and rather discreditable disputes in relation to transporting the mail on rail-roads, which have characterized the last few years, would be obviated, and an efficiency would be given to the Post Office Department, greatly promoting the public convenience.

It is not contemplated under this policy, that the general government should take upon itself the construction of all internal improvements: but simply that it should aid in those of a national character; and that in the present emergency it should lend its powerful arm to extricate the states from their existing difficulties. There is a wide difference between a judicious system of constructing and aiding in the construction of national works; and the disclaiming of powers which were vested in Congress for wise purposes, and which should be exercised as far as the national finances will permit.

Indeed, nothing less than a liberal exercise of these powers will or should satisfy the hardy and increasing population of the West.

The new states, scions of the old thirteen, have not gone into the wilderness like outcast Ishmaelites, severed for ever from the parent stock. They still form part of the great republic, and in a national point of view, it is wise and just to let them feel that they are objects of national care and affection—that the national government is willing to expend for their benefit and convenience a portion of the monies annually drawn from them, whether directly from the sale of the public lands, or indirectly through the customs.

The rapid increase of this portion of the Union in population



and agricultural resources, demonstrates the propriety of aiding states thus situated, in improving their communications with the seaboard.

Every dollar judiciously expended in that way, brings an adequate return. In a national point of view, and considered simply with reference to the increase of the common wealth, every dollar thus expended doubles itself in five years.

If the augmented value of the land through which they pass be taken into view, the calculation will appear to fall far short of the true estimate. The western part of this state shows a much greater increase since the construction of the Erie Canal than ten times its cost, and it can scarcely be doubted, that its rapid growth in wealth has been in no inconsiderable degree produced by the diminution of expenses in transporting its produce to market. Adopt a similar policy in relation to the West, and the national wealth, its commerce and resources, will be incalculably increased. It is almost the only way, in which the national government can extend its expenditure to that part of the Union. The army and the navy are stationed elsewhere. The expenditures for the Atlantic harbours, for custom-houses, the mint, and the departments, are all made on the seaboard.

The West can be benefited only by internal improvement, and it is the glory of such policy that it benefits all parts of the Union. The manufacturers of the East and the New-York merchants are as much interested in diminishing the expense of transportation to the interior as its own inhabitants. - The produce of the West is made cheaper to its consumers on the seaboard; and the farmers buy more foreign commodities with the same crop.

So, too, the South will find the value of its peculiar productions enhanced in the same manner; and its planters, instead of settling on the banks of the rivers, will extend themselves along the lines of the national rail-roads.

What advantages this part of the Union may derive from a system of roads, that enable a body of troops to move rapidly over a large extent of territory, in case of internal commotions among its servile population, they can best appreciate.

The whole country is undoubtedly rendered incalculably stronger, in a military point of view, by such roads; and it can scarcely be doubted that one million expended in this manner confers more real strength than ten millions in fortifications. Troops from the military stations and the interior, and munitions and cannon from the depots, are promptly transported to the points assailed; while in case of a war where the Canadas were to be attacked, our whole military force could be precipitated upon any point of the frontier, before the force for its defence could be concentrated to protect it.

Such expenditures, unlike all others of a military character, are useful in peace as well as in war, and contribute to the wealth of their country more than their cost.

Those portions of the Union where aid is required for their construction, are poor in capital, though abundantly rich in national resources and the elements of wealth. New-England, New-York and New-Jersey, require comparatively little aid. They can construct their own internal improvements from their own means. They are, however, benefited by being brought nearer to their best customers, and by having their supplies brought cheaper to market; and their representatives have generally shown that they understand their true interests, by advocating large and liberal appropriations for internal improvements at the South and West. The agricultural resources of those sections of the Union would be then developed to the best advantage, and our growth, great as it has been during the first half century of our national existence, would be quadrupled under a policy, which gave to our industry and enterprise the advantages and profits of steam power, and the improved mode of intercourse by rail-roads and canals.

By the resumption of this policy on the part of Congress, all would be done that is required to complete a plan for redeeming the honour of the country; and that without fastening upon the general government a debt so great as to appal the public. The western states would feel that they were not mere "hewers of wood" for the rest of the Union.

The fostering hand of the national government would be felt in the benefits diffused through the fertile territory watered by the father of rivers; and the hardy yeomanry, that are now engaged in rearing up the mighty states which stretch along its banks, would yearn with even warmer patriotic sentiments than now fill their hearts, towards that Union to which they owe their existence, and which came forward with its great resources to save them from the consequences of youthful prodigality, and to redeem their honour from the reproach of the world. Convince them that we are united in fact as well as in name; that we all belong to one country; that this great confederacy has not lost its identity or its character in advancing beyond the Alleghanies; but that it responds in everything touching the interests and honour of the states, to the glorious motto emblazoned on its banner, "E Pluribus Unum." Such a policy would impart new life to the country.

Instead of a Union of insolvent states, with exhausted treasuries, decayed credit, alienated feelings and distracted councils, whose resources are dried up, and whose energies are paralyzed by the blighting effects of a cold and selfish policy on the part of those entrusted with the direction of national affairs; an example would be afforded to the world of the advantage of republican institutions administered for the general welfare,—applying their resources, not in senseless pageants, nor expensive military establishments, but in promoting the internal improvement of this fertile country, developing its powers, and extending its sway over the yet unexplored continent—sowing it broad-cast with flourishing villages and populous cities, and enabling this great confederacy to fulfil its high destiny.





# LECTURE ON COAL,

BEFORE THE AMERICAN INSTITUTE.

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WHEN we look at the uses to which fire is applied; when we consider how much it contributes to the comfort of man, either directly by affording warmth or in preparing his food, or indirectly in the scientific or manufacturing arts; when we reflect that without this important agent, most of the mechanical arts would be useless; that steam could not be generated; that tin, lead, copper and iron—and, indeed, nearly all the metals—would remain in the shape of useless ores, we cannot but acknowledge that to this ethereal element, civilized society is indebted for the greatest portion of its superiority over savage life.

So important is its agency upon our destiny, that, in some countries, it has been worshipped as a deity, and in the Grecian mythology its introduction among men was attributed to the daring theft of Prometheus; and so much did the sire of gods resent of the conferring this vast power upon man, that the punishment of its author was destined to be eternal, and terrible, in sublime horror, above all the retributive punishments of paganism. In the early stages of society the readiest means of obtaining fuel were furnished from the forest. Wood is not only excellent as fuel, but it is easy of access, and was, of course, first resorted to. As society advanced, wood became scarce, and it was wanted for so many purposes, that it was a desirable object to provide some other substances to be used as fuel.

Even in the United States, boundless as the forest seems, there is a deficiency of wood in certain portions of the country.

In the old states men are beginning to estimate trees rather as timber than fuel; and the time is rapidly passing away, in all parts of the Union, when it is deemed that the best mode of disposing of the noble trees that grace the American woods is to turn them into ashes. On the sea-coast, that time has long since passed, and for many years the community has been anxiously seeking some substitute for the rapidly diminishing forest.

Such is, in fact, the natural progress of society. A dense population, except in tropical climates, cannot be supplied with fuel from the annual growth of the soil; and the mode in which a substance, containing in a concentrated form the means of producing fire, is stored away in the earth for the use of man in the advanced stages of society, affords a striking proof of the wisdom and beneficence of that Power which created this planet and its inhabitants.

Although coal is now universally used in England, it is only about two centuries since it came into general use, and it was not known at the time of the conquest. In the borough laws promulgated in 1140, privileges are granted to those who supply towns with fuel, i. e. wood, turf, and peat. No allusion is made to coal; and it is not until nearly a century afterwards, or about six hundred years ago, that any mention is made of coal as a fuel. Pius II., who visited England in the fifteenth century, speaks of it as given for fuel to the poor beggars by the monks.

In China it was, however, known much earlier; and Marco Paulo, who wrote in the thirteenth century, speaks of it as then used in the province of Cathay, for fuel. The descriptions, both of Pope Pius and Marco Paulo, obviously show that its use for such purposes was a matter of wonder to them, and prove that it was not known to the nations of the European continent.

At the end of the sixteenth century, in the reign of James the First, of England, its use in making iron was not known in Scotland. It may, therefore, be regarded as a modern discovery; and to its general application to the mechanical and manufacturing arts, may be fairly attributed their great advancement within the two last centuries. The present importance



of the coal business in Great Britain may be estimated by the number of persons employed in it, amounting to 150,000, and furnishing 21,000,000 tons of coal, for the annual consumption of the island.

There are seven kinds of British coal. The first is known as Newcastle or Sunderland coal, being of a fat, bituminous quality, melting, when heated, to a mass, and caking, and producing but little ashes. This coal is also found in Scotland.

The general character of Scotch coal is different. It is of two kinds; the rock coal, which burns to a good cinder, and produces but little ashes; and the splent or stone coal, which is slaty, and burns freely, with considerable smoke. It is found in very regular strata, like slate. The fourth kind is cannal or parrot coal, which is very light and inflammable, burning very freely, with light ashes. The fifth kind is culm coal, which is not easily ignited, emits neither smoke nor flame, but burns a long time, with a heat like anthracite or charcoal. It does not cake, nor produce much ashes. The sixth kind is jet, which is like the cannal coal, except that it breaks in the direction of the grain, whereas cannal coal breaks in any direction, and is of uniform texture. Jet is found in detached masses, and not in strata. The last is anthracite.

Many curious speculations have been made as to the origin and nature of coal, whether mineral or vegetable. The sagacity and industry of modern geologists have, however, solved these doubts, and at the same time have thrown much light upon the construction of the earth, and its general adaptation to the present uses of man. From the examination of fossil remains and of the strata in which they are found, conclusions approaching to demonstration have been drawn, both as to the natural history of the globe and the modifications or revolutions which its surface has undergone. In penetrating the earth in low lands or intervalles to a great depth, we come to horizontal strata, composed of various substances, and abounding with marine productions. Every portion of the earth, every continent, every large island, exhibits this phenomenon.

We are consequently brought to the conclusion, that the sea

has at some period covered the earth, and that it must have remained there for a long time in a tranquil state, in order to account for the formation of deposits so extensive and so solid.

What was the previous state of the universe at that sublimely mysterious period, when, in the language of inspiration, "the earth was without form and void, and darkness was upon the face of the deep," must be left to conjecture.

It has been supposed that in the first stages of creation the material universe was in a gaseous, watery state, and that when the principle of gravitation was by Omnipotent Power imparted to matter, or, as expressed in Scripture, "the spirit of God moved upon the face of the waters," the parts began to cohere and arrange themselves in an order somewhat resembling that which now exists; the more dense or heavier particles falling to the centre in strata; then the water, and finally the atmosphere, gradually growing more rarified, until it became difficult to draw the line between the outer regions of atmospheric air and pure ether. In the first moments of existence, the struggle between the rays of the sun and the dense vapors still floating in the atmosphere, must have seemed doubtful; and the first stage of creation might well refer to that process which divided the light from the darkness, while the second would as naturally relate to the gradual precipitation of the waters from the atmosphere, or "the division of the waters which were under the firmament, from the waters which were above the firmament."

Then commenced the precipitation of those extensive horizontal strata, from which the opinion is derived that the waters at one period covered the earth.

Above these strata are to be found the inclined or vertical strata, which form the ridges of the secondary mountains. These strata, however, do not rest on the horizontal strata, but come up from beneath, as if they had broken through by some mighty convulsion, elevating their heads above the deep to form the dry land, while the receding waters were gathered together in the seas which contained them.

From the position of these inclined strata, it is evident that the earth has been subjected to one or more internal convul-

sions of a volcanic character, which have produced these seeming irregularities, and elevated these strata so as to bring them within reach, to be made serviceable to the uses of the intelligent beings that were to inhabit its surface. It is also equally evident, from the absence of all remains of organized matter in these strata, that those convulsions occurred before the creation of animate nature. Indeed, the heat of the globe during these convulsive throes, of which there is abundant evidence, would of itself have prevented the existence of organized life.

From the abundance of the remains of marine animals found in the strata through which the inclined strata have been forced, we may fairly infer that the first productions of creative wisdom were the inhabitants of the sea and the aquatic plants.

During the early stages of their existence, they were exposed to volcanic eruptions, which, by the sudden imparting of heat to the water, or by noxious gases or bituminous mud, must have destroyed myriads of the inhabitants of the sea, and thus have contributed to the rapid formation of the strata where their remains are now found, attended with the clearest evidence of the manner of their destruction. No small portion of the present surface of the earth is formed from the remains of the population of the ancient seas, which are heaped up into stupendous monuments of the work of mortality during the first stages of creation.

The vegetation of this period was as simple as the contemporaneous classes of animals. The latter, except the fishes, were without vertebræ, and the plants were of the simplest character, and generally of the cryptogamous order. The fossils of the carboniferous period indicate the existence of ferns, grasses, plants similar to horse tails, and vascular vegetables of a gigantic character, and proving their developement in a climate of much higher temperature than now prevails even in the tropics, and in an atmosphere surcharged with carbonic acid gas. Their growth would be rapid under such circumstances beyond any idea which can now be formed of vegetation; and the absorption of carbon by the plants from the air,



would be a process essential to prepare it for the respiration of mammiferous animals.

It would be difficult for one so superficially acquainted with geology to describe accurately the different periods when these various classes of animals and vegetables occupied the earth.

It is sufficient to know that marine productions preceded those of the land ; and the antiquity of the formations in which vegetables of the first periods of creation are found, prove that on the land life began in the vegetable kingdom. Above these, and sometimes mingled with them, are found the fossil remains of birds and quadrupeds.

In the transition series are found those strata which are designated as the carboniferous order, or great coal-formation. The coal strata are formed of carbon, obviously produced from the remains of plants of antedeluvian growth. They often consist of thin layers of vegetable remains, distinctly to be traced by the eye. In some mines, by the fall of the coal roof, a display is made of vegetable forms impressed upon the stone, some of species now extinct, and all bearing marks of the grace and beauty which characterize the works of nature.

A spectator of one of the Bohemian mines, describes them as if he had been transported by enchantment into the forests of another world. He beholds (as he declares) trees of forms and characters now unknown upon the surface of the earth, presented to his senses almost in the beauty and vigor of their primeval life ; their scaly stems and bending branches, with their delicate apparatus of foliage, are all spread forth before him, little impaired by the lapse of countless ages, and bearing faithful records of extinct systems of vegetation which began and terminated in times of which these relics are the infallible historians.

The coal strata alternate with indurated clay, sandstone, limestone, and strata of rich argillaceous iron ore, or iron stones. The limestone beds which form the foundation, are full of the remains of marine animals, while the fresh-water shells in the upper regions of the series, show that the more recent strata were deposited from fresh or brackish water.

It is also ascertained, that one general principle prevailed throughout the successive periods of the secondary and tertiary formation, ever operating to maintain upon the earth the greatest amount of life consistent with its capacity to supply nutriment.

The connection between the vegetable and the insect tribes is so constant and immediate, that we may infer that so great a mass of plants as that preserved in coal strata must have been productive of countless swarms of insects; and the provision made for restraining the classes consuming herbs within due bounds, through the agency of carnivorous classes, would lead us to expect that during this period the latter classes would be found of extraordinary power and rapacity. This expectation is realized in the fossil remains of the great carnivorous class of spiders and scorpions which is found in the coal formation;— fully establishing their existence at that early period, and that the vegetation provided for the support of the insect tribes they made their prey, must have been abundant beyond any idea now entertained of the rapidity of vegetable growth.

The vegetable remains found in the coal fields appear to have been deposited in the vicinity of tracts of dry land containing fresh-water lakes and mountains, and to belong to species found in climates of high temperature. The strata, although in a great degree horizontal, are often arranged in basins, which appear to have been gradually filled up by carbonaceous deposits brought by successive tides or floods of water.

The anthracite, in general, is so completely mineralized, as to present no traces of vegetable origin; but in some bituminous strata there are found layers of vegetables converted into true mineral coal, preserving, when separated, perfect impressions of leaves and other parts of plants, and leaving no doubt that all coal is derived from the same source.

It remains for us to inquire how this mass of vegetable matter came to be deposited in strata within the reach of man, to be preserved as it were for his use and comfort, after the surface should be stripped by the increased demand of the wood which serves for fuel in the early stages of society.

In hazarding a conjecture concerning a process so enveloped in the darkness of antiquity—occurring in a period whose history is preserved only in fossil remains, it would be presumptuous to dogmatize.

It may be permitted, however, to remark, that so large a mass of vegetable remains could scarcely be preserved, except by some process involving their contemporaneous destruction. The successive deposits of plants of periodical growth would have been attended with decay and decomposition, which would have unfitted them for the purposes to which they are now applied. Nor can it be supposed that one annual growth of plants upon the surface would suffice to supply a mass equal to the strata of coal beneath.

We must, therefore, infer that the productions of a much larger superficies, than the extent of the coal field, have been brought together by some agent, and that the deposit has then taken place. From the position of the vegetable remains and their perfect preservation, we may fairly conclude that they have been collected through the agency of water; and it is not unreasonable to infer, that the same fluid that held them in a state of suspension, acted as a current in tearing them from the surface of the globe. That such a current has at some former period swept over the earth with stupendous force, we have too many proofs to permit us to doubt. It is equally clear that this current has flowed from east to west, excavating the valleys which run through the chains of lofty mountains—scooping out the deep gulfs and bays, and dividing the islands from the adjacent continents; that it has ploughed up the channels of the Red Sea and Mediterranean in its mighty effort to find a passage between Africa and Asia, while the great indentation formed by the Gulf of Mexico attests the action of the same current in its endeavour to divide South from North America. Other proofs might be accumulated as to the existence and course of this current, but my limits compel me to make a suggestion as to its cause.

It will be readily conceded, that upon the approach of any large body to the earth, a strong influence would be exerted



upon the fluid parts of this planet by the attractive power of the approximating body.

In the case of the tides, that influence is now daily manifested by the heaping up of the waters on that side of the earth next to the moon, and a similar result is produced at the antipodes. When the sun and moon are on the same side of the earth, the effect is increased, and when they are in opposition, it is diminished. A nearer approach of a smaller heavenly body would produce a greater effect, and this influence would be augmented in proportion to the diminution of the distance. By the near approach of one of these bodies, as of a comet, the water would be heaped up on that side, by the force of attraction, to the height of several thousand feet; and being held there by that power, the earth, by revolving on her axis, would pass its surface through this heap of water, and thus create a current moving from east to west of nearly a thousand miles an hour. Such a current, as we may readily imagine, would strip the surface, not only of the plants, but would plough up the soil itself, mixing the whole in chaotic confusion.

A current like this is a sufficiently powerful agent to have produced most of the extraordinary changes upon the face of the earth, which have baffled the skill of many geological observers. We need no longer wonder that rocks of gigantic size are found transported to great distance from their primitive seats; we need not wonder that the two great continents are nearly severed by the force of the diluvian tides; we need not perplex our imaginations to find out a cause for the appearance of the southeastern shores of the two great continents, which look as if the current, as it subsided, had worn away the solid shores almost to points.

Skepticism can here find not only evidence of a deluge, but a cause powerful enough to produce one. With these proofs of the existence, in former days, of mighty diluvian currents sweeping over the earth, from east to west; with the tradition of a great deluge recorded in sacred writ; it is not a little remarkable that circumstances to which I am about to allude strongly tend to show, that the most extraordinary comet that

has appeared in the days of modern astronomy, must have been, about the time ordinarily assigned for the Mosaic deluge, within the limits of our solar system. I refer to the comet of 1680, a luminary of remarkable size, with a train extending from the zenith to the horizon, and illuminating the whole heavens with its light, and which at the time of its appearance perplexed all Europe with supernatural fears.

The orbit of this comet was calculated by Halley, and the time of its periodical return was found to be from 575 to 576 years. Modern history has verified the accuracy of this calculation, by recording the appearances of this comet in former times, i. e. in 1106, in 531, and again forty-four years before Christ, at the time of the death of Cæsar.

An anterior appearance of a remarkable comet is recorded in the Sibylline books, as occurring in the year 618, or 574 years before the one above mentioned. Here authentic history is silent; but in the year 1193, or shortly after the siege of Troy, Grecian mythology informs us, that one of the Pleiades, unable to witness the misfortunes of that city, abandoned the zodiac, and fled to conceal herself at the pole, with disheveled hair; and that, at a fitting period, she would return to affright mankind. This fable plainly alludes to a remarkable comet, and its appearance at that era being the ascertained time for the return of the comet of Halley, justifies us in concluding that it refers to that comet. Another fable of Arabic origin indicates a still earlier appearance of this wandering star. According to their historians, the star Canope or Sokiël had espoused the constellation Orion, whom the Arabians designate as a female. By some misadventure, Canope wounded his wife; and, overcome with grief, he abandoned his place in the zodiac, and traversing the heavenly field, hid himself near the southern pole.

This fable is represented as occurring in 1766 before the Christian era, or 574 years before the disappearance of the lost Pleiad; and the next anterior periodical return of this extraordinary comet would carry it back to the era ordinarily assigned for the Mosaic deluge. It may certainly be, that these two events have no connection with each other. The chro-

nology of the deluge is not very correctly ascertained, nor is the periodical return of this comet to be regarded as fixed within one or more years. Stars with such eccentric orbits, and traversing such immense regions of space, are liable to be affected in their course by the attraction of the planets whose orbits they pass, and by other influence beyond the limits of our solar system.

Still, with all these allowances, the coincidence is remarkable, and the results, which must have been caused by such an approximation, and of which the evidences are to be found in every coal bed, in all our valleys, in the deep gulfs and bays, and in the shape of the continents, afford some reason to conclude that this coincidence did occur, and that it was intended to accomplish the great purposes of infinite wisdom. Whether this conjecture as to the cause of the universal deluge be well founded or not, is not, however, so important to my present purpose. Other evidence exists, presenting the strongest internal force, that such a deluge did occur, and that it was accompanied with a current of the character here described.

In subsiding, it would happen that, as the earth passed through the heap of waters, the large basins formed by the great north and south ranges of mountains would be filled with water surcharged with mineral and vegetable deposits, which would fall to the bottom of these basins, as the waters flowed off through the valleys and lower declivities of the mountain ridges. Time would be afforded after the great diluvial tide had passed, before the revolution of the earth again filled the basin, for a large quantity of the water to run off, and for masses of matter, held in suspension, to be deposited; the heavier particles falling first, and the vegetable remains, saturated with mineral and bituminous substances, next. Another and another tide following, another and another series of deposits would be made, until the cause of the high diluvial tides, passing beyond the influence of attraction, the agitation of the ocean would cease, and the deposits would begin to assume consistency and solidity, and to form part of the outer strata of the earth.



The important uses of coal, in administering to the wants of society, give to us all a direct interest in the geological events of those early stages of creation. The most ancient period to which its origin can be traced, was among the swamps and marshes of the primeval earth, where it existed in the form of stately ferns and gigantic plants of the cryptogamous class. We next find it torn from the surface of the mighty diluvian current that swept over the earth, mingling its vegetable productions in chaotic disorder, with all the looser portions of its surface.

Upon the subsiding of the flood, these plants sunk, saturated, to the bottom of their present basins; and, after a long course of ages and chemical changes, they became converted into enduring beds of coal, which, in these latter days, have proved the sources of heat, and light, and wealth to the human race. It converts the barren stone into a metal that gives to man the mastery over all the elements which form the materials of his mechanical industry. It is in the mill, and in the workshop. It warms his domestic hearth, and prepares his food. It spins, it weaves, it ploughs, it prints, it carries, it draws, it lifts, it forges. In the form of gas, it furnishes his apartments with brilliant light, and gives a respite to the persecuted leviathan of the deep. It takes the road; and the iron horse, with centuple force, dashes by with a train of enormous weight, and with a speed which outstrips the fleetest race-horse. It appears upon the water; sails are furled, the boatman reposes on his oars, and the rivers and lakes are made to convey passengers and their goods with certainty and speed. The current of the Mississippi is no longer an obstacle to the ascending trade of that fertile valley. The ocean is no more faithless and uncertain. It has been bridged by steam, and the force of the waves and the power of the storm, terrible as they have been throughout time to those who go down in ships to the great deep, are shorn of their terrors, and deprived of their destroying energy, by the power created by this useful material.

Among the most remarkable coal fields, or basins, we may class that formed between the Alleghany and Rocky Mountains, and drained by the Mississippi; and it would be difficult to

imagine any large tract where the shape of the country is better calculated for the preservation of large diluvial deposits, of the carboniferous order, than the great valley lying west of the Alleghany Mountains.

From the superficial examination which has been bestowed upon this coal field, and the numerous specimens of coal found in all directions, we may safely conclude that there is stored up, in that region, a greater mass of fuel, in the concentrated form of coal, than is to be found in all Europe; probably greater than is afforded in all other parts of the ancient world.

In Great Britain, (distinguished as that island has been for mineral riches, and great as have been the effects resulting from their developement,) inconsiderable, indeed, are the carboniferous deposits, when compared with those which break through the eastern face of the Alleghanies, on the Susquehanna, and spread themselves in one broad field of mineral wealth through the immense valleys of the Ohio and Mississippi.

The coal fields are found in almost every part of this vast tract of country. They exist in Alabama. In Virginia they have been worked for many years. In Cumberland, on the Potomac, extensive mines of bituminous coal are found near the Chesapeake canal, which have lately commanded great attention. At Blossburgh, in Tioga county, a large mine is now worked, from which the Erie Canal boats are receiving 200 tons per day. At Tonawanda, on the east side of the same mountain, there are coal strata, which I have examined, five feet thick, and which are worked for the use of the vicinity. Other mines are found in Jefferson and Clearfield counties, near Olean, which seem to be provided for the supply of the western part of this state. It is, however, on the western side of the Alleghany range, that the great coal field is to be found. There it extends in broad and almost uninterrupted strata, as if the great mass of vegetable remains of the antediluvian world had been swept before the mighty current, until they found a shelter in the eddies formed by the projecting ridge of the Alleghanies, and were there stored up for the use of the enterprising people now occupying this highly favoured country.

The field of bituminous coal is not even now fully explored. It is, however, found almost everywhere, and generally easy of access ; often in mountains, and so situated that the mines can be drained without machinery into the natural water-courses of the country.

It has not yet been discovered in New-York, nor in New-England ; but the examinations there have not been sufficiently exact to warrant the conclusion that those states are without coal deposits ; and the appearance of the carboniferous strata in Nova Scotia, where coal of excellent quality is obtained from the Sidney and Pictou mines, affords strong evidence that the causes which produced the great Alleghany coal field operated over the whole tract of country, from Alabama to Cape Breton.

In Rhode Island and in Massachusetts, near Worcester and Taunton, anthracite coal is found ; and although this species of coal is more completely mineralized, it is obviously produced by similar causes. The great anthracite coal beds of Pennsylvania appear to the east of the great bituminous coal field, and afford some ground to believe that the great coal strata on the eastern side were first formed, and being less protected from the current, became more completely mineralized. Hitherto the anthracite coal, being of more easy access, has come into more general use ; and the rapid increase of that trade is a striking proof of the growing importance of this branch of national industry.

In 1820, this article was first made known ; and 365 tons were brought to market. In 1826, the consumption had increased to 48,000 tons ; and last year it was augmented to 845,000 tons.

The bituminous coal business has scarcely yet commenced. In Virginia, it is true that bituminous mines were long since opened ; but the trade has been carried on in an easy, careless, unenterprising manner, so characteristic of that venerable commonwealth, that we can scarcely wonder that it has grown into the currency of a proverb, that " Old Virginnny never tires." The sensation of fatigue is rather produced in the observer of her movements.



The amount of bituminous coal consumed in the west, at Pittsburgh and other places, is great; but the source of supply is so near at hand, that it can scarcely be yet enumerated among the branches of internal trade.

In this state the business has been lately commenced. A rail-road forty miles in length was recently completed, connecting the Chemung Canal at Corning with the Blossburg mines in Pennsylvania. When I was there, in August last, the rail-road was just put in operation; the wharf, where the coal was transferred from the cars to the canal boats, was not finished; the streets of a future city were still crowded with stumps and the trees of the forest; the work, however, was going on with vigour; stores and dwelling-houses were building; a church and school-house, and an iron foundry, were completed. The locomotives, with their trains of coal cars, were arriving twice a day, bringing 100 tons of coal to be discharged into the canal boats, and the men were then employed in landing another locomotive, in order to increase the force on the road.\*

In this enterprise might be plainly traced the commencement of a new internal trade of great importance. On the north-western base of the Alleghany bordering on the Erie rail-road, and approaching near to the termination of the Genesee valley, the Chemung and Chenango Canals, are bituminous coal mines,

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\* At Blossburg, there are several coal companies, all of whom are entitled to use the road; each coal company furnishing its own cars, brake-men, &c., and the rail-road company furnishing the road and motive power. The Arbon Coal Company has made four drifts into the mountain, each of sufficient capacity to yield 250 tons daily. It has also 100 coal cars, each carrying  $3\frac{1}{4}$  tons. Already 230 tons have been delivered in one day, and the force employed there is constantly increasing. The weight of the Blossburg coal is as follows:

|                    | Density. | Weight per cubic yard. |      |
|--------------------|----------|------------------------|------|
|                    |          | Tons.                  | lbs. |
| Johnson Run,.....  | 1493     | .... 1 ..              | 0280 |
| Bear Creek,.....   | 1000     | .... 1 ..              | 0122 |
| New Hope Run,..... | 1429     | .... 1 ..              | 0173 |
| Cool Run,.....     | 1371     | .... 1 ..              | 0073 |

It contains 75.4 per cent. carbon,

16.4 " bitumen,

8.2 " ashes and earthy matter.

which are of indescribable importance to this state. In those mines, the coal strata alternate with limestone, fire clay, and iron stone, in layers. Here are destined to be great iron works, upon which we must mainly rely for our supply of that great necessary of life.

The demand for iron is daily increasing, and that so rapidly, as to make it difficult to say from what quarter the demand can be supplied.

In 1740, the amount of iron made in England and Wales was but 17,000 tons. In 1796, it had increased to 125,000 tons; and when, in 1820, it had increased to 400,000, and in 1830 to 700,000 tons, some doubt began to be expressed whether the sources of this enormous supply might not be exhausted. What must be the apprehension of these doubters when they find the annual consumption more than doubled, it having last year come up to the enormous amount of 1,512,000 tons! In France, it amounted to 600,000 tons, and the total amount made in Europe was 3,000,000 tons. In the United States, the amount now made annually is about 250,000 tons; and it is fast increasing.

It is in reference to iron that the consideration of this topic becomes extremely interesting in a national point of view. The yearly importation of iron into the United States, in bars or pigs, or in massive articles, amounts to near \$5,000,000, and the manufactured articles on that material, to a much larger sum. Nearly \$400,000 are required for our rail-roads, and the demand from that quarter must increase. But our attention is scarcely directed to that subject. We have been too much occupied with commerce and agriculture. We have just begun to inquire into our mineral wealth; and already a process has been discovered, by which anthracite coal is used in smelting iron, and its cost of production is reduced 40 per cent.; and we are enabled to use pig iron of greater weight as a substitute for bar iron for rail-roads.

Those acquainted with the subject assert, that in the Cumberland district the facilities for manufacturing iron with bituminous coal are so great, that it can be afforded for from \$12 to \$15 per ton, or much less than the price of iron in Europe.

The bituminous coal in the United States, except the Virginia and Ohio, is much heavier than that of Europe. The Blossburg, the Pennsylvania, and the Tennessee coal, all exceed in weight a ton to the cubic yard; and that in Bedford county (Penn.) exceeds it by 629 lbs.

None of the European coals weigh a ton. The anthracite, too, are all heavier than those of Europe.

With coal of so excellent a quality, and so abundant in quantity, a new feature is developed in the character and resources of the United States. Imagination can scarcely grasp the extent of power and prosperity to which this republic is destined to advance.

When we consider how much has been achieved by England, by the action of coal upon iron and steam; when we reflect that machinery equivalent to the labour of nearly 400,000,000 men is now moved in that country by its agency; that through that labour she maintained her fleets and armies, and was enabled for a quarter of a century to withstand the united energies of revolutionary France, backed by her dependent continental allies, and directed by the genius of Napoleon, and finally to plant the red cross in triumph upon the walls of Paris, and to dictate the terms of peace to Europe;—when we look at the importance of that little island among civilized powers, at the influence she has exerted and is exerting upon the world, and perceive how much of that power is owing to the wealth created by the combined force of coal, iron, and steam, we are amazed at its influence upon the fortunes and destinies of mankind.

In this country that influence is beginning to exert itself; and we have ill read the signs of the times, if it is not destined to exert a mighty force upon the fortunes of the United States. The internal improvement of the country; the providing the means of bringing its produce to market, and of intercommunication between different portions of the Union; the advancement of the manufacturing arts; the development of its resources, all depend upon the combined influence of these important agents; and if we would promote the permanent improvement



of our species, no better mode can be devised than to encourage, by all proper means, the working of our coal and iron mines. Under a judicious and economical system, we may then see the great channels of intercommunication between the states furnished with the improved modes of intercourse; the distant parts of the Union really made one country, by bringing them within a few days' travel; the arts and sciences of the old world transported to the new; our machinery increased and perfected, until its power is equivalent to that of England; and the country rich and prosperous, and, under the guidance of patriotism and intelligence, moving onward in that career of glory and greatness, which is marked out as it were by the finger of Divine Providence.

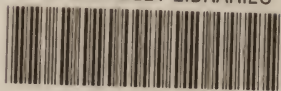








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