JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

Under the Direction of the
Departments of History, Political Economy, and
Political Science

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THE STANDARD OF LIVING IN JAPAN

SERIES XXXVI NO. 1

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THE STANDARD OF LIVING IN JAPAN

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PREFACE

The field for studies of this kind in Japan is still barren of material. With the exception of some little data, the material for this inquiry was collected by me in the years 1913 to 1915, during which period I was also engaged in teaching political economy at the Imperial University, Sapporo, Japan. A wider range of better balanced data is necessary for a thorough inquiry; however, without more extensive statistical work on a larger scale, furthered by aid from public institutions, no work of this nature could be so complete as might be desired.

I wish to express my obligation to those who have helped me. Especially am I grateful to Professor J. H. Hollander and Professor G. E. Barnett for advice and for criticism of the manuscript, and to my friend, Miss Margaret Schneder, Professor of English at Cedarville College, Cedarville, Ohio, for her kindness in reading the manuscript.

K. M.

THE STANDARD OF LIVING IN JAPAN

PART I

INTRODUCTORY

CHAPTER I

Importance of the Study

In entering upon the study of the standard of living in Japan it may be well to consider at the outset the importance of the subject. It has a twofold aspect: the theoretical, and the practical. Theoretically the study of the standard of living is of great use for the advancement of political economy as a science, since an exact knowledge of human living is fundamental in economic investigation. As Roscher has well said, "Ausgangspunkt, wie Zielpunkt unserer Wissenschaft ist der Mensch."[1] What is called national economy, social economy, or world economy is nothing more than collective economy with family economy as the unit. The essential problem of family economy is to find out the right ways of getting a living; in other words, it is the study of human wants and the efforts made for their satisfaction. These wants can be ascertained with a certain degree of exactness from statistics of family income and expenditure. Indeed, a knowledge of human wants is the beginning of political economy, and "the goal of all economic development is to make wealth abundant and to make man more able to use wealth correctly."[2] Hitherto, however, many economists have devoted their study chiefly

[1] W. Roscher, Volkswirthschaftslehre, B.I., s. 1.
[2] E. R. A. Seligman, Principles of Economics, p. 15.

to the theory of production in a broad sense. For example, Pierson says: "There is no such thing as a theory of consumption, in the sense of a branch of the science of Economics."[3] These writers pay little attention to the fact that production is important only in its relation to consumption, and they forget that consumption is, as Say, Gide, Walker, and others maintain, the primary motive of all economic activities.

A great deficiency in our economic knowledge results from the fact that only a few scientific investigations in the problems of economic consumption, particularly in the matter of family consumption, have been made.[4] As a consequence, although such subjects as the high cost of living, efficient living, minimum wage, and poverty are demanding the careful attention of economists, only a few studies based on reliable statistical data are available.[5]

It must be stated that from another point of view the study of the standard of living exerts a great influence

[3] N. G. Pierson, Principles of Economics, p. 42.

[4] The most valuable work in the field is S. N. Patten, Consumption of Wealth.

[5] The best general works on the standard of living are:

Charles Booth, Life and Labor of the People in London. London, 1889–1892.

Mrs. B. Bosanquet, Standard of Life. London, 1899.

R. C. Brooks, Report of the Committee on Teachers' Salaries and Cost of Living. 1913.

R. C. Chapin, Standard of Living among Workingmen's Families in New York City. New York, 1909.

Eighteenth Annual Report of the U. S. Commissioner of Labor, Cost of Living and Retail Prices of Food.

W. Gerloff, Verbrauch u. Verbrauchbelastung kleiner u. mittlerer Einkommen in Deutschland, Jahrbücher fur National Oekonomie u. Statistik, 3 Folge, Bd. 35, S. 1 u. 145.

Great Britain, Board of Trade, Cost of Living and the Working Classes —Industrial towns of the United Kingdom, 1908; French towns, 1909; Belgium, 1910; U. S. A., 1911.

H. Hagmann, 30 Wirtschaftsrechnungen von Kleinbauern und Landarbeitern. Bonn, 1911.

Kennedy et al. (University of Chicago), Study of Chicago's Stockyards Community. Vol. 3, Wages and Family Budget. 1914.

L. B. More, Wage-Earners' Budgets. New York, 1907.

S. Nearing, Financing the Wage-Earners' Family. New York, 1913.

B. S. Rowntree, Poverty. London, 1901.

B. S. Rowntree, Land and Labor (Part V, pp. 341–512). London, 1910.

F. H. Streightoff, Standard of Living among the Industrial People of America. Boston, 1911.

upon the theory of production, because the human factors of production, labor and capital, can be controlled by the standard of living. Similarly distribution must not be considered without some attention to the standard of living because the shares of distribution—that is, interest, wages, and profits—are fundamentally affected by the standard of living. It is evident, therefore, that the standard of living is the controlling element in economic activities and in economic theories as well.[6]

The practical importance of this study lies in the fact that a full knowledge of the standard of living would prove to be of practical usefulness in preventing waste. This knowledge would promote the economic welfare of a people and of a nation. The increase of national wealth is particularly important in Japan for the following reasons: (1) In the last half century Japan has made great but abnormal progress in economic conditions; she has emerged from a peaceful "closed economy" (Geschlossenenwirtschaft) into a busy "exchange economy" (Verkehrswirtschaft). The altered conditions of modern economic life demand that she have much more wealth in order to maintain her economic supremacy in the East. She then entered for the first time in her history into the complications which resulted from her economic contact with foreign countries and from keen international as well as interlocal competition. She awakened to the realization of the fact that she has to stand on a much more solid foundation of national wealth than formerly. (2) From the geographic point of view Japan is a small island country with an area of approximately 157,000 square miles. Economically she is a poor country with comparatively limited national resources; her national wealth per capita in 1913 amounted only to some 500 *yen*, while in Great Britain it is $1500, in the United States $1250, and in Germany $950. It is even less than that of Russia or of Italy, which are considered the poor nations of Europe. Japan, as a new nation in the

[6] See F. W. Sanders, Standard of Living in the Relation to Economic Theory and Land Nationalization, Chapter II.

modern industrial world, has had to make large expenditures in starting new industrial undertakings. Furthermore expensive wars with China and Russia compelled her to carry a heavy burden of national debt. This debt amounted in 1914 to $1,273,000,000, including $745,000,000 in foreign loans.[7] With such an economic situation it follows that the production of wealth is one of the foremost problems in the promotion of Japan's well-being.

The increase of national wealth must be derived from individual income and savings. For this purpose it is essential to promote the economic activities of the people. In truth Japan has seen a remarkable development in economic activities in the last fifty years, but it was chiefly on the side of production; handicraft gave way to machine industry; steam and electric power took the place of hand or animal power. Efficiency in production has increased ten to a hundred times. Yet, if we examine the use of wealth, especially the private consumption of wealth, we find that there has been no conspicuous advance. The mode of living in general—housing, food, clothing, and other factors of living—has not made noteworthy improvement. The mass of people live in just the same way as they did during the feudal régime. In the cities some change in the mode of living may be seen among a certain class of people. It is doubtful, however, whether the change could be called a real improvement or simply a mere adaptation of foreign customs. There should be improvements of such a kind that an efficient standard of living could be economically maintained. In a word, economic progress both in theory

[7] Of course the amount of the national debt is not a proper index of national poverty. Before the present war France was considered financially the strongest country in the world, yet in 1914 she carried a greater national debt than that of any other country, a sum amounting to $6,278,000,000. The debt of the British Empire was $3,528,000,000, that of the German Empire was $5,273,000,000, and that of the United States $2,912,000,000. However, the nature of the debts of these great powers is quite different from that of the Japanese debt, which consists chiefly of war loans, and is unproductive. Therefore the rate of interest is high, running from 4 per cent to 5 per cent, while that of the United States is generally 2 per cent to 3 per cent (Statesman's Year Book, 1915).

and in practice must not limp. Unless both production and consumption make parallel advancement, the economic welfare of the individual as well as of the nation can never be expected to improve.

Although it is not likely that this study of the standard of living will be able to furnish many theories of family consumption, it is expected that the work will throw some light on this fundamental question and will make some contribution to economic knowledge. It is hoped, at the same time, that the knowledge of an efficient standard of living will advance the development of the nation at large.

CHAPTER II

Conception of the Standard of Living

It must be remembered that the study of the standard of living constitutes one of the most difficult fields of economic investigation. It is a field of extraordinary complexity and confusion because it depends, first, on individual conditions; second, on social conditions; and third, on territorial conditions. The individual conditions are the most variable, as they are governed by inheritance, character, taste, education, income, and capital. Moreover the facts to be investigated are usually considered by individuals as personal matters, and for this reason investigators have great difficulty in the collection of reliable data. Then, social conditions are constantly changing with the progress of civilization; territorial conditions too are very different according to the various regions under consideration.

Nevertheless the confusion, complexity, inaccuracy, and inequality which result from these different conditions do not change the essential nature of living, which is capable of scientific treatment. The outward conditions for getting a living are almost infinitely variable; but if we proceed by careful investigation, a certain definite standard of living will be discernible through the confused mass of facts. That this standard can be determined is possible for the following reasons:

(1) Every man, as a human being, has a certain common nature, which is entirely unlike that of other species of animals. This common nature consciously or unconsciously produces obvious similarity in his economic activities in spite of wide diversification in his outward manner of living.

(2) Owing to the fact that "man is a social animal," human nature naturally creates many social relations in

society, and a process of social assimilation is all the time at work. With the progress of civilization these social influences act upon man more and more powerfully. Thus the economic activities of human beings after all can be classified under certain social systems or organizations.

(3) Men are imitative of one another by nature. This inclination of human nature is always working physiologically and psychologically. Whether voluntary or involuntary, this imitation results in a great degree of uniformity, which aids the scientific search for the standard of living.

The similarity of human activities, due to these facts, makes possible an approach to the problem of living by scientific investigation. Yet here it is important to pay attention to the selection of an appropriate method in determining the standard of living; otherwise we shall be thrown into hopeless confusion, and the conclusion, obtainable after much toil, will be nothing more than that "every man has his own standard of living."[1] It is evident that the standard of living is a relative problem in which it is almost impossible to secure precision. The only available method of treating this problem is to begin with the study of the origin of all activities of economic life; namely, human wants. Marshall has well said that "the term the standard of life is here taken to mean the standard of activities adjusted to wants."[2] Economic activities, which are nothing but expressions of wants, are greatly complicated and are very variable, but their origin—namely, wants—is comparatively simple and less changeable under certain circumstances.

In order to approach the subject, therefore, it is necessary to make a classification of wants. The most useful one for our purpose is a four-fold division: necessity, decency, comfort, and luxury. Necessity is the feeling of deficiency in those things necessary for bare existence. It consists chiefly in the desire for the food, shelter, and clothing which are physiologically necessary to prevent physical deteriora-

[1] Streightoff, p. 1.
[2] A. Marshall, Principles of Economics, p. 689.

tion. The mode and scale of activities adjusted to these wants will be termed the "absolute standard of living." This is the lowest possible standard of living for human existence. All other standards above this will be termed "the relative standard of living."

The absolute standard of living, if rightly examined, shows an unchangeable character, because the life of primitive people, whose wants do not extend much beyond the necessaries for existence, is relatively homogeneous in its physiological and social relations. The relative standard is, however, much more complicated; it may be divided into three grades according to the activities resulting from wants for decency, comfort, and luxury. However, we cannot distinguish these three kinds of wants with scientific accuracy. The distinction among them can never be so clearly discernible as that which exists between them and necessity. As human effort in civilized society is generally directed toward securing more than necessities for mere existence, the absolute standard of living in the present generation is rather a hypothetical one. It is a standard befitting only primitive tribes such as are in the hunting, fishing, or pastoral stages. Beyond necessities, we must satisfy wants for decency; for example, the wants for certain kinds of clothing, which are necessary for the maintenance of social position, should be satisfied. In other words we must maintain a decent living "in keeping with the dignity of a human being."[3] Although the meaning of the phrase, "dignity of a human being," is ambiguous, it suggests that there must be at least some comfort above necessity, because the sole end of human life is not mere machine-like production. Civilized man has a certain scale of comfort which he considers indispensable to his economic life, and which helps to preserve him in efficiency. This standard of life must include "the number and character of the wants which a man considers more important than marriage and family." Then many people desire more than comfort in their living, and like to indulge in luxury. Some scholars,

[3] J. A. Ryan, Living Wage, p. 72.

such as Leroy-Beaulieu, insist that luxurious expenditure is beneficial and that it is necessary for the advancement of social life.[4] But I can never be an apologist for luxury, and I stand with Laveleye as its opponent.

As has been stated before, the relative standard of living is the standard adjusted to all the wants for necessity, decency, comfort, and luxury in any particular society at any time or in any place. Bullock states that "the amount of comforts or luxuries customarily enjoyed by any class of men forms the standard of living of that class."[5] This standard corresponds to what I call the relative standard of living. But a certain confusion results when we speak of "comforts or luxuries." Will it not be possible to make a distinction between comfort and luxury? Roscher classified wants in three parts; namely, Natur-, Anstands-, und Luxusbedürfnisse[6] (necessity, decency, and luxury). He seems to include comfort in luxury. Certainly all classifications of wants have only a relative meaning, in that they are changeable with individual, social, and territorial conditions. But "luxury, while variously defined, involves always the thought of great consumption of wealth for unessential pleasures."[7] Or, "luxury is to devote a relatively large amount of labor to the satisfaction of a relatively superfluous want."[8] Luxury is altogether unessential, superfluous, and often harmful to economic life. It is harmful because the influences of luxury upon living affect both the individual and society. The effect of luxury on the individual is to discourage the spirit of steadiness and sobriety, to cause lavish expenditures in family budgets, and to undermine the health. Socially the effects of luxury are as follows: It decreases the wealth-producing power of the nation; it brings about higher prices for commodities; it increases the importation of foreign goods; it disturbs the social peace. These effects are certainly injurious to economic

[4] R. T. Ely, Outlines of Economics, p. 181.
[5] C. J. Bullock, Introduction to the Study of Economics, p. 126.
[6] Roscher, B. I., S. 1.
[7] F. A. Fetter, Principles of Economics, p. 385.
[8] C. Gide, Principles of Political Economy, p. 370.

well-being. The activities adjusted to luxury should be excluded from what I shall define as the "efficient standard of living." But comfort is different from luxury. Comfort is always essential and important for efficiency because the satisfaction of the desire for comfort results in producing more efficiency, directly or indirectly. It may be necessary to devote a comparatively great sum of money to the securing of comfort, but the result of the expenditure will prove profitable by giving high vitality and great energy.

Now, if we exclude luxury, we shall have derived a new standard of living from the relative standard and it may be termed the "efficient standard of living." This is defined as the mode and scale of activities adjusted to wants for necessity, decency, and comfort in any particular society at any time or in any place. The purpose of this study, then, will be to discover a standard of living which will correspond to what has been defined as the efficient standard of living. This standard requires as essential elements, food, clothing, housing, lighting and heating, education, society, charity and religion, health, recreation, and saving (insurance). But an absolute standard of living generally requires only food, clothing, and housing. The food expenditure of primitive people is often more than 90 per cent of total expenditure.[9] Thus from the expenditure for food it is possible to deduce the whole status of the absolute standard of living. While other things are required for the efficient standard of living, food, clothing, and housing always constitute the fundamental items. Therefore reliable data concerning these three expenditures form the most important material for the determination of the efficient standard of living.

It is necessary, then, to take into careful consideration the fact that the principal influences which give rise to great variations in living conditions are the following:

Progress of Civilization.—With the progress of civilization human wants increase almost indefinitely both in quantity

[9] A study by the writer of the economic life of the Japanese aborigines, the Ainu, shows the food expenditure of the people to be 85 per cent to 95 per cent.

and in quality. Therefore with different civilizations there will be different standards of living. "The standard of living is fixed by the advancement of civilization."[10]

Influence of Physical Agents.—Man adjusts his life to his natural environment. Climate, food, soil, and the general aspect of nature are four physical agents which have a great influence on his mode of living.[11]

Influence of Occupation.—The influence of occupation is most powerful in a country like India, where the caste system and the old feudal customs are still influential. In Japan, the class distinctions between warriors, farmers, industrialists, and merchants were very great in feudal times, and their standards of living differed according to their occupations. Even at present this class distinction is prevalent among certain classes of the people; for example, day laborers, domestic servants, merchants, bankers, doctors, government officers, professors, and students maintain such different standards that their outward appearances are good indices of their occupations.

Influence of Individuality.—The income, capital, health, disposition, knowledge, morality, and religion of an individual affect his mode of living. In this capitalistic age the strongest influence upon the economic life comes from income and capital. With the progress of economic society the influence of territorial and occupational conditions will be gradually weakened. On the other hand the influence of income and capital is getting more and more powerful. The standard of living, therefore, can be generally ascertained by the amount of wealth possessed by the individual.

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[10] S. Nearing, Reducing the Cost of Living, p. 35.
[11] H. T. Buckle, History of Civilization, vol. i, chap. 2.

PART II

COST OF FOOD

CHAPTER III

General Study of Diets[1]

The human wants for food are the most fundamental and the strongest motives for getting a living. Especially with primitive people, they are so strong that the sole purpose of living is to get food enough for the maintenance of life. Their food expenditure is often as high as ninety per cent of their total income.[2] In modern society, even among civilized people, the food expenditure in the family budget is the largest fundamental item, generally running from 30 to 65 per cent for the middle and poor classes. In the study of the standard of living, therefore, the following questions should be solved at the outset: What kind and what amount of food is required for our living? What will be its cost? In order to get a satisfactory statement, it is necessary to use the results of bio-chemical studies on human nutrition. Beginning with the importance of food, we find that food serves to form the material of the human body and repairs its waste; and it serves as fuel for the generation of

[1] Reference books used for the general study of diet are:
W. O. Atwater, Methods and Results of Investigation on the Chemistry and Economy of Food. Bulletin No. 21, U. S. Department of Agriculture, 1895.
W. O. Atwater, Principles of Nutrition and Nutritive Value of Food. Farmers' Bulletin No. 142, U. S. Department of Agriculture, 1902.
R. H. Chittenden, Physiological Economy in Nutrition. 1904.
R. H. Chittenden, The Nutrition of Man. 1907.
W. H. Jordan, Principles of Human Nutrition.
Von H. Lichtenfelt, Ueber die Ernährung und deren Kosten bei deutschen Arbeitern.
E. H. Richards, Cost of Food, 1901.

[2] Page 18, note 9.

energy for the work man has to do. The constituents of food which are able to accomplish these functions are technically called nutrients, and they are summarized in three essential forms as follows: protein, which forms tissue and serves as fuel; fats, which form fatty tissue and serve as fuel; carbohydrates, which are transformed into fat and serve as fuel.

The amount of nutrients needed per capita per diem differs according to different authorities. For the present study, it will be well to follow the standards of dietaries given by the most commonly recognized authorities, such as Voit, Atwater, Playfair, and some others.[3] On the whole, these chemists do not show much difference in their opinions, but the well-known scholar, Professor Chittenden of Yale University, and his followers advocate much greater moderation in eating. Professor Chittenden claims that "one-half of the 118 grams of proteid food called for daily by the ordinary dietary standards is quite sufficient to meet all the real physiological needs of the body, certainly under ordinary conditions of life."[4] However, students of human nutrition do not agree that so radical a diminution of protein in the food is desirable.[5]

Now, according to the result of Voit's observation, the

[3] STANDARDS OF DAILY DIETARIES

(Jordan, pp. 182–183)

	Protein (Grams)	Fats (Grams)	Carbohydrates (Grams)	Total (Grams)	Potential Energy (Calories)
Man at moderate work (Voit)	118	56	500	674	3055
Man at hard work (Voit)	145	100	450	695	3370
Man at moderate work (Moleschott)	130	40	550	720	3160
Man with light muscular work (Atwater)	112	—	—	—	3000
Man with moderate muscular work (Atwater)	125	—	—	—	3500
Man with hard muscular work (Atwater)	150	—	—	—	4500
Adult in full health (Playfair)	119	51	531	701	3140
Active laborers (Playfair)	156	71	568	795	3630
Hard working laborers (Playfair)	185	71	568	824	3750

[4] Chittenden, Physiological Economy in Nutrition, p. 475.

[5] Jordan, pp. 190–192.

amount of nutrient needed for Europeans at moderate work is protein 118 grams, fats 56 grams, and carbohydrates 500 grams. For the amount of nutrient required for Japanese at moderate work it is necessary, first of all, to make a modification because of the difference in body weight between Europeans and Japanese. While the average body weight of Europeans in Voit's experiment is 63.9 kilograms, that of the average Japanese is only 52 kilograms.[6] The difference in these weights gives the ratio of 1 : .8, and the amount of nutrients required by the average Japanese is calculated as about 80 per cent of that necessary for Europeans; namely, protein, 96 grams; fats, 45 grams; carbohydrates, 406 grams. Besides the difference in body weight, food requirements must of necessity vary with dietary habit. For more than two thousand years Japanese diet, generally speaking, consisted chiefly of cereals and vegetables, with some fish and a little poultry. Only the outcast class of people were in the habit of eating meat. It is only during the last fifty years that the Japanese have begun to use meat. A distinctive feature of the food requirement of the Japanese as compared with that of Europeans and Americans is that the former require more carbohydrates and less fats. Taking these facts into consideration, the Bureau of Hygiene of the Japanese Government has arranged the daily dietary for Japanese at moderate work as follows: protein, 96 grams; fats, 20 grams; carbohydrates, 450 grams. It is evident through the study of Voit that about one third of the total amount of protein should be obtained from animal food. Though vegetable protein is much cheaper in price, it is more difficult both to digest and to absorb than animal protein.

From the daily dietaries of nutrients, standard diets have been suggested by many investigators. A great many combinations of standard diets are devised by chemists

[6] Department of Interior Affairs: Articles of Food. The report of the nutrition investigation by Underhill (Chapin, p. 320) states that "a man of 70 kilos body-weight at moderate muscular work needs 125 grams protein."

and students of domestic science. The following are some Japanese diets which are suggested by the Bureau of Hygiene:[7]

(1)

Rice	752 grams (4 *go*)[8]
Beef	225 "
Cucumber or Melon	56 "
White potatoes	75 "
Japanese onions (*Negi*)	75 "
Miso	19 "
Milk	0.318 pint (1 *go*)

The amount of nutrients contained:

Protein	95.7 grams
Fats	28.0 "
Carbohydrates	454.3 "

(2)

Rice	752 grams (4 *go*)
Fish	244 "
Vegetables (fresh)	301 "
Miso	19 "
Eggs	2

The amount of nutrients contained:

Protein	101.0 grams
Fats	19.2 "
Carbohydrates	446.6 "

(3)

Rice	752 grams (4 *go*)
Chicken	113 "
Miso	38 "
Fish	94 "
Tofu	94 "
String beans	56 "
Uba or *Yakifu*	11 "
Gomanoyu	4 "

The amount of nutrients contained:

Protein	101.5 grams
Fats	19.4 "
Carbohydrates	434.7 "

After the standard diets are settled, the next step in our inquiry is to ascertain the cost of the standard diet. It is hard to determine the average cost because the price of

[7] Department of Interior Affairs: Articles of Food.
[8] For explanations of the Japanese words, see the glossary.

food differs according to time, place, and method of purchase. But, using the average retail price quoted in Tokyo in April, 1915, the cost of the standard diets would be as shown in the following table:

(1)	Quantity	Cost (*sen*)	Unit	Price in Tokyo (*sen*)
Rice	752 grams	8.0	1 lb.	4.0
Beef (a)	225 "	30.0	"	50.0
Cucumber—Melon	56 "	0.5	"	3.5
Potatoes	75 "	0.3	"	1.2
Onions	75 "	1.4	"	7.0
Miso	19 "	0.2	"	4.0
Milk	0.318 pint	4.0	1 pt.	12.6
Total		44.4		
(2)				
Rice	752 grams	8.0	1 lb.	4.0
Fish (b)	244 "	16.0	"	24.6
Vegetables (fresh) (c)	301 "	2.8	"	3.5
Miso	19 "	0.2	"	4.0
Eggs	2	6.0	1 pt.	3.0
Total		33.0		
(3)				
Rice	752 grams	8.0	1 lb.	4.0
Chicken (d)	113 "	15.0	"	50.0
Miso	38 "	0.4	"	4.0
Fish	94 "	6.0	"	24.6
Tofu	94 "	0.5	"	2.0
Beans	56 "	1.0	"	0.7
Uba, Yakifu	11 "	1.1	"	38.0
Gomanoyu	4 "	0.1	1 pt.	24.0
Total		32.1		

(a) Without bone.
(b) Average of 10 kinds of fish.
(c) Average of 18 kinds of vegetables.
(d) Without bone and other refuse.

The first diet is the most expensive and costs 44.4 *sen*. The selection of food material given in the first illustration is extravagant, because beef is an exceptionally expensive food article in Japan at present. As 225 grams cost 30 *sen*, other kinds of meat or fish may be more economically substituted, greatly reducing the cost of the diet. For the average, therefore, this illustration ought to be excluded.

The second diet costs 33 *sen*, and the third 32.1 *sen*, and the average cost of these two per capita per diem is 32.6 *sen*. This is simply the cost of food material, and does

not include the cost of condiment and auxiliary food, about 4 *sen* in the soldier's diet.[9] The total cost of the diet is then 36.6 *sen*. As will be shown in Chapter VII, this diet costs too much, and is by no means the ideal diet in the economic sense. Moreover conditions in Japan have greatly changed since the Bureau of Hygiene worked out the standard diet, and at the present time a cheaper and better diet containing the same amount of nutrient can be obtained, and consequently the cost of the standard diet may easily be cut down to 30 *sen*.[10]

In order to better understand the problem of Japanese diet, a comparison between the American standard diet and that of Japan may be interesting and helpful. The following illustration of an American diet is given by Professor Underhill of Yale University.[11]

Kind of Food	Weight and Fuel Value per Man per Day					
	Food Materials (Grams)	Protein (Grams)	Fat (Grams)	Carbohydrate (Grams)	Fuel Value (Calories)	Cost
Beef, veal, mutton	158	32	16	.....	221	.....
Pork, ham, bacon, etc.	20	3	10	.....	108	.....
Poultry	20	3	2	.....	34	.....
Fish, etc.	20	1	.....	.....	8	.....
Eggs	64	8	6	.....	90	.....
Butter, lard	20	.....	17	.....	158	.....
Cheese	.....	.....	.....	.....	.....	.....
Milk	313	12	14	11	272	.....
Total Animal Food	615	59	65	11	891	$0.11
Bread, cake, etc.	337	30	7	185	940	.....
Flour, cereals	60	8	3	41	232	.....
Vegetables	180	5	.....	26	134	.....
Fruits	20	.....	.....	2	10	.....
Tea, coffee, etc.	.....	.....	.....	.....	.....	.....
Sugar, molasses	74	.....	.....	72	297	.....
Liquors	.....	.....	.....	.....	.....	.....
Total Vegetable Food	671	43	10	326	1613	$0.10
Total Food	1286	102	75	337	2504	$0.21

[9] See page 36.
[10] See page 39.
[11] Chapin, p. 323.

The total cost of this American standard diet is 21 cents, but it is based on the prices prevailing in the summer of 1907. Prices have advanced since that time, and the cost may be estimated as 28 cents in the summer of 1913.[12] Now, while the cost of the standard diet is 18.3 cents in Tokyo, it is 28 cents in the United States. The causes of this difference will be discussed in part in Chapter VII; generally speaking, however, the following are the three main causes:

(1) The price of food in Japan, excepting that of a few kinds, is much lower than in America. Milk, beef, butter, sugar, chicken, and a few other articles are slightly dearer in Japan, but the majority of food articles are much cheaper. For instance, rice costs about one quarter, fish about one third, eggs one half, pork one half, potatoes about one fourth, and cabbages about one fourth of what must be paid in America.

(2) The Japanese requirement in food is theoretically about 80 per cent of the American.

(3) The dietary habit of the Japanese requires more vegetable and less animal food, the former being very much cheaper than the latter.

The relatively smaller cost of Japanese diet as a whole has been one of the fundamental factors in the industrial progress of modern Japan. It makes possible a low standard of wages, which, provided it is not less than the minimum wage required by the Japanese standard, will prove a valuable factor in future economic development in the world economy. Therefore, reducing the cost of the standard diet is a much more important matter than it is generally thought to be. For this reason we must maintain the habit of selecting a diet which has the highest food value in both a nutritive and an economic sense. The principles for the determination of the food value may be enumerated as follows:

[12] The index number of retail prices of fifteen principal articles of food in the United States was 128.0 in 1907, and 171.6 in an average of July, August, and September, 1913 (U. S. Bureau of Labor Statistics: Retail Prices).

Amount of Nutrients.—Three forms of nutrients should be contained in food. Speaking economically as well as physiologically, the most important form of the three is protein, because protein is the most expensive nutrient in price and its function is more essential than that of the other two. Thus, for the determination of food value the amount of protein contained in food is the controlling factor.

Amount of Heat Generation.—This is chemically expressed by number of calories. While one gram of either protein or carbohydrate produces 4.1 calories, fat generates as much as 9.3. In view of heat generation, therefore, fat is most important.

Absorption and Digestibility.—The nutrients must be easily digested and absorbed. For this reason especially, though vegetable protein is much cheaper in price than animal protein, the former is as a nutrient inferior to the latter. This is due to the fact that it is less digestible and will not absorb easily.

Market Value of Food.—The three foregoing factors constitute the nutritive value of food. For the purpose of economic discussion, the market value of food plays an important role in the determination of food value as a whole. For example, horse meat is much cheaper than beef in spite of the fact that the former though less digestible contains more protein. Hence the use of horse meat, which prevails in Germany and also to some extent among poor people in Japan, should be economically justified.

For the study of food expenditure in the family budget, the members of the family should be reduced to a unit, since the amount of food necessary for an individual varies according to his age and sex. For this purpose, equivalents are used which take as a unit the food requirements of an adult man. The factors are "based in part upon experimental data and in part upon arbitrary assumptions," and the figures are somewhat different according to different

authorities. In this study the following scale of equivalents which has been adopted in the United States is used:[13]

An adult man	1.0[14]
A boy of 15 to 16	.9
An adult woman	.8
A girl of 15 to 16	.8
A boy of 13 to 14	.8
A girl of 13 to 14	.7
A boy of 12	.7
A boy of 10 to 11	.6
A girl of 10 to 12	.6
A child of 6 to 9	.5
A child of 2 to 5	.4
A child under 2	.3

In Japan what is considered a normal family consists of father, mother, and three children under 15. If the children are two girls of 12 and 3 and a boy of 7, the family requirement will be 3.3 units.

Calculated on the per capita per diem cost of food, that is, 32.6 *sen*, a normal family's expenditure for food would be 1.08 *yen* per day and 394.20 *yen* per year.

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[13] See U. S. Department of Agriculture, Farmers' Bulletin, No. 142, p. 33.

[14] In Germany the Bureau of Statistics adopts a much simpler scale which makes no distinction between the sex of children under 15. The scale of equivalents for the requirement of food adopted by the German government is as follows:

A man (over 15)	1.0
A woman (over 15)	0.8
A child of 13–15	0.5
A child of 10–13	0.4
A child of 7–10	0.3
A child of 4–7	0.2
A child under 4	0.1

CHAPTER IV

Actual Status of Food Consumption

In the preceding chapter there have been set forth some examples of daily diet which are considered almost authoritative standards of food consumption in modern Japan. They are standards which are theoretically ideal as the result of biochemical investigation, but they are not the diet of the average Japanese family.

In order to get concise knowledge of the subject, it is necessary to study it from several different points of view. It will here be considered according to two different methods. The first method is the actual study of food consumption, through (1) the small farmer's diet. This will show the actual standard of food consumption among the lowest class in rural Japan. (2) (a) prisoner's diet, and (b) diet of a family supported by a woman day-laborer living in poverty. These two studies will show the standards of food consumption for the maintenance of the lowest possible standard of living. (3) (a) sailor's and soldier's diet, and (b) diet of a middle-class family. These two studies will show the minimum necessary standards of diet for the maintenance of the efficient standard of living. The standard diet of the middle class is a term which will cover both studies.

The second method is the statistical study of food consumption in Japan as a whole, which may be called the standard of national food consumption. This subject will be treated in the following chapter.

(1) *Small Farmer's Diet.*—The method of inquiry was primarily by the examination of the food consumption of the families selected as representative in the different localities. Five different "college farms" situated in different sections of the Northern Island of Japan were selected. These may not be exactly representative of the Japanese farming

DIET OF SMALL FARMERS

(per man per day)

	Farm Section IV		Farm Section V		Farm Section VI		Farm Section VIII		Average Quantity
	Quantity	Cost (*sen*)	Quantity	Cost (*sen*)	Quantity	Cost (*sen*)	Quantity	Cost (*sen*)	
Rice	1.7 *go*	3.7	2.5 *go*	5.5	2.5 *go*	5.3	1.1 *go*	2.2	1.95 *go*
Barley (naked)	3.0 *go*	2.6	3.6 *go*	3.3	3.5 *go*	3.4	3.7 *go*	4.0	3.45 *go*
Miso	17 *momme*	0.6	5 *momme*	0.2	46 *momme*	1.4	18 *momme*	0.7	21 *momme*
Shoyu	0	0	0	0	0.006 *go*	0.02	0.02 *go*	0.09	0.006 *go*
Fish[1]	.....	0.6	.....	0.8	.....	1.3	.....	1.2	.....
Vegetables	.....	3.0	.....	3.3	.....	0.9	.....	1.7	.....
Pickles	.....	0.6	.....	0.6	.....	0.4	.....	0.8	.....
Saké	0	0	0	0	0	0	.....	0.3	.....
Sugar	0	0	0	0	0	0	.....	0.06	.....
Total	.....	11.1	.....	13.7	.....	12.7	.....	11.0	.....

[1] Fish is dried or salted and generally used for seasoning purposes.

districts, but, on account of the great simplicity in the way of living among small farmers as a whole, the data concerning the food consumption of the selected families may be considered not very far from the average standard of the class.[2] The results of the investigation are summarized in the tables on pages 30 and 31.

AVERAGE COST OF SMALL FARMER'S DIET
(per man per day)

	Local[3]		Tokyo[4]	
	Cost (*Sen*)	Per Cent of Total Cost	Cost (*Sen*)	Per Cent of Total Cost
Principal Food:				
Rice	4.2	34.7	3.90	27.3
Barley (naked)	3.3	27.2	4.66	32.6
Total	7.5	61.9	8.56	59.9
Subordinate Food:				
Animal food	1.0	8.2	1.25	8.7
Miso	0.7	5.8	0.84	5.9
Shoyu	0.03	0.2	0.02	0.1
Vegetable	2.2	18.2	2.75	19.2
Pickle	0.6	4.9	0.75	5.3
Saké	0.08	0.6	0.10	0.7
Sugar	0.02	0.2	0.03	0.2
Total Subordinate Food	4.63	38.1	5.74	40.1
Grand Total	12.13	100	14.30	100

The conspicuous facts relating to the small farmer's diet are as follows:

(i) The diet consists chiefly of the principal food; that is, rice and naked barley. The expenditure for the principal food is about 60 per cent of the total food expenditure.

(ii) Although rice constitutes only the most essential principal food for the urban population, barley is equally important for the rural population. In this study, 64 per cent of the principal food (in quantity) was found to consist of barley.

[2] The method of investigation is described in Chapter XIV, page 127.
[3] Local retail prices in October, 1913.
[4] Retail prices in Tokyo, April, 1915.

(iii) No meat is consumed at all. In some other farming districts, however, a little meat or poultry is used, but to such a small extent that it should not be counted as an independent item of food consumption.

(iv) Animal protein is obtained exclusively from fish, which is generally dried or salted, and is ordinarily used for cooking or seasoning purposes. The price of fish is much higher than that of vegetables or grains, especially in rural districts. In cost, therefore, it reaches 8.2 per cent in spite of the small quantity used.

(v) Fresh vegetables, pickles, and *miso* are the main articles of subordinate food. Since the prices of these are very low in country districts, they are consumed in great quantities.

(vi) Sugar is used very sparingly. It is not used for cooking purposes, but is generally eaten by children as a substitute for sweets.

(vii) Food is seasoned chiefly with *miso* and *shoyu*, which contain salt and vegetable protein.

(viii) The total cost of food is only 12.1 *sen*, which is about one third of the cost of the standard diet. But the same diet would cost 14.3 *sen* if it were purchased in Tokyo.

Although this study covers only a part of the vast field of the agricultural population, which constitutes more than one half of the total population of Japan, the facts enumerated above may be taken as characteristic of small farmers of Japan at large. To sum up, they are the underfed vegetarians; however, the cheapness of vegetable food in rural districts enables the farmer to obtain a large quantity of this food for a small amount of money. In cities the cost of living is higher, since the people there like to use high-priced animal food, and are also obliged to pay more for vegetable food. For this reason the rural population are not so much underfed as the extremely low cost of their living would seem to indicate.

(2) In order to study the actual standards of food consumption for the maintenance of the lowest possible standard of living, the dietaries of prisoners and of a family

living in the most extreme poverty were investigated. (a) For the prisoner's diet, three local prisons were visited in 1914; namely, Tokachi prison, Abashiri prison, and Sapporo prison. The data which are summarized in the following table were received in official letters dated as follows: Tokachi prison, February 10, 1915; Abashiri prison, February 13, 1915; Sapporo prison, February 5, 1915. These letters gave the average of the entire food consumption of all the prisoners in each prison during one year from April 1, 1913, to March 31, 1914. The quantity of principal food and the cost for subordinate food are stated by the prison law, with some allowance according to the different conditions in the different localities.

PRISONER'S DIET IN THREE DISTRICT PRISONS (1913–1914)

(per man per day)

	Tokachi Prison[5]		Abashiri Prison[6]		Sapporo Prison[7]		Average			
	Quantity (*go*)	Local Cost (*sen*)	Quantity (*go*)	Local Cost (*sen*)	Quantity (*go*)	Local Cost (*sen*)	Quantity (*go*)	Local Cost[8]	Tokyo Cost[9] (*sen*)	Percentage of Total Tokyo Cost
Rice[10]	2.648	6.42	2.025	8.37	2.310	3.54	2.328	7.13	3.73	35.9
Barley (cracked)	2.648		2.700		2.744	3.06	2.697		3.64[11]	35.1
Other cereals	1.324		2.025		0.686		1.345		1.61[12]	15.5
Total Principal Food	6.620	6.42	6.750	8.37	5.74	6.60	6.37	7.13	8.98	86.5
Total Subordinate Food	.....	0.99	.....	1.18	.....	1.20	.....	1.12	1.40	13.5
Total	.....	7.41	.....	9.55	.....	7.80	.....	8.25	10.38	100

The striking features of the prisoner's diet are as follows:

[5] Data given by the Tokachi Prison, February 10, 1915.
[6] Data given by the Abashiri Prison, February 13, 1915.
[7] Data given by the Sapporo Prison, February 5, 1915.
[8] Local prices are the average of the year 1913.
[9] Tokyo prices are the average of April, 1915.
[10] Foreign rice at 16 *sen* per *sho* (Tokyo).
[11] Price 13.5 *sen* per *sho* (Tokyo).
[12] Price 12 *sen* per *sho* (Tokyo).

(i) The dietary of prisoners is extremely simple. The diet consists almost wholly of the principal food; that is, cereals only. In price the principal food amounts to 86 per cent and the subordinate food to 14 per cent. This ratio is characteristic of prisoners' diets in all civilized countries. In England the cost of the principal food calculated in terms of the Tokyo price is about 73 per cent of the total food cost, or about 11 *sen*.[13]

(ii) Sixty-three per cent of cereals other than rice are used, the use of the latter amounting to 37 per cent. There is not much difference in nutritive value between rice and other cereals. Because of the palatable quality of rice, however, it brings a higher price than do other cereals.

(iii) The prisoners are no doubt underfed, but the low cost reported by the superintendent of prisons is not a correct index to the nature of the food. Supplies are bought at wholesale prices, and moreover the wages of prisoners who engage in the production of vegetables are excluded from the price of the produce. The same diet, therefore, would cost 10.38 *sen* in Tokyo.

(b) With the purpose of making an intensive study of the cost of living on the lowest possible standard, a family was selected in the poorest section of the working class community in the city of Sapporo (population about 100,000). The family consisted of a mother and two daughters of 8 and 4 years. The family was equivalent, therefore, to 1.7 units. The woman is a day-laborer who was earning an average of 25 *sen* a day during the period of investigation. She received regularly the gift of two *yen* every month for her house rent. Moreover she was paid one *yen*, besides receiving gifts of clothes and food, in compensation for the work of reporting daily for a month the details of her household accounts. The food consumption of the family is summarized in the following table. The investigation was carried out in 1914, and the Sapporo cost of food is calculated at the retail prices which were actually paid. The Tokyo prices are the retail prices in April, 1915.

[13] For the dietary of prisoners in English prisons, see A. Cook, Our Prison System, p. 296.

DIET OF THE FAMILY OF A WOMAN LABORER

	Per Family per Month		Per Man per Day[14]			
			Quantity	Cost		
	Quantity (*go*)	Cost Sapporo (*yen*)	(*go*)	Sapporo (*yen*)	Tokyo (*sen*)	Percentage of Total Sapporo Cost
Fish	.....	0.100	.....	0.2	0.3	1.8
Fish (rejected part)	.....	.150	.....	0.3	0.3	2.7
Total Animal Food	.....	.250	.....	0.5	0.6	4.5
Rice	283.0	4.667	5.6	9.2	10.0	83.6
Buckwheat flour	.....	.070	.....	0.1	0.1	1.0
Umeboshi	.....	.050	.....	0.1	0.1	1.0
Miso	.....	.450	.....	0.9	1.1	8.2
Tsukemono	.....	.100	.....	0.2	0.2	1.8
Total Plant Food	.....	5.537	.....	10.5	11.5	95.6
Grand Total	.....	5.787	.....	11.0	12.1	100

The striking features of this diet are as follows:

(i) Rice is exclusively used for the principal food. On the whole this is one of the characteristics of the diet of the urban population as compared with that of the rural population.

(ii) Eighty-four per cent of the total cost is devoted to the main food.

(iii) *Miso* is the most important subordinate food, just as it is for the country people. Fifty-three per cent of the amount devoted to subordinate food is spent for it.

(iv) There is more variety in food as compared with the small farmer's diet, but the total quantity of food is not so great as the farmer's.

(v) The diet is not vegetarian, as is that of the small farmer; 30 per cent of the subordinate food is fish.

(3) With the purpose of studying the minimum necessary standards of diet for maintenance of the efficient standard of living, two sets of dietaries were investigated: (a) sailor's and soldier's diet, and (b) the standard diet for the maintenance of the efficient standard of life.

(a) *Sailor's and Soldier's Diet.*—The Department of the

[14] Equivalent to 1.7 adult males; number of days in a month, thirty.

Navy and the Department of the Army of the Imperial Government of Japan carry on from time to time investigations of soldiers' and sailors' diets. The following tables are summarized from the data furnished by the above named departments. It should be noted that the prices given by the departments do not have much practical value in our present study, as they are calculated on prices for wholesale amounts. Therefore the writer's own figures, calculated according to the retail prices quoted in Tokyo in April, 1915, are substituted in the tables. The quantity

SAILOR'S DIET (IN HARBOR)[15]
(per man per day)

	Quantity (Gram)	Cost[16]	
		Amount (*sen*)	Percentage of Total
Beef, pork, etc. (preserved)	.....	.....	.....
Fish (preserved)	.....	.....	.....
Beef, pork, etc. (fresh, second grade with bone)	226	13.62	34.7
Fish (fresh)	154	8.00	20.3
Total Animal Food	380	21.62	55.0
Bread (hard)	.....	.....	.....
Bread (ordinary)	244	5.2	13.2
Rice (cleaned, second grade)	376	3.6	9.2
Barley (cracked)	128	1.12	2.8
Beans, peas	11	0.14	0.4
Flour	8	0.08	0.2
Vegetables (dried)	.....	.....	.....
Vegetables (fresh)	451	3.6	9.2
Total Plant Food	1218	13.74	35.0
Tea	2	0.2	0.5
Roast barley	4	0.3	0.8
Sugar	38	1.14	2.9
Shoyu	0.4 *go*	1.2	3.0
Vinegar	.03 *go*	0.07	0.2
Vegetable oil	.01 *go*	0.01	0.1
Salt	1	0.02	
Butter	4	1.0	2.5
Total Auxiliary Food	.....	3.94	10.0
Grand Total	.....	39.30	100

[15] Data, except cost, furnished by the Department of the Navy, April 24, 1913.

[16] The cost is calculated by retail prices in Tokyo in April, 1915.

is the average of the entire food consumption by all the soldiers and sailors (officers excluded) in the navy and the army during one year from April 1, 1913, to March 31, 1914.

SOLDIER'S DIET—ARMY[17]

(per man per day)

	Quantity	Cost[18]	
	(Gram)	Amount (*sen*)	Percentage of Total
Beef (without bone, second grade)	27	2.90	8.4
Pork (without bone, second grade)	10	0.69	2.0
Chicken	2	0.22	0.6
Eggs	4	0.27	0.8
Fish (fresh)	66	3.56	10.4
Fish (dried)	10	4.80	14.0
Fish (salted)	10	4.62	13.4
Total Animal Food	129	17.06	49.6
Rice (cleaned, second grade)	4.2 *go*	7.56	22.0
Barley (cleaned)	1.8 *go*	2.43	7.1
Vegetables (fresh, second grade)	440	3.51	10.2
Vegetables (dried, average of four kinds)	55	1.71	5.0
Pickles	94	0.39	1.1
Shoyu	.348 *go*	1.04	3.0
Miso	1.718 *go*	0.69	2.0
Total Plant Food	.....	17.33	50.4
Grand Total	.....	34.39	100

The leading features of these diets are as follows:

(i) The standard diets are chemically arranged to contain necessary nutrients. The cost is 39.3 *sen* (navy) and 34.4 *sen* (army).

(ii) A sufficiency of meat as well as fish is used. The percentage of the animal food used is 55 per cent in the navy and 49.6 per cent in the army.

(iii) Less principal food and more subordinate food is used. In the navy only 25.2 per cent and in the army only 29.1 per cent of the total diet is devoted to the principal food.

[17] Data furnished by the Department of the Army, June 30, 1913. They are the average of 18 *shidan* (legions) located on the main island of Japan.

[18] The cost is calculated by retail prices in Tokyo in April, 1915.

(iv) In the navy, one meal a day (generally breakfast) is prepared in the European way, bread and butter instead of rice and *miso* being used.

(v) The comparatively high cost of the navy diet is due to the fact that too much of the expensive meat is used, while in the army more fish and less meat are utilized.

(vi) The army diet is typically Japanese and is quite different from the European.[19]

(vii) As a whole, the diet is wholesome, but the selection of food-stuffs is not economical.

(b) *The Standard Diet for the Maintenance of Efficient Life* (*Improved Standard Diet*).—With the purpose of suggesting a standard diet which can be approved from both practical and theoretical standpoints, a great number of the menus which are mentioned in the following books were used in practical experiments: W. H. Jordan, Principle of Human Nutrition, pp. 232–235; R. Hutchison, Food and the Principles of Dietetics; R. H. Chittenden, Physiological Economy in Nutrition, pp. 366–374; R. C. Chapin, Standard of Living in New York City, p. 323; B. S. Rowntree, Poverty, pp. 99–101; L. B. More, Wage Earners' Budgets, pp. 211–227; several Japanese books on home economics.

The following table shows as the result of the experiments a sample of a standard dietary which is best suited for the modern urban population of Japan. The aim of the diet is, first, to utilize the best in both Japanese and foreign foods and in methods of cookery; and, second, to apply the principles of the improvement of food consumption which will be discussed in Chapter VII. As it now stands the total cost of food per man per day is 30.5 *sen*. The standard diet suggested by the Bureau of Hygiene is not only equal in nutritive value to this improved standard diet, but costs considerably less.

[19] For the diet of German soldiers, see Bischoff, Hoffman und Schwieing, Lehrbuch der Militarhygiene, 1 Band, pp. 391–397.

Improved Standard Diet

(per man per day)

Food	Quantity (Gram)	Cost		Protein (Gram)	Fat (Gram)	Carbohydrate (Gram)
		Sapporo (*sen*)	Tokyo (*sen*)			
Breakfast:						
Rice	238.0	3.0	3.0	16.67	0.95	180.00
Miso	31.8	0.2	0.2	4.15	1.90	4.84
Katsubushi	3.9	0.5	0.5	2.95	0.20	0
Tofu	130.0	0.7	0.7	1.37	3.37	8.52
Pickles	39.4	0.1	0.1	0.52	0.01	2.41
Total	443.1	4.5	4.5	25.66	6.43	195.77
Lunch:						
Bread	150.0	3.2	3.2	9.34	0.23	90.38
Butter	7.4	1.6	2.0	0.05	6.38	0
Peas, beans	50.0	0.3	0.5	11.84	0.28	25.51
Milk	100.0	1.5	2.0	3.17	3.99	5.18
Total	307.4	6.6	7.7	24.40	10.88	101.07
Dinner:						
Beef—pork	80.0	6.3	8.6	14.38	17.02	0
Fish	80.0	2.5	2.8	21.93	0.77	0
Butter	5.6	1.2	1.5	0.04	4.80	0
Milk	100.0	1.5	2.0	3.17	3.99	5.18
Animal food	265.6	11.5	14.9	39.52	26.55	5.18
Bread	100.0	2.1	2.1	6.23	0.15	46.89
Potatoes	200.0	0.6	0.8	2.98	0.20	38.44
Udon (Japanese macaroni)	17.0	0.4	0.3	2.02	0.09	10.86
Turnips, radish	40.0	0.2	0.2	0.66	0.03	0.93
Plant food	357.0	3.3	3.4	11.89	0.47	97.12
Total	622.6	14.8	18.3	51.41	27.02	102.30
Grand Total	1373.1	25.9	30.5	101.47	44.33	399.14

CHAPTER V

National Diet of Japan

By the term "national diet" is meant the average diet of a nation. This average is obtained by dividing the total amount of food destined for the consumption of the nation by the number of the total population reduced to the equivalent number of adult population. Hitherto the study of food consumption has generally been based upon the data of some individuals or groups of limited numbers. One should remember, however, that food consumption is a matter which differs according to different individuals, localities, climates, customs, and manners. Such being the case, the intensive method of investigation based upon the data of limited numbers often results in an erroneous conclusion for the actual status of the national diet as a whole.

In this study an entirely different method of investigation, the extensive method, is used. The first step in this process is to find out the amount of total food produce in Japan; the next, to subtract all exports and add all imports of food; and the third, to divide by the number of the total population reduced to the equivalent of the adult man. The reduction of the population may be accomplished by applying the scale of equivalents given in the previous chapter.[1] However, this calculation involves the expenditure of so much labor with so little practical advantage resulting that its use is scarcely worth while. For the sake of convenience, therefore, the following simplified scale is adopted for this study:

A man or woman over 15	1.0
A child of 10–15	0.8
A child of 5–10	0.6
A child under 5	0.4

[1] See page 28.

By the use of these equivalents the equivalent number of persons at each age is determined as follows:

Age Groups	Population[2]	Unit	Adult Equivalent Number
Over 15	34,853,811	1.0	34,853,811
10–15	5,399,314	0.8	4,319,451
5–10	6,061,532	0.6	3,636,919
Under 5	6,670,864	0.4	2,668,346
Total	52,985,511		45,478,527

In the consumption of food the Japanese population of 53,000,000 is equivalent to 45,480,000 adults. In dividing the total amount of the yearly produce of food by the adult population, the quotient is the amount of the national diet per capita per annum. The national diet obtained in such a way necessarily cannot be very exact; but the results are very suggestive and valuable for the study of the national food problem at large, provided we consider them in coordination with individual or group studies.

Consumption of Rice and Other Grains.—The most important grain in Japan is rice. The first use of rice is for the principal food. Generally speaking, the main food in Japan is exclusively composed of rice. Plain boiled rice without milk or sugar is consumed in large quantity at every meal. The second use is for the brewing of the national strong drink, *saké*. The third use is for manifold purposes, such as the making of confectionery, starch, *ame*, and barm (*kooji*). Also seed for the next year's crop is stored away. This third use, however, is minor as compared with the first two uses.

The total produce of the rice crop in 1912 was 245,634,295 bushels.[3] The surplus of the import over the export in the same year was 10,179,695 bushels. The total net consumption in 1913, then, amounted to 255,813,990 bushels. Now, the amount of rice consumed as a main food may be

[2] The census was taken in 1908.

[3] Ordinarily the yearly rice crop is consumed during the next year of production. So the produce in 1912 is used for this study of consumption in 1913.

determined by subtracting from the total consumption the rice used for brewing purposes. Obtaining an average from the sum total used for liquor during the years 1909–1913, the result is 13,950,000 bushels per year. After subtraction, 241,863,990 bushels remain. This remainder divided by the number of the adult population shows the consumption of rice as a main food to be 5.32 bushels per annum, or .117 gallon or 2.9 *go* per diem.

The general belief that the Japanese principal food consists entirely of rice is true of the urban population only. The rural population as a whole use naked barley in great quantities for their principal food. It is mixed with rice in boiling. The poorer the farmer, the greater the proportion of other grains than rice used. The produce of naked barley is 39,500,000 bushels and the consumption of the same per man is 0.87 bushel per year, or .019 gallon (0.5 *go*) per diem. Other grains than naked barley are used to a greater or less extent for the principal food among the rural population.[4] The consumption of the other grains than rice and naked barley is 0.433 bushel per capita per annum, 0.010 gallon (0.24 *go*) per diem. Wheat and barley are cultivated in Japan, but are chiefly used for making flour and beer, and are excluded from the regular principal food-stuffs.[5]

PRODUCE AND CONSUMPTION OF GRAINS (RICE AND NAKED BARLEY EXCLUDED)

Kind of Grains	Total Produce	Consumption per Man per Year
Millet (*awa*)	9,297,585 bus.	0.205 bus. (40.9 *go*)
Panicum frumentaceum (*hiye*)	3,540,210 "	0.078 " (15.5 ")
Sorghum (*kibi*)	1,911,260 "	0.042 " (8.4 ")
Buckwheat	4,983,910 "	0.110 " (21.5 ")
Total		0.474 " (86.3 ")

Summing up what was stated above in this chapter, and applying the retail prices in Tokyo, the amount and the cost

[4] Some of them are made into dumpling and some other forms, but they are a part of the principal food.

[5] Flour is chiefly used for cake and bread. Bread is used very little, and hardly constitutes a part of the principal food-stuff.

of the grain food consumed per man per day are as follows:

Kind of Grains	Consumption per Man per Day	
	Quantity	Cost
Rice	.117 gallons (2.9 *go*)	5.7 *Sen*
Naked barley	.019 " (0.5 ")	0.9 "
Other grains	.010 " (0.2 ")	
Total	.146 " (3.6 ")	6.6 "

The table clearly shows that the consumption of rice is most essential. Rice constitutes 80 per cent in quantity and 90 per cent in cost of the total grain consumption for the principal food.

Consumption of Legumes.—The soy bean (soja bean, *daizu*), which is very rich in proteins and fats, is the most important legume in Japan. It is a remarkably good substitute for meat and other protein foods. It is very low in market price but its nutritive value is very high. The Buddhists, forbidden to eat meat of any kind, early discovered that this legume would take the place of meat. The essential element of the most common dishes in daily use, such as *miso*, *shoyu*, and *tofu*, is soy bean, and the numerous soy bean recipes are favorite relishes of the people.

The total produce of the soy bean crop amounts to 17,557,320 bushels and the consumption per capita per annum is 0.386 bushel. The produce and the consumption of other legumes are shown in the following table:

Kinds	Total Produce	Consumption per Man	
		Per Year	Per Day
Soy beans	17,557,320 bus.[a]	0.386 bus. (77.2 *go*)	0.008 gal.
Small red beans	4,735,725 "	0.104 " (20.8 ")	
Peas	1,889,850 "	0.042 " (7.2 ")	0.004 "
Beans (*soramame*)	2,508,765 "	0.055 " (11.0 ")	
Total	26,691,660 "	0.587 " (116.2 ")	0.012 "

Consumption of Vegetables.—The most important vegetables in Japan are sweet potatoes and *daikon*. The pro-

[a] Soy beans used for other purposes than food are included.

duction of sweet potatoes amounts to 3,676,883,393 kilograms and the consumption per capita per annum is 80.8 kilograms, 221 grams per diem. Such an enormous consumption is due to the fact that sweet potatoes are used in the southern part of Japan as a part of the daily main food. Moreover they are eaten a great deal between regular meals as a kind of refreshment.

The crop of garden radish (*daikon*) amounts to 2,544,655,781 kilograms. The consumption per capita is 55.9 kilograms per annum, 154 grams per diem. Radishes are commonly used as pickles which are known by the name of *takuwan-zuke*. They are prepared by being first dried and then pickled in a mixture of rice bran and plenty of salt. The *takuwan-zuke* constitutes one of the three most common food articles, especially among the lower class of people. The other two are rice and *miso*.

Other vegetables are produced and consumed in the quantities shown in the following table:

CONSUMPTION OF VEGETABLES

Kinds	Amount of Produce (kilogram)	Consumption per Man	
		Per Year (kilogram)	Per Day (Gram)
Sweet potatoes	3,676,883,393	80.8	221
Garden-radishes (*daikon*)	2,544,655,781	55.9	154
White potatoes	698,596,268	15.4	41
Yams (*taro*)	605,113,680	13.3	38
Vegetable-greens	454,751,880	10.0	26
Eggplants	331,364,888	7.3	19
Squash	258,058,635	5.7	16
Turnips	177,209,228	3.9	11
Burdock	160,877,280	3.5	9
Onions (*negi*)	120,903,938	2.7	7
Carrots	105,980,333	2.3	6
Watermelons	87,124,718	1.9	5
Bamboo shoots	78,346,316	1.7	5
Cabbages	49,068,120	1.1	3
Konnyaku	45,383,509	1.0	3
Melons	39,467,033	0.9	2
Myoga	32,764,586	0.7	2
Onions	20,497,774	0.5	1
Peppers	2,737,931	0.06	0.2
Lily bulbs	2,411,419	0.05	0.1
Tomatoes	2,270,130	0.05	0.1
Total		208.76	569 4

Consumption of Fruits.—In Japan four fruits may be selected as the most important; namely, plums, mandarin oranges, persimmons, and pears. Plums are chiefly consumed in a preparation called *umeboshi* which is made by first drying and then pickling the fruits in plenty of salt. The *umeboshi* is widely used for light meals, especially among the poor classes of people. As a consequence of being inexpensive and appetizing it is consumed in great quantities throughout the country. The *umeboshi* and the pickled radish (*takuwan-zuke*) are unexcelled as appetizers, giving a relish that would otherwise be lacking to the plain boiled rice.[6] Generally speaking, fruit, except plums, is used only as a refreshment between meals, and has little value as a regular food-stuff.

The following table shows the production and the consumption of fruits:

CONSUMPTION OF FRUITS

Kinds	Amount of Produce (Kilogram)	Consumption per Man per Year (Gram)
Mandarin oranges (*mikan*)	174,037,106	3,825
Persimmons	150,163,174	3,279
Japanese pears	74,833,091	1,646
Summer oranges (*natsudai*)	49,647,971	1,091
Peaches	41,109,056	904
Other kinds of oranges	38,699,659	848
Apples	31,432,159	690
Persimmons (dried)	14,387,895	315
Grapes	13,797,915	283
Japanese medlar (*biwa*)	9,786,660	214
Navel oranges	7,293,908	161
Figs	3,309,083	71
Pears (foreign)	2,235,990	49
Chestnuts	2,098,766	38
Cherries	1,062,030	23
Other fruits	628,894	15
Plums (*ume*)	2,575,029 bus.[7]	0.5 gals.
Total	.....	13,452[8]

[6] Boiled rice is served in bowls. The common bowl holds about a pint, and about three bowls, on an average, are consumed at each meal.

[7] Plums are measured in bulk.

[8] Plums not included.

Consumption of Animal Food.—In Japan, animal protein, which is the most important nutrient, is chiefly obtained from fish. Meat as a whole is not so widely used as to be called an important national food-stuff. Almost two million people are engaged in the fishery business, and more than four hundred kinds of fish are caught in Japanese waters. The fish produce and its consumption per capita are shown in the following table. The total of the consumption per

CONSUMPTION OF FISH

Kinds	Produce per Year (Kilogram)	Consumption per Man per Year (Gram)
Sardine[9] (*ma-iwashi*)	146,485,579	3,214
Sardine (*seguro-iwashi*)	104,904,353	2,306
Herring[10]	75,122,441	1,650
Skipper (*samma*)	59,820,671	1,315
Bonito[11]	49,442,785	1,110
Flounder	48,694,875	1,088
Mackerel	33,510,495	735
Salmon[12] (*saké* and *masu*)	32,672,205	720
Cod fish[13]	30,694,103	675
Yellow-tail (*buri*)	22,412,839	491
Polluck (*sukeio*)	20,243,276	446
Tai (species of porgy)	16,904,846	371
Horse mackerel (*Aji*)	11,854,775	263
Maguro (species of tunny)	12,017,134	264
Shirk (*fuka*)	11,018,704	242
Dolphin	2,624,216	
Flying fish	6,623,696	241
Kamasu (Barracuda)	1,708,924	
Carp	300,301	
Ayu (Plecoglossus aliivelis)	288,769	191
Eel	276,059	
Grey-mullet	5,575,204	124
Sawara (Cybium)	5,138,258	113
Hirame (Paralichtys)	4,317,420	94
Kurodai (species of porgy)	3,252,394	71
Others[14]	.....	1,901
Total	.....	17,625

capita is 17.625 kilograms per annum, 49 grams per diem.

[9] Export, 220,680 kg., subtracted.
[10] For other use than food, 70 per cent excluded.
[11] Export, 42,664 kg., subtracted.
[12] Import of salted salmon, 426,504 kg., added.
[13] Export, 13,799,063 kg., subtracted.
[14] Calculated from the price of the other kinds, the cost is 12,166,283 *yen*.

The cost of the total fish produce is 69,731,240 *yen*. Subtracting the cost of the fish exported, 671,773 *yen*, from the total cost, we have the balance, 69,059,467 *yen*, for the cost of the fish consumption in Japan. The cost per capita will be 1.518 *yen* per annum, 0.4 *sen* per diem.

Besides the fish above mentioned, shell-fish and a few other sea foods are consumed. The cost of the total shell-fish produce is 3,322,658 *yen*. Subtracting the value of the export, 1,541,734 *yen*, from the total cost, we have the balance of 1,780,924 *yen* for the national consumption of shell-fish. The cost of the consumption per capita is 39.2 *sen* per annum, 0.1 *sen* per diem. The total amount of the consumption per capita per diem is 6 grams.

The other kinds of sea food products are in two different groups; namely, the animal group and the plant group. The former includes the cuttle fish, the octopus, and the shrimp. The cost of the consumption per capita of this group is 10.4 *sen* per annum, 0.03 *sen* per diem. The latter includes two kinds of seaweed. The cost of the consumption per capita per annum is 4.6 *sen*. The amount of the consumption per capita per annum is 1,192 grams.

CONSUMPTION OF THE OTHER SEA FOOD PRODUCTS

Kinds	Amount of Produce (Kilogram)	Amount of Cost (*yen*)	Consumption per Man per Year (Gram)
The First Group:			
Surume-ika[15] (kind of cuttle-fish)	41,483,528	867,028	915
Shrimp (*yebi*)[16]	20,497,628	1,346,665	450
Octopus (*tako*)	10,140,863	1,030,703	223
Ika (kind of cuttle-fish)	5,300,545	655,857	117
Kensaki-ika (Squid)	4,970,145	622,062	109
Spiny lobster	832,748	196,725	18
Total	.....	4,719,040	1,832
The Second Group:			
Konbu (Laminaria japonica)	49,106,629	1,340,530	1,080
Tengusa (kind of seaweed)	513,484	739,640	112
Total	.....	2,080,170	1,192

[15] Calculated by subtraction of 20,353,057 kg. of export.
[16] Calculated by subtraction of 2,471,445 kg. of export.

THE CONSUMPTION OF SHELL-FISH

Kinds	Amount of Produce (Kilogram)	Consumption per Man per Year (Gram)
Oysters	20,556,169	454
Asari (Tapes)	20,141,486	443
Torigai (Cordium)	7,438,999	165
Clams	6,302,805	139
Razor clams	3,914,696	86
Others[17]	.....	866
Total	.....	2,153

Consumption of Meat.—In western countries meats are counted as the most important food, but it is quite different

CONSUMPTION OF MEATS, EGGS, AND MILK

Kinds[19]	Production (Pound)	Consumption per Man per Year	
		Amount (Pound)	Cost (*sen*)
Beef	69,735,327	1.535	34.3
Veal	2,037,168	0.045	0.7
Horse meat	11,984,166	0.264	3.7
Pork	17,711,919	0.389	5.5
Mutton	45,848	0.029	0.6
Goat meat	83,785		
Chicken	6,027,602[20]	0.269	10.8
Goose	166,861[20]	0.009	4.2
Eggs (chicken)	801,693,762	18 (pieces)	46.2
Eggs (goose)	6,692,820 (pieces)		
Milk (cow)	1,372,400 (gals.)	1 (quart)	15.0
Total	.....	.....	1.21 *yen*

[17] Calculated from the price of the other kinds, the cost is 1,282,560 *yen*.

[18] Meat is used to some extent by the urban population, but not by the rural population. The Japanese as a whole do not consider meat an indispensable food.

[19] The imports of condensed milk, 2,089,731 dozens of cans, and of eggs, 1,241,841 pounds, and of a few other kinds of meat stuffs are not included.

[20] There are no statistics of the production of chicken and geese; the figures given are the number alive at a given time. I have estimated the consumption of these articles on the assumption that during a year the consumption is one half of the number alive at a given time.

in Japan as a whole.[18] The largest amount consumed of any kind of meat is only 1.535 pounds of beef per capita per annum. All the other kinds of meat average much less than one pound a year. The cost of meat, including eggs and milk, amounts only to 1.21 *yen* per capita. The consumption of milk per capita per annum does not reach quite one quart. The consumption of the various kinds of meat, eggs, and milk is shown in the table on page 48.

Consumption of Sugar and Salt.—In order to make the most of the nutrients contained in food, it is requisite to have good cooking with proper seasoning. Sugar and salt serve as the leading elements in seasoning. Sugar is important not only as a nutrient, but also as an indispensable material of condiments. One may probably relate the consumption of sugar to the progress of civilization. A growing use of sugar seems to indicate a growing civilization. The sugar production at present in Japan is limited to the Island of Formosa and to some parts of southern Japan, and consequently imported sugar is used in great quantity. Owing to a heavy protective tariff in the interests of native sugar, the price of sugar in Japan is scarcely exceeded anywhere in the civilized countries. This fact is naturally a barrier to the free use of sugar. In 1913 it was produced as follows:

Jaggery[21]	84,899,928 *kin*
Muscovado sugar	22,907,364 "
Brown sugar	1,670,290 "
Molasses	308,692 "
Total	109,786,274 "

Adding 543,801,337 *kin* of imported low-grade sugar (chiefly sugar under Dutch standard Nos. 11 and 15) costing 36,771,327 *yen*, and then subtracting the exportation of refined sugar, 168,766,922 *kin*, and candy sugar, 10,358 *kin*, we have remaining 484,810,331 *kin* for home consumption. The consumption per capita per annum is 10.7 *kin* (14.1 pounds), 17 grams a day. Its cost, on the basis of 18 *sen* a *kin* as the average price of sugar, will be 1.926 *yen* per

[21] Jaggery sugar is a coarse sugar.

annum, 0.53 *sen* per diem. Sugar is used most commonly for confectionery, and is not in much demand for cooking purposes. In the poorer rural districts it is literally true sugar is not used at all except very little as a form of sweets.[22]

Salt is an absolutely necessary food element. The habitual taste of the majority of the Japanese being inclined to salt, its consumption is naturally very great. Such national food articles as *shoyu*, *miso*, and *takuwan-zuke*, which are used everywhere in great quantity, have salt for their essential ingredient. The area of Japanese salt land is 14,586 acres in all, and the total produce of salt is 1,033,445,265 *kin*. That is, the consumption per capita is 30 *kin* (39.6 pounds) per annum, 49 grams per diem. Owing to the fact that salt is under the control of the Japanese government, its price at present is very high. The government purchases it at 1.08 *yen* per 100 *kin*, and sells it at 2.40 *yen*.[23] The consumption per capita is 72 *sen* per annum, 0.2 *sen* per diem.

The function of salt as a food is contrary to that of sugar, and the greater use of the former means a smaller consumption of the latter. Until a certain limit is reached, human taste as it advances craves more and more the use of sugar in cooking.

Consumption of Liquor, Tea, and Tobacco.—Liquor, tea, and tobacco are not strictly food articles, yet they have a close relation to food consumption. They have little value as nutrients; at best they serve only as stimulants. However, their cost is disproportionately high, and they should be considered in the class of luxurious consumption.

Broadly speaking, *saké* is the general term for all kinds of Japanese alcoholic liquors; namely, *shinshu*, *dakushu*, *shirosake*, *mirin*, and *shochu*. In its narrow sense, it means *shinshu* only, which, being the most common, may be called the national drink of Japan. It is brewed from rice and contains 15 or 16 per cent of alcohol. The produce of *saké* of all kinds amounts to 22,508,935 gallons. Subtracting

[22] It averages 0.5 to 1 pound per capita per annum (see page 31).
[23] The total amount of the sale is 23,130,000 *yen*.

106,730 gallons of exported *saké*, we have 22,402,205 gallons for consumption in Japan. The consumption per capita is 38 pints per annum, 0.44 gills per diem. The price of the ordinary grade of *saké* is about 26 *sen* per quart, and the cost of one man's consumption will be 4.95 *yen* per annum, 1.5 *sen* per diem.

Besides the native drinks, we have the imported liquors; namely, wine, 470,171 litres (241,825 *yen*), whiskey, 149,744 litres (121,006 *yen*), and champagne, 16,262 litres (16,262 *yen*). The consumption of foreign liquor is not important in the national diet because its use is limited to a few classes of people.

The extent of the tobacco fields of Japan is 72,824 acres, and the produce of tobacco leaves is 6,761 kilograms.[24] The consumption per capita is 1,485 grams per annum, 4.09 grams per diem. Besides the home product we have the import amounting to 927,390 kilograms (951,390 *yen*) of tobacco leaves and 176,643 *yen* worth of the manufactured tobacco. Subtracting the export, the total amount of tobacco sold in Japan is worth 74,849,000 *yen*. Thus the consumption per capita is 1.666 *yen* per annum, 0.45 *sen* per diem. It is interesting to know that the greatest part of the tobacco consumed is *kisami*-tobacco (chopped tobacco), the brand used by the lower class of people. The amount of this tobacco sold is worth 51,480,000 *yen*, and 1.132 *yen* is the average paid per capita per annum. This fact shows that the habit of smoking prevails widely among the poor people.

The common beverage in Japan is green tea. Of this there are a great number of grades, ranging in price from 20 *sen* to 10 *yen* a pound, so that the poor and the rich can take their choice. The production of tea and its prices are as shown in the table on page 53.[25]

The consumption of tea per capita is 713 grams per annum, 2 grams per diem, and the cost is 32.8 *sen* per annum, 0.1 *sen* per diem.

[24] Produce per acre is 584 kg.

[25] According to the report of the Agricultural and Commercial Department in the Official Gazette, February 3, 1915.

NATIONAL DIET

Kind	Consumption per Man		Cost per Man per Day[26] (*sen*)
	Per Year	Per Day	
Rice[27]	5.32 bus.	.117 gals.	.....
Barley (naked)[28]	0.87 bus.	.019 gals.	.....
Other grains	0.47 bus.	.010 gals.	.....
Total (grains)	6.66 bus.	.146 gals.	6.60
Legumes	0.59 bus.	.012 gals.	0.39
Garden radishes	55.9 kg.	154 g.	.....
Sweet potatoes	80.8 kg.	221 g.	.....
White potatoes	15.4 kg.	41 g.	.....
Other vegetables	56.7 kg.	155 g.	.....
Total (vegetables)	208.8 kg.	571 g.	2.00
Fish	17.6 kg.	49 g.	0.40
Shell fish	2.2 kg.	6 g.	0.10
Seaweeds	1.2 kg.	3 g.	0.01
Other water products	1.8 kg.	5 g.	0.03
Total (water products)	22.8 kg.	63 g.	0.54
Beef and veal	1.58 lb.	1.9 g.	0.10
Pork, horse meat, mutton, and goat meat	0.68 lb.	0.8 g.	0.03
Chicken	0.27 lb.	0.4 g.	0.03
Eggs (chicken and goose)[29]	17.8 pieces	2.7 g.	0.13
Milk	1 qt.	.....	0.04
Total (meat, fowl, and milk)	.....	.....	0.33
Fruits[30]	13.5 kg.	37 g.	0.40
Sugar	14.1 lbs.	17 g.	0.53
Salt	39.6 lbs.	49 g.	0.20
Total (sugar and salt)	.....	.....	0.73
Tea	0.7 kg.	1.9 g.	0.10
Alcoholic liquor[31]	38 pints	0.44 gill	1.50
Tobacco	1.5 kg.	4.1 g.	0.45
Total (drink and tobacco)	.....	.....	2.05
Grand Total	.....	.....	13.04

[26] Based on retail prices in Tokyo, 1914, taken from the Annual Report of the House of Commerce.

[27] Price at 19.70 *yen* per *koku* (4.92 bushels).

[28] Price at 12.26 *yen* per *koku*.

[29] One egg weighs 54 grams.

[30] Plums not included.

[31] The figure is my estimate, imported liquor not included.

PRODUCTION OF TEA

Kind	Amount (Kilogram)	Cost (*yen*)	Price per *kwan* (*yen*)
Gyokuro	331,133	513,064	5.81
Sencha	22,482,461	12,921,705	2.16
Kocha (red tea)	27,570	17,769	2.42
Woroncha	3,458	2,253	2.44
Bancha	8,707,238	1,207,715	0.52
Powdered *sencha*	799,020	143,247	0.67
Powdered *kocha*	525	86	0.61
Powdered *woroncha*	139	22	0.29
Rekicha	44,366	81,630	.....
Goishicha	53,693	6,157	.....
Hakucha	60,000	9,600	.....
Total	32,455,603	14,903,248	.....

Summing up all of the food consumption, the national diet of Japan is as shown in the table on page 52.

In comparing the national diet with the standard diet suggested by the Bureau of Hygiene of the Japanese government, we find that the former shows a great deficiency in nutritive value, as may be seen in the following condensed table:

	National Diet	Standard Diets[32]		
		No. I	No. II	No. III
Grains	.146 gallons	.16 gallons	.16 gallons	.16 gallons
Legumes	.012 gallons	19 grams	19 grams	199 grams
Vegetables	571 grams	206 grams	300 grams	.....
Meat and fowl	5.8 grams	225 grams	108 grams (or 2 eggs)	113 grams
Fish and shell-fish (water products)	63 grams	.....	244 grams	94 grams
Total Cost	13.04 *sen*	44.4 *sen*	33.0 *sen*	32.1 *sen*

The following are conspicuous facts in comparison: (1) In grains—that is, the main food—the national diet is deficient only to the amount of 0.18 gram per diem. Of course, for rice cheaper grains are in part substituted, but the nutritive value is not impaired by that change.

[32] See pages 23, 24. *Miso* excluded.

(2) Vegetables are consumed to an amount exceeding twice the amount prescribed by the standard diet. Excepting a small quantity of fish, practically the whole meal is composed of plant food. Generally speaking, then, it is fair to say that the Japanese are vegetarians.

(3) The greatest deficiency in the national diet is in animal food. Since meat is consumed only to the extent of 5.8 grams per diem, fish is chiefly depended upon for animal protein. Accordingly fish should be consumed to the extent of about 244 grams, instead of only 63 grams, which is the actual amount supposed to be eaten at present.

CHAPTER VI

Comparison of Rice and Wheat as the Principal Food

In Japan rice stands so high in popular esteem that it is almost considered to be a sacred cereal. Thousands of shrines are built in farming districts, surrounded on all sides by rice paddies, in honor of the god of rice (*Inari*). The annual uncertainty as to whether the rice harvest will be good or not is the fundamental economic problem of the nation. The great dependence upon it is due to the fact that throughout the country rice forms the main part of the three daily meals. For in a country like Japan, where rice culture has developed in a unique way, it has been an advantageous thing, at least in the time of national self-sufficiency, to use rice as the sole main food.

However, the economic conditions of modern Japan have fundamentally changed since that time of national self-sufficiency. At present it is a great mistake for Japan to keep up her adherence to rice as the sole national staple food. The coordinate use of wheat (bread) and rice is highly desirable for the economic development of the nation. Of course a radical change of the staple food from boiled rice to bread is not desirable at all; but the use of the two kinds of cereal, rice and wheat, for the national staple food would mean great economic advantage in the present time of world economy. The relative quantity of these two cereals for individual consumption should be adjusted to the variable conditions of the grain market, and this will, in turn, adjust the market price of the grains. Such reciprocal adjustment will prove to be highly desirable to consumers.

As the bimetallist proposes the adjustment of the market price of gold and silver by compensatory or equilibratory action, I believe that a similar principle will act to adjust the price of rice and wheat, when both are used as daily

food. Such action is a modification of the Law of Variation, and may be called "equilibratory action in food consumption." If both rice and wheat are used, and the price of rice has risen too high, as was the case in 1914, people will use more wheat and the demand for rice will decrease, and this decrease will cause a lower price for rice. Thus the price of one grain will always counteract that of the other.

In order to bring the Japanese to a realization of the advantage of using two kinds of staple food, it is only necessary to convince them that wheat or bread has also the good qualities fitted to make it one of the main foods in Japan. The following comparisons will furnish the reasons for this statement.

Comparison in Nutritive Value.—As is shown in the following tables, the greatest difference in composition between boiled rice and bread is in the amount of water contained. Because of this fact, the relatively anhydrous

Composition of Boiled Rice and of Bread[1]

	Water	Starch	Protein	Fat	Fibre	Mineral Matters	Sugar
Boiled rice.....	62.85	33.71	3.00	0.04	0.23	0.18	.....
Bread.....	38.09	52.27	7.97	0.09	0.76	0.82	.....

nature of bread does not suit the Japanese taste unless the dishes are so prepared as to contain, unnoticed, water to the necessary amount.

As to the composition of rice and wheat, the latter con-

Composition of Rice and of Wheat[2]

	Water	Starch	Protein	Fat	Fibre	Mineral Matters	Sugar
Rice (cleaned).....	15.25	77.87	5.60	0.70	0.13	0.45	.....
Wheat.....	12.81	74.75	9.37	1.34	1.09	1.66	.....
Flour.....	13.54	70.24	10.87	1.11	0.66	0.53	0.77

tains more protein and fat, and less starch, though the

[1] Articles of Food, by Department of Interior Affairs, pages 3–5.
[2] *Ibid.*

differences are not very great. On the whole the nutritive value of wheat and rice is about the same.

Comparison of the Dietetic Nature of Boiled Rice and Bread.—Rice diet excels bread diet in its dietetic nature, and makes possible meals of much less cost. The commonest diet among the mass of poor people in Japan as a whole consists of boiled rice, soy-bean soup (*miso*-soup), and pickled radish. Boiled rice is an excellent food if used with soy-bean soup, which contains plenty of protein, and with pickled radish, which is a great appetizer for the plain boiled rice. Such a food combination is very cheap and is quite nutritious provided the articles are well prepared and cooked.

But unless care is taken, this advantage in the use of rice as a main food is offset by the danger of malnutrition. In its simplest dietary form, "bread and butter" stands for "boiled-rice-steeped-in-tea and pickled radish." The former diet—that is, bread and butter—is a much better heat producer and a more nutritious diet. But the strong salty taste of pickled radish combined with the plain taste of boiled rice makes the rice diet so palatable as to completely satisfy the appetite without much need of varied side-dishes. Herein lies the danger. Such a diet, however ample in quantity, fails to furnish the right amount of necessary nutrients. The effect of using a diet of this kind, in the long run, is the abnormal distension of the stomach and poor nutrition.

In Japan the total consumption of radish amounts to 2,500,000,000 kilograms and the consumption per capita per diem is 154 grams.[3] According to a local study which I have undertaken in the city of Sapporo, the consumption per family averaged 283 roots in 1913 (one root being about 20 inches in length and 3 inches in diameter). One family eats about 0.8 of a root every day. It is generally the case that the lower the standard of living the greater is the consumption of radish. The use of bread, under such circumstances, would naturally adjust the overuse of radish, and make necessary more variety in the subordinate food.

[3] See page 44.

Comparison in Stability of Market Price of Rice and Wheat.—While wheat is the staple food of the world, the production and the consumption of rice as the principal food are limited to only a few countries. As the Japanese eat rice entirely plain, without any sugar or milk, its quality and taste must be very good. The territory where good rice can be cultivated is limited even in Japan to the main and the southern islands. Parts of Japanese territory, such as Hokkaido, Formosa, Saghalien, and Korea, are excluded from the territory of the good rice supply. The rice which grows in China, India, America, and other foreign countries does not suit the Japanese taste; it forms a low grade known as "foreign rice," a term implying inferiority of quality. Consequently the price of the foreign rice is low in spite of the tariff levied upon it, and it is used generally by the poor class of people. Such restriction of supply for the main article of food in the stage of world economy is a great hindrance to the advancement of national prosperity. Experience shows that the uneven scale between over-production and under-production in rice causes great disturbance to prices in the rice market. In times of abundant crops rice has no foreign market for its surplus; and in time of deficiency no foreign supply of good rice can be expected. The extraordinarily high price of rice in 1912 and the abnormal fall in price in 1915 are good examples of the instability of the market price of rice.

Comparison of Normal Price of Rice and Wheat.—The normal price of rice, due to the following reasons, is and will be higher than that of wheat.

The cost of production of rice is greater than that of wheat. Rice of good quality must be raised in wet fields parceled out into small paddies. There can be little room for the large-scale machine cultivation used in raising wheat. Machine production on a large scale is now generally becoming more and more important from the standpoint of profitable business. Because of the circumstances of industrial development, rice culture, which is necessarily based upon human labor and requires the intensive method

of farming, presents an unfavorable outlook for the future development of profitable farming. Anything that must be done by human labor rather than by machine power will in the future have the tendency to command a high price.

The second reason is found in the increase of rice consumption. On the one hand the individual consumption of rice is greatly increasing with the rise of the standard of living, while on the other hand the national consumption as a whole is also greatly increasing with the increase of population. The increase of individual consumption is due to the fact that the poor class of the population is now beginning to use rice in greater proportion than before. That is, less barley and more rice are used as their main daily food. The following table shows that the individual consumption has greatly increased in the last few years.

ANNUAL CONSUMPTION OF RICE PER MAN

1888–1892	4.74 bu.
1893–1897	4.73 "
1898–1902	4.82 "
1903–1907	4.93 "
1908–1912	5.13 "

This increase in the demand for rice is not accompanied by an increase in the supply. Naturally the price must go up.

The supply of rice cannot be made to increase fast enough to meet the increasing demand. In recent years the area given to rice culture has increased and the method of cultivation has much improved, but the produce per acre has not increased in proportion. According to the figures published by the Department of Agriculture and Commerce, the increase in rice land and in its annual produce are as follows: The average total area of rice land during five years, 1888–1892, was 6,699,552 acres. It increased in 1903 to 7,017,141 acres, and in 1912 to 7,362,377 acres. The produce of rice in 1903 was 232,362,490 bushels, which increased to 251,112,545 bushels in 1912. However, the produce per acre does not increase much in spite of great improvement in methods of farming.

With the progress of agriculture in the future, some

THE PRODUCE OF RICE PER *Tan*

1903	8.121 bu.	1908	8.89 bu.
1904	8.93 "	1909	8.93 "
1905	6.63 "	1910	7.91 "
1906	7.99 "	1911	8.70 "
1907	8.44 "	1912	8.36 "

increase in rice produce per acre can be expected. Yet, in the light of past facts, the expectation must not be too sanguine.[4] The law of diminishing returns is ever working; it will grow more and more effective year after year. Human labor in agriculture is constantly becoming more expensive. The prospect of either absolute or relative increase in rice produce is rather unfavorable. Foreign rice, though not suited to the Japanese taste, must be imported. At present the consumption of rice in Japan is about ten million bushels greater than the produce.

Comparison of Rice Diet and Bread Diet in Cost of Preparation.—In the first place a bread diet can be prepared more cheaply than a rice diet. The preparation of the latter requires more time and labor than the former. In the ordinary household a maid servant, whose chief duty is to make boiled rice at least once or twice a day, must be hired. She is rightly called in Japanese the *meshitaki-onna*, meaning "girl to cook boiled rice." Several years ago, in the city of Tokyo, a few concerns were established on a moderate scale with the purpose of supplying boiled rice at mealtime three times a day. But the concerns were not able to meet the requirements of the Japanese dietary habits, and they could not keep up the business. The chief reason for the failure may be due to the fact that boiled rice tastes best while it is warm to a certain degree, and it is almost impossible to supply such a food at the time, in the quantity, and of the quality to satisfy every consumer. At present it seems that any plan to prepare the daily supply of cooked rice on a large scale or cooperatively cannot be expected to be a success. Under the circumstances in the individual family the cooking of its rice is the greater part

[4] The estimate of the Department of Agriculture and Commerce is that 325,000,000 bushels will be produced in 1936.

of a woman's daily labor. In case no hired labor is available, the greater part of the housewife's time must be devoted to the task.

Not only in the cooking is the rice diet more expensive than the bread diet, but in the entire preparation of the meal. In the study of the standard diets it was shown that the cost of a rice diet per capita per diem is about 30 *sen*, and that of a bread diet is only 27 *sen*. These estimates were made in the city of Sapporo, where dairy products can be obtained much more cheaply than in any of the great cities of Japan. If by the coordinate use of bread and rice we could save 3 *sen* and one hour's labor every day, it would mean after twenty years the saving in time of almost one whole year and the saving in cost of about 700 *yen* per family.

Practicability of the Bread Diet.—Strong opinions exist that the bread diet, however reasonable and economical it may be in theory, does not suit the Japanese taste. But I believe in the practicability of the coördinate use of bread in the diet. Notwithstanding the differences due to individuality, locality, and nationality, human beings are in general similar in their tastes. The differences are chiefly a matter of custom or long usage. A good example is seen in the consumption of meat and dairy products in Japan. For a very long period before the middle of the nineteenth century they were despised articles of food, eaten only by the outcast class of people. Now they are counted among the favorite articles of food. In the same way bean sauce (*shoyu*), certain kinds of raw fish which are favorites with the Japanese, and several other food-stuffs which are generally disliked by Westerners come to be much relished by those who have eaten them a number of times.

The idea that bread diet can never be a part of the national diet in Japan is usually due to the fact that, in experimenting, bread is substituted for rice without a suitable change in subordinate food, the bread diet is not properly prepared, or the time of experiment is not sufficiently long. If a little effort is made to adapt the bread

diet to suit the Japanese taste, there will be no need to stick to rice as the one national main food.

If the bread diet is to be adopted for wide use in Japan, the following points should be observed: Rice must be used in good quantity along with the bread diet. In the second place the other native food-stuffs should be used as much as possible. To give just a few examples, Japanese noodle (*udon*) should be used instead of foreign macaroni, and Japanese seaweed gelatine (*kanten*) instead of imported animal gelatine. Such substitutions would not only be more palatable to the Japanese taste but would make the cost much lower. Thirdly, the dishes must be prepared and flavored to suit Japanese taste. Lastly, the dining table should be set in artistic Japanese style.

CHAPTER VII

Improvement of Food Consumption

An action almost similar to the law of increasing and diminishing utility may be discernible in the relation between the human body and food consumption. If a man who needs one hundred grams of protein in a day consumes only fifty grams, the natural consequence is that his health is undermined. If he takes one hundred grams, he will make more than a double gain in health and efficiency. Up to a certain point the gain will be greater than the proportional expenditure in food. After the right point is reached, the gain will gradually diminish and health will be affected injuriously by overeating.

There are, therefore, two kinds of waste in food consumption; namely, frugal expenditure, which will result in an underfed body, and prodigal expenditure, which will result in an overfed body. The great mass of poor people have naturally little opportunity of indulging in the second class of waste. But the first class of waste is very prevalent even among the middle class of people. Underfeeding, due to the ignorant consumption of food deficient in nutritive value, results in a deterioration in health. Too often people pay no attention to the harmful effect produced by over-economy in food consumption. Stinginess in food consumption is the worst kind of economic waste. Such a saving in the family budget will cause a great increase in other items of expenditure; and worst of all is the destruction of efficient economic life. In order to maintain an efficient standard of living, rational and economical consumption of food is fundamentally necessary.

The principles which should be observed in order to bring about an improvement in food consumption are as follows:

Distinction Between Market Price and Normal Price of

Food.—This distinction should be made clear in purchasing. The normal price of food is determined primarily by its nutritive value, but its market price is determined chiefly by the relation of demand and supply. These two prices for the same article do not always coincide. The consumer, therefore, must take advantage of the differences and make use of food which has the most nutritive value and the lowest market price. Rare, novel, and attractive food articles and those produced in foreign countries are generally more costly than the ordinary, unattractive articles and those produced in the home country, no matter whether the nutritive value is the same or greater. The more expensive articles should be avoided in food consumption for the efficient standard of life.

Preparation of the Standard Diet.—This should be in accord with the dietary needs of the consumers. Every individual has his special physiological and psychological conditions, together with different dietary habits and circumstances. Consequently the food requirement must necessarily be varied to a certain degree according to different personalities. For example, horse meat, which is more nutritious but less digestible than beef or pork, must be considered a good food for such persons as manual laborers who have strong digestive powers. Cheap food in greater quantity is often more desirable for poor people than costly food in less quantity. In the same way inexpensive vegetable protein in greater quantity is a better nutrient for a certain class of people than expensive animal protein in less quantity. The comparatively low cost of food among Japanese farmers may be partly justified by this principle.

Variety of Food.—It is a defective form of diet which is composed of too much main food and too little subordinate food. As rice is used in Japan to a very great extent with only a little strongly flavored subordinate food, the variety in diet is naturally very slight among the great mass of poor people. The harmful nature of a simple diet is twofold: First, it is hard to get nutrients in sufficient quantity;

second, in case varied diet is obtainable, the intensity of appetite is so great as to cause one to eat more than is physiologically needed. The consequence of such practices is to put the stomach out of order or to bring about general ill health. In order that food may have the proper variety, too much salt should not be used in its preparation. One phase of dietary evolution may be seen in the lessening amount of salt seasoning used in food. The more advanced diet, being less salty than formerly, necessarily produces a desire for more variety. The three kinds of nutrients—proteins, fats, and carbohydrates—can be properly and advantageously absorbed only when food of proper variety is consumed.

From this point of view vegetarianism cannot be justified. It is very difficult to bring about the complementary adjustment of nutrients by the use of vegetables only. Animal food should be a part of a varied diet, because in comparison with vegetables it has a number of superior characteristics: It contains more protein; it is, therefore, more nutritious. It is more easily digested; therefore it is more nutritious. It is cooked much more easily; therefore it is more economical. These advantages overbalance the disadvantages. The disadvantages are that it is more costly, and that unless it is well prepared and cooked it is liable to transmit the germs of distoma. Each animal and vegetable food has its special function as a nutrient. Only through the use of both kinds of food can the nutrients be economically adjusted to compose the ideal diet.

Waste in Food Preparation.—The waste occurs generally in three different ways: the waste of food articles, the waste of heat, and the waste of labor. Parts of food articles that contain nutrients are very often wasted. Such waste is generally due to the ignorance and carelessness of the cook, and can be avoided by proper training and education. The imperfect construction and misuse of cooking stoves and other kitchen utensils lead to only a partial utilization of heat radiation. The old-fashioned way of cooking involved not only a waste of heat but also of labor. Atwater says

that at least one fifth of the food expenditure at present is for absolute waste. Such waste, estimated at about 10 per cent of a family income, would, for a family with $1000 per annum, amount to $100 dollars.

Scientific Method of Preparation.—The object of cooking foods may be summarized as follows: to make digestion easy, to make complete use of the nutrients contained, to promote appetite, and to make eating as pleasant a process as possible. For the realization of these objects it is highly important that application should be made of the result of scientific studies. The frequent consultation of tables which show the amount of nutrient, the price, and the time required for the digestion of various food articles is fundamentally important for the maintenance of an efficient standard of life. After a study of those tables weekly menus should be arranged in order that the diet may be rational as well as economical.

Marginal Utility of Food.—Good health, proper physical exercise, pure air, an attractive dining table and room, and everything that makes the consumer recognize the marginal utility of food in the greatest degree are subjectively important for dietary improvement. Even an ideally prepared standard diet is not so effective to a person who cannot appreciate the subjective value of the diet. On the other hand, to the small farmer who works hard under very favorable natural circumstances, with pure air, beautiful scenery, and so on, an irrationally prepared diet of a poor quality is not so bad as its chemical analysis might seem to indicate.

These are the essential principles for the improvement of food consumption in general. The application of these principles to the improvement of Japanese food consumption is now to be discussed.

In accordance with the advance of society in the last few decades, economic life has become very much more active and complicated. Japan presents the most illuminating examples of such a metamorphosis in economic

life. It is an obvious fact that consumption of food, which is the motive power of human activities, must also be modified to meet the requirements of life under changed circumstances. The food which was consumed in olden times when people could get a living with ease is not adapted to the new era, when the majority of mankind have to work hard under the severe pressure of the high cost of living.

Generally speaking, the diet which is used among the higher classes of Japanese may be artistic and palatable, but its preparation and service take too much time and labor. In a time when living is very costly it is often necessary to sacrifice the artistic for the sake of the substantial. Without entering into the problems of practical cookery, we may give the following suggestions for the improvement of Japanese diet:

Increase in Meat Consumption.—The supply of meat and dairy products should be increased at least tenfold. The price of meat is too high at present; a much lower price is necessary to accommodate the great mass of people. A greater supply of meat is essential for this purpose.

Increase in the Consumption of Leguminous Food.—Japan is very well fitted for the cultivation of legumes, and the people are accustomed of old to their use. Moreover, their nutritive value being much higher than their market value, a greater use of peas and beans would supplement the deficiency of animal protein to a certain degree without much increase in cost.

A Greater Use of Sugar.—To improve cooking a free use of sugar is very important. Most food articles can be made more palatable and consequently more effective in their nutritive value by the use of sugar. For the realization of this end it is fundamentally necessary to lower the price of sugar.

A Greater Use of Wheat.—This is a suggestion against which some authorities argue very strongly. The reasons why the exclusive use of rice for the main food is not desirable have already been discussed.

Less Use of Refreshments between Meals.—Japanese

custom compels the excessive use of refreshments on many occasions. For example it is common etiquette to serve tea and cakes to visitors, no matter what the purpose or the time of the call may be. It is considered impolite either for the visitor to refuse to partake or for the host not to urge the offer of refreshment. In ordinary family life also some food is eaten between meals by both children and adults. Hundreds of cases prove that the irregularly fed and the underfed have cyclical relations to each other. The under-consumption of food necessitates physiologically some eating between regular meals, and this practice naturally lessens the appetite for regular meals. An underfed condition is the result. It may be asserted that the aim of refreshment is not only to nourish the body but also to give enjoyment to the consumer. It is more rational, however, as well as more economical to concentrate the pleasing sensation which comes from food consumption. The efficiency of food consumption can be greatly increased by such concentration. In the case of children and certain persons for whom some supplementary food is necessary, the additional meals should be provided at regular intervals.

No Luxury in Food Consumption.—During the period when Japan enjoyed an unbroken national peace for more than three centuries, diet grew to be elaborate and æsthetic. Little heed was paid to its economic aspects, nor was much attention given to the nutritive value of food articles. Consequently luxury in food consumption became very prevalent even among that class of people who were not well off. For the maintenance of an efficient standard of living such consumption should not be allowed. The nature of luxurious consumption will not again be described.[1] However, the luxuries—liquor and tobacco—should be mentioned here because their nature is somewhat different from that of ordinary food.

It is interesting to know that among the poor class of people a close relation exists between underfeeding and the

[1] See pages 16–18.

habit of using strong drink. Aside from the moral aspect, the use of liquor and tobacco cannot be justified from the standpoint of efficient economic life. Though their nutritive values are almost nil, their market prices are very high. The heavy excise tax on liquor, which is about two *sen* for a third of a pint, is the main cause of its high price. An ordinary grade costs about ten *sen* for a third of a pint. In most cases the pleasing sensation in drinking is overbalanced by the many evils resulting from the drinking habit. The expenditure for such items is a waste and can never be justified in an efficient standard of living. The smoking habit ranks with that of drinking in economic waste. The sale of tobacco in Japan is a government monopoly chiefly for fiscal purposes. The price is naturally very high.

Improvement of the Kitchen.—In the construction of the Japanese house the parlor or "guest room" is generally considered most important. Consequently the best and sunniest room is given over to this purpose in spite of its infrequent use. On the other hand, the location of the kitchen, which is in constant use, is a matter of little consideration. The Japanese cooking stove in common use is primitive in its construction, and therefore very inexpensive. Its use, however, involves much waste in heat radiation, hence it is not so economical as it might seem. The arrangement of the kitchen paraphernalia should be improved to save waste of time and labor.

The experiments in the cooperative kitchen plan which are now being made in the United States are interesting in this connection. The advantages of the cooperative kitchen are the saving of time and labor, the improvement in culinary skill, the ability to obtain better food materials at cheaper prices, the derivation of benefit from social intercourse, and economy in general food expenditure. The disadvantages are the breaking up of the family circle, the inconvenience of coming and going for meals, and the difficulty of pleasing individual tastes. These disadvantages may be minimized by an adequate arrangement of the

dining-room and by an efficient method of serving meals. In order to realize the greatest advantages, a cooperative kitchen should be run on a large scale. But this is only possible in cities where the municipal transportation system is very well organized. Under the present circumstances the only practicable way of carrying on the cooperative kitchen plan in Japan would be to establish it on a small scale among families on the same social and economic plane. This arrangement would be desirable for the maintenance of the efficient standard of living.

PART III

COST OF CLOTHING

CHAPTER VIII

Expenditure for Clothing in Cities

Schedules which were prepared for use in the inquiries in regard to the expenditure for clothing may seem to be itemized with too much detail, but experience in this kind of investigation proves the necessity of detail in order to get the best results. It was desirable also to get statistics from as great a number as possible of representative families in different localities. However, since no fund was available for the employment of paid schedule-reporters who could devote their entire time to the work, the gratuitous services of the domestic science teachers of the girls' high schools in seventeen cities were solicited. Eleven teachers out of seventeen cheerfully volunteered to take up the work out of interest in the inquiry and for the advancement of economic study. Fifty schedules were sent out to each volunteer with instructions for filling them out. Emphasis was placed upon the selection of families who would be representative of the specified income groups. Each family was to be composed of father, mother, and two to four children under fifteen years of age. For the sake of convenience in the inquiries the teachers used a selected number of their domestic science students, who under the supervision of their teachers generally investigated their own families. Since in the Japanese high schools domestic science is taught in the senior class, only the girls in the graduating classes were engaged in filling out the schedules. As high school education in Japan is not free, poor families

cannot send their children to the schools. This is the reason why families of the very poor classes are not included in this study. The schedules were filled out in 1914–1915. Of the schedules received from the domestic science teachers, the number used and the number rejected because of inaccuracy were as follows:

Income Classes (*yen*)	Large Cities[1]			Small Cities[2]		
	Rec.	Rej.	Used	Rec.	Rej.	Used
240–959.....	114	12	102	167	34	133
960–1679.....	102	15	87	187	24	163
1680–3000.....	138	20	118	155	15	140
Total.....	354	47	307	509	73	436

The average of seven hundred and forty-three schedules, however carefully selected, cannot be claimed to be exactly representative of all families similarly situated. Statistical work on a larger scale, however, is beyond the reach of a private undertaking. The leading features of the expenditure for clothing in the Japanese cities are as follows:

(1) The expenditure for clothing is greater in the large cities than in the small cities. This is due to the fact that the social life in the large cities is more showy and demands costlier and better wardrobes.

Family Income	Expenditure for Clothing (per Family)		Per Cent of Total Expenditure of Family	
	Large Cities (*yen*)	Small Cities (*yen*)	Large Cities	Small Cities
240–959 *yen*.....	129.42	128.03	21.5	18.2
960–1679 *yen*....	194.21	173.68	14.4	13.9
1680–3000 *yen*...	330.52	291.49	11.6	10.0

(2) The expenditure for clothing relative to total expenditure in the incomes studied here decreases with the increase of income. This result differs from the results of studies prosecuted in the United States, which show

[1] Population more than 200,000.
[2] Population 30,000 to 200,000.

that the expenditure for clothing increases steadily.[3] This

Income	Expenditure for Clothing	
	Average	Per Cent
$600–$699	$ 83.48	12.9
$700–$799	98.79	13.4
$800–$899	113.59	14.0
$900–$999	132.34	14.6
$1000–$1099	155.59	15.5

difference results from the social custom of Japan which puts more stress on matters of costume and manners than on those things that are necessary to rational and economical living. These conditions in Japan necessitate the expenditure of a certain sum for clothing regardless of how small the family income may be. In the small cities, 128.03 *yen*, which is 18.2 per cent of the total expenditure, is the outlay for dress. In the large cities it is 129.42 *yen*, which is 21.5 per cent of the total expenditure. With the increase of income, however, the percentage spent for clothing decreases steadily. In the family with an income of 2905.87 *yen* in the small cities, only 10 per cent is spent for clothing, and in the large cities the family with 2855.82 *yen* income makes an outlay of 11.6 per cent for dress. Thus Engel's law of clothing is not true in Japan.

(3) In the apportionment of expenditure for clothing among the different members of the family the father uses 43 per cent in the large cities and 40.7 per cent in the small cities, and the mother spends 27.8 per cent and 29.8 per cent respectively. A girl needs more than a boy, but their percentages are about the same in the small and the large cities; that is, about 17.5 per cent for a girl and 12 per cent for a boy. The chief reason for the father's large expenditure in Japan, besides the reasons that will be stated in Chapter XI, is that he must have both European and Japanese dress in order to appear properly on different occasions. Generally speaking, however, farmers, merchants, artisans, and a few other persons, especially the

[3] Chapin, p. 162.

people in the middle and poor classes, are not required by the customs and manners of their social circles to wear European clothing.[4] The expenditure for European clothing for the father is a little higher than that for the native costume. Averaging the expenditure of all income classes, the father spends 42.06 *yen* in the small cities and 51 *yen* in the large cities for European clothing, and 37.92 *yen* and 42.67 *yen* respectively are spent for Japanese clothing.

(4) The expenditure for European clothing is limited chiefly to the father and to the children. The use of European clothing results as a whole in greater expenditure for clothing on the father's part, but European clothing for the children frequently means some saving in the cost of their native clothing. Except in very rare cases the mother does not wear European dress, and therefore her expenditure for clothing is all for Japanese costumes.

(5) Japanese dress varies greatly in its style, form, and material. At least three different kinds both of overcoats and garments (padded, medium weight, and light weight) must be provided according to the change of seasons. The material of these costumes is usually different. Generally, silk garments correspond to Sunday suits in America, and the cotton dress is used for ordinary house wear. Rich people and women of the middle class use silk garments entirely. The great diversity of dress is partly due to the fact that the heating system in the ordinary Japanese house is not very effective, and the body temperature must be kept even by clothing more than by the temperature of the room. Such being the case, the expenditure for clothing is naturally great, especially in families living in poor houses.

(6) The costly Japanese costume can be worn for a comparatively long time. The most expensive articles of the native dress are the overcoat (*haori*), the padded garment (*wataire*), the medium weight garment (*awase*), the skirt (*hakama*) for men, and the sash (*obi*) for women, all made of silk weave. Silk costumes are not durable; but since

[4] Even among the higher classes, some people do not like to wear European clothing and they do not possess any.

they are worn on only a few special occasions, probably not more than one or two dozen times a year among people of the middle classes, they may last over a period of ten years or more. Using a dress for such a long period is only possible in a country where fashions do not change so rapidly from year to year as they do in America. On the whole, Japanese clothing is very expensive; for example, in the large cities the value of the father's clothing runs up to 372.86 *yen* in a family with an average income of 602.13 *yen* a year. The length of time, however, that a garment may be worn reduces the yearly expenditure for clothing to 55.33 *yen*.

(7) The following tables show that there is a wide variation in quantity, quality, and kind of clothing according to the difference in each income group and locality. But it is possible to get some conception of the minimum necessary expenditure for clothing according to national habit and custom. Taking the social status of the present day Japan into consideration, the expenditure for clothing of the family with an income of 602.12 *yen* in the large cities would not be far from what may be called the minimum necessary expenditure. In the case of most farmers, merchants, and artisans the cost of European clothing, 32.04 *yen*, may be eliminated. However, in case European dress is not used, the cost of other clothing increases to a certain extent.

YEARLY EXPENDITURE FOR CLOTHING IN THE LARGE CITIES

Family Income (*yen*)	240–959		960–1679		1680–3000	
	Amount (*yen*)	Per Cent of Family Expenditure for Clothing	Amount (*yen*)	Per Cent of Family Expenditure for Clothing	Amount (*yen*)	Per Cent of Family Expenditure for Clothing
Father:						
Japanese clothing	23.29		37.19		67.56	
European clothing	32.04		47.66		73.20	
	55.33	42.8	84.82	43.7	142.01	42.6
Mother	32.29	24.9	53.32	27.5	96.49	29.2
Boy (average age, 8)	18.42	14.2	21.08	10.8	37.81	11.5
Girl (average age, 11)	23.38	18.1	34.99	18.0	55.46	16.7
Total	129.42	100	194.21	100	330.52	100
Number of families	102		87		118	
Average income	602.12		1345.74		2855.82	
Per cent of total expenditure	21.5		14.4		11.6	

VALUE OF CLOTHING AND YEARLY EXPENDITURE FOR CLOTHING OF FAMILIES WITH AN INCOME OF 240–959 *yen* PER YEAR IN THE LARGE CITIES

	Value of Clothing (*yen*)	Expenditure per Year (*yen*)
Father:		
Japanese clothing	195.60	23.29
European clothing	177.26	32.04
	372.86	55.33
Mother	264.12	32.29
Boy (average age, 8)	76.32	18.42
Girl (average age, 11)	128.14	23.38
Total	420.72	129.42
Number of families	102	
Average income	602.12	

VALUE OF FATHER'S CLOTHING AND EXPENDITURE FOR CLOTHING PER YEAR IN THE LARGE CITIES WITH A FAMILY INCOME OF 240–959 *yen*

I. Japanese Clothing

	Tokyo		Nagoya		Kobe		Average		Actual Value[6] (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value[5] (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Overcoats (silk) (*haori*).....	2.6	28.29	3.6	35.63	4.0	55.22	3.4	39.71	19.86	10	1.99
Overcoats (cotton) (*haori*).....	3.4	9.58	4.2	11.80	4.2	11.73	3.9	11.04	5.52	4	1.38
Padded garments (silk) (*wataire*)...	2.0	14.33	3.0	28.83	2.7	21.95	2.6	21.70	10.85	10	1.09
Padded garments (cotton) ...	3.9	10.97	7.3	15.44	4.6	12.88	5.3	13.10	6.55	3	2.19
Medium weight garments (silk) (*awase*)....	1.0	8.02	3.4	18.91	1.2	8.10	1.9	11.68	5.84	10	0.58
Medium weight garments (cotton) ...	2.2	4.86	3.3	8.10	2.2	5.24	2.6	6.07	3.04	4	0.76
Light weight garments (silk) (*hitoye*)....	2.3	16.17	4.1	19.98	3.0	20.50	3.1	18.88	9.44	6	1.59
Light weight garments (woolen)...	1.2	7.08	1.7	8.77	1.8	15.17	1.6	10.34	5.17	3	1.56
Light weight garments (cotton) ...	4.4	5.91	7.6	15.38	4.7	6.81	5.6	9.37	4.69	3	1.56
Skirts (*hakama*) ..	1.4	12.55	2.0	28.66	1.5	8.55	1.5	16.59	8.29	5	1.66
Jyuban.....	3.4	3.70	5.3	4.30	4.4	7.66	4.4	5.22	2.61	3	0.87
Clogs (*hakimono*).	3.8	2.50	4.0	3.08	4.2	2.49	4.0	2.69	1.35	½	2.70
Tabi.....	3.6	0.99	4.4	1.09	8.2	1.98	5.4	1.35	0.68	½	1.36
Sash (*obi*)....	1.8	6.92	3.1	12.11	2.0	8.60	2.3	9.21	4.61	5	0.92
Other Articles	...	19.21	...	19.45	...	17.28	...	18.65	9.33	3	3.11
Total.....	...	151.08	...	231.53	...	204.16	...	195.60	97.80	...	23.29

[5] The value is estimated by the market value in 1913 when bought new.

[6] The actual value is estimated as one half of the value when bought new.

II. European Clothing

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Sack coats..	2.2	45.60	2.3	52.65	2.4	37.65	2.3	45.30	22.65	3	7.25
Full dress[7]..	0.7	25.82	1.1	59.32	0.9	45.82	0.9	43.65	21.83	10	2.19
Overcoats ..	2.0	32.15	1.5	28.34	2.0	44.50	1.8	35.00	17.50	3	5.84
Hats.....	2.3	5.61	2.4	4.58	3.1	8.23	2.6	6.14	3.07	3	1.03
Shirts.....	2.6	8.13	2.6	5.92	3.2	5.15	2.8	6.40	3.20	2	1.60
Undershirts.	3.6	5.15	4.2	6.60	4.5	5.58	4.1	5.78	2.89	2	1.45
Trousers ...	3.5	5.62	3.0	5.56	3.8	4.40	3.4	5.19	2.59	2	1.30
Neckties ...	2.1	2.03	3.3	2.59	5.5	4.39	3.6	3.00	1.50	1	1.50
Collars.....	2.4	0.71	3.7	1.50	7.8	1.85	4.6	1.35	0.68	½	1.35
Cuffs.....	1.2	0.49	0.8	0.32	1.3	0.60	1.1	0.47	0.24	1	0.24
Gloves.....	1.9	2.18	2.1	3.88	2.2	1.99	2.1	2.68	1.34	2	0.67
Shoes.....	1.2	5.60	2.4	12.40	1.5	5.80	1.7	7.93	3.97	2	1.99
Rubbers....	0	0	0.2	0.38	0.1	0.17	0.1	0.18	0.09	1	0.09
Socks.....	1.2	0.42	8.0	2.50	5.8	2.18	5.0	1.70	0.85	½	1.70
Scarfs.....	0.8	1.05	2.1	3.46	1.2	4.50	1.4	3.00	1.50	2	0.75
Handkerchiefs[8] ...	2.6	0.58	8.2	1.55	6.6	1.32	5.8	1.15	0.58	½	1.15
Umbrellas..	1.0	3.16	1.3	3.58	1.6	3.28	1.3	3.34	1.67	2	0.84
Other articles...	...	5.00	...	5.00	...	5.00	...	5.00	2.50	3	0.84
Total....	...	149.30	...	200.13	...	182.41	...	177.26	88.63	...	32.04
Grand Total..	...	300.38	...	431.66	...	386.57	...	372.86	186.43	...	55.33

[7] The frock-coat is generally used for full dress in this class.

[8] Paper handkerchiefs, which are commonly used, are not included in the figures.

VALUE OF MOTHER'S CLOTHING—MOTHER'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES, WITH FAMILY INCOME OF 240–959 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Silk *Haori*.....	2.3	25.69	4.3	30.52	3.4	20.56	3.3	25.59	12.79	10	1.28
Cotton *Haori*..	3.2	6.09	7.0	24.50	4.5	10.03	4.9	13.54	6.77	4	1.69
Silk *Wataire*...	1.8	15.18	3.7	40.11	1.7	14.57	2.4	23.29	11.65	13	0.89
Cotton *Wataire*	2.2	4.00	5.6	16.78	2.9	8.78	3.6	9.85	4.93	3	1.64
Silk *Awase*.....	1.1	5.35	3.1	27.67	1.2	7.23	1.8	13.42	6.71	10	0.67
Cotton *Awase*..	2.0	3.99	4.3	12.10	3.3	6.10	3.2	7.40	3.70	3	1.23
Silk *Hitoye*....	2.7	21.60	3.0	16.18	3.5	26.00	3.1	21.26	10.63	8	1.33
Cotton *Hitoye* .	4.8	5.69	9.2	17.00	8.9	10.25	7.6	10.98	5.49	3	1.83
Woolen *Hitoye* .	1.3	6.87	1.3	4.99	2.0	11.29	1.5	7.72	3.86	3	1.29
Obi (sash).....	4.5	49.55	4.3	52.06	4.5	33.01	4.4	44.87	22.44	7	3.21
Silk *Jyuban*....	2.9	8.77	3.8	12.51	3.4	12.77	3.4	11.35	5.68	13	0.44
Woolen *Jyuban*	1.8	3.12	3.0	9.50	3.5	6.70	2.8	6.44	3.22	3	1.08
Cotton *Jyuban*.	4.3	1.82	4.8	2.76	3.2	1.95	4.1	2.18	1.09	2	0.55
Top-coats.....	0.8	10.10	1.3	21.22	1.8	32.56	1.3	21.29	10.65	5	2.13
Shawls.....	1.7	2.56	1.8	3.90	2.5	12.70	2.0	6.39	3.20	3	1.07
Gloves.....	0.9	0.58	0.6	0.88	1.9	3.15	1.1	1.54	0.77	2	0.39
Umbrellas and parasols.....	1.4	2.50	2.3	4.14	3.0	8.22	2.2	4.95	2.48	3	0.83
Clogs and sandals.....	5.0	4.58	4.2	3.80	5.7	4.21	5.0	4.20	2.10	½	4.20
Tabi.....	4.8	1.07	5.6	1.38	6.2	1.46	5.5	1.30	0.65	½	1.30
Handkerchiefs .	3.5	0.58	6.0	1.10	3.7	0.75	4.4	0.81	0.41	½	0.81
Obitome.....	2.2	2.53	3.2	3.85	2.3	2.50	2.6	2.96	1.48	3	0.49
Obiage.....	1.6	1.56	1.6	2.16	1.2	2.86	1.5	2.19	1.10	3	0.37
Koshihimo.....	1.3	0.80	3.2	2.07	2.4	2.94	2.3	1.94	0.97	2	0.49
Other articles..	...	19.21	...	19.45	...	17.28	...	18.65	9.33	3	3.11
Total.....	...	203.79	...	330.63	...	257.87	...	.....	.....	...	32.29

VALUE OF BOY'S CLOTHING AND BOY'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; AVERAGE AGE, NINE; INCOME GROUP, 240–959 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	1.1	2.92	2.7	8.90	0.8	1.25	1.5	4.36	2.18	1	2.18
Overcoats	1.2	3.70	1.3	7.81	0.7	1.89	1.1	4.47	2.24	2	1.12
Silk *Haori*	0.1	0.48	1.2	7.65	0.6	2.35	0.6	3.49	1.75	10	0.18
Cotton *Haori*	2.0	2.81	3.4	4.26	2.0	3.27	2.5	3.45	1.73	3	0.58
Silk *Wataire*	1.1	3.95	3.1	12.51	3.0	10.99	2.4	9.15	4.58	10	0.46
Cotton *Wataire*	2.5	3.55	3.5	4.32	2.7	4.66	2.9	4.18	2.09	3	0.70
Silk *Awase*	0.6	2.90	1.2	4.20	0.2	0.58	0.7	2.56	1.28	10	0.13
Cotton *Awase*	3.5	5.70	3.5	6.04	4.1	5.98	3.7	5.91	2.96	3	0.99
Silk *Hitoye*	0.8	2.95	2.2	6.70	1.1	3.82	1.4	4.49	2.25	10	0.23
Woolen *Hitoye*	0.8	1.26	0.7	6.14	1.0	2.50	0.8	3.30	1.65	2	0.83
Cotton *Hitoye*	4.4	4.18	6.7	6.14	5.3	6.08	5.5	5.47	2.74	3	0.91
Hakama	1.2	1.10	2.0	3.05	1.8	2.90	1.7	2.35	1.18	2	0.59
Hats and caps	1.2	1.19	1.5	1.57	0.8	0.97	1.2	1.31	0.66	1	0.66
Shirts and undershirts	2.8	1.50	3.1	2.00	0.5	0.60	2.1	1.37	0.69	1	0.69
Trousers	3.2	1.45	2.4	2.18	1.1	1.27	2.2	1.63	0.82	1	0.82
Jyuban	3.3	0.86	6.2	5.20	4.7	2.18	4.7	2.75	1.38	2	0.69
Shoes	1.2	2.81	2.2	4.58	1.4	2.78	1.6	3.39	1.69	1	1.69
Stockings	3.3	0.69	3.7	1.26	2.2	0.57	3.1	0.84	0.42	$\frac{1}{2}$	1.26
Clogs and sandals	3.0	0.89	4.7	1.38	4.2	0.93	8.6	1.07	0.54	$\frac{1}{2}$	1.07
Tabi	3.5	0.69	4.2	1.00	3.2	0.65	3.6	0.78	0.39	$\frac{1}{2}$	0.78
Umbrellas	1.2	1.78	2.3	2.71	1.3	2.85	1.6	2.45	1.23	2	0.62
Other articles	...	7.74	...	7.82	...	7.09	...	7.55	3.78	3	1.26
Total	...	55.10	...	107.63	...	66.16	...	76.32	....	...	18.42

GIRL'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; AVERAGE AGE, ELEVEN; INCOME GROUP, 240–959 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	0.2	0.68	0.3	1.14	0.6	2.56	0.4	1.46	0.73	2	0.37
Overcoats	1.0	8.72	1.2	11.23	1.2	7.18	1.1	9.04	4.52	3	1.51
Silk *Haori*	1.1	5.82	2.5	15.66	1.8	8.70	1.8	10.06	5.03	7	0.72
Woolen *Haori*	1.5	6.78	1.0	4.10	2.0	9.13	1.5	6.67	3.34	3	1.11
Cotton *Haori*	1.5	2.60	3.4	5.66	2.3	3.54	2.4	3.93	1.97	3	0.66
Silk *Wataire*	1.8	6.75	3.2	22.50	2.6	15.18	2.5	14.81	7.41	7	1.06
Woolen *Wataire*	0.9	5.02	2.6	10.33	1.5	8.82	1.7	8.06	4.03	3	1.35
Cotton *Wataire*	2.3	2.65	5.3	8.56	3.5	4.70	3.7	5.30	2.65	3	0.88
Silk *Awase*	0.5	3.60	2.4	12.90	1.2	8.93	1.4	8.48	4.24	7	0.61
Woolen *Awase*	1.2	5.71	1.1	3.86	1.3	3.22	1.2	4.26	2.13	3	0.71
Cotton *Awase*	2.0	3.12	3.0	4.50	3.0	5.26	2.7	4.29	2.15	3	0.72
Silk *Hitoye*	1.5	5.23	2.4	8.44	1.8	5.04	1.9	6.24	3.12	7	0.45
Woolen *Hitoye*	1.7	4.82	1.8	3.46	1.7	6.80	1.7	5.03	2.52	2	1.26
Cotton *Hitoye*	4.8	4.05	7.1	7.88	6.0	6.84	6.0	6.26	3.13	3	1.05
Undershirts	...	.....	0.4	0.17	1.1	1.08	0.5	0.42	0.21	1	0.21
Underwear (under petticoat)	1.2	0.78	1.4	1.20	1.7	1.29	1.4	1.09	0.55	1	0.55
Underwear (*Jyuban*)	4.5	3.95	5.6	5.66	4.3	4.28	4.8	4.63	2.32	3	0.77
Obi	2.8	4.74	3.1	12.50	3.5	8.86	3.1	8.70	4.35	3	1.45
Hakama	0.8	1.62	0.5	2.64	1.3	1.89	0.9	2.05	1.03	2	0.52
Hats	0.1	0.21	0.8	1.21	0.8	0.90	0.6	0.77	0.39	1	0.39
Shoes	0.7	3.19	0.2	0.68	1.3	3.79	0.7	2.55	1.28	1	1.28
Stockings	1.1	0.28	0.9	0.32	2.2	0.72	1.4	0.44	0.22	$\frac{1}{3}$	0.66
Clogs and sandals	4.3	2.85	4.1	1.38	4.8	3.10	4.4	2.44	1.22	$\frac{1}{2}$	2.44
Tabi	3.5	0.72	3.2	0.66	3.2	0.78	3.3	0.72	0.36	$\frac{1}{2}$	0.72
Umbrellas and parasols	1.3	2.12	1.7	3.76	1.6	2.78	1.5	2.89	1.45	2	0.73
Other articles	...	7.74	...	7.82	...	7.09	...	7.55	3.78	3	1.26
Total	...	93.75	...	158.22	...	132.46	...	128.14	.....	...	23.38

FAMILY EXPENDITURE FOR MISCELLANEOUS GOODS[9] (CLASSIFIED UNDER "CLOTHING") IN THE LARGE CITIES; INCOME GROUP, 240–959 *yen*

	Tokyo (*yen*)	Nagoya (*yen*)	Kobe (*yen*)	Average (*yen*)
Buttons	2.22	2.33	1.53	2.03
Pins	1.80	1.36	2.50	1.89
Combs	7.88	6.78	3.39	6.02
Face powder	1.87	2.00	1.43	1.77
Perfume and oil	2.50	1.96	1.57	2.01
Hair dressing	4.25	6.01	5.06	5.11
Baths	8.18	9.64	5.88	7.90
Laundry	3.32	2.50	3.60	3.14
Soap, etc.	2.19	1.46	1.92	1.86
Dressmaking	3.42	4.31	4.96	4.23
Other articles[10]	5.00	5.00	5.00	5.00
Total	42.63	43.36	36.84	40.96
Each adult	14.21	14.45	12.28	13.65
Each child	4.74	4.82	4.09	4.55

FAMILY EXPENDITURE FOR CLOTHING OF THE INCOME GROUP, 960–1679 *yen* IN THE LARGE CITIES

	Value of Clothing (*yen*)	Expenditure per Year (*yen*)
Father:		
Japanese clothing	163.24	37.16
European clothing	136.25	47.66
	299.49	84.82
Mother	254.69	53.32
Boy (average age, 7)	42.67	21.08
Girl (average age, 8)	107.31	34.99
Total	704.18	194.21
Number families	87	
Average income of a family	1345.74 *yen*	

[9] The expenditure is included in "Other Articles" of each member of the family in the foregoing tables.

[10] The value is the investigator's estimate.

FATHER'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 960–1679 *yen*

I. Japanese Clothing.

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Silk *Haori*....	3.2	35.18	7.3	106.30	7.7	102.80	6.1	81.43	40.73	10	4.07
Cotton *Haori*.	4.4	10.71	2.8	4.52	2.7	6.47	3.3	7.23	3.62	4	0.91
Silk *Wataire*..	2.7	17.00	4.0	39.28	5.4	76.49	4.0	44.26	22.13	10	2.21
Cotton *Wataire*....	3.9	12.10	2.7	4.30	2.4	6.24	3.0	7.55	3.78	3	1.26
Silk *Awase*...	2.5	17.87	2.0	19.41	2.1	29.47	2.2	22.25	11.13	10	1.11
Cotton *Awase*	1.9	3.05	1.7	3.10	1.2	4.53	1.6	3.56	1.78	4	0.45
Silk *Hitoye*...	3.2	18.50	3.0	25.55	3.1	30.44	3.1	24.83	12.42	6	2.07
Woolen *Hitoye*	2.7	23.09	2.8	20.28	1.7	12.81	2.4	18.73	9.37	3	3.13
Cotton *Hitoye*	5.0	7.05	7.2	13.33	8.0	18.91	6.7	13.10	6.55	3	2.19
Hakama.....	2.0	20.15	2.2	27.10	1.9	22.90	2.0	23.38	11.69	5	2.34
Underwear...	4.1	7.77	4.3	16.65	4.6	19.42	4.3	14.61	7.31	3	2.44
Clogs.....	4.2	4.02	5.0	4.88	4.7	5.70	4.5	4.87	2.44	½	4.88
Tabi.....	4.6	1.05	5.1	1.26	5.6	1.55	5.1	1.29	0.65	½	1.30
Obi.....	3.2	10.96	3.0	21.25	3.5	15.60	3.2	15.94	7.97	5	1.60
Other articles	...	45.51	...	44.33	...	40.54	...	43.45	21.73	3	7.24
Total.....	...	234.01	...	351.54	...	393.87	...	326.48	.....	...	37.16

II. European Clothing

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Sack coats...	3.0	86.75	3.2	109.68	2.6	63.57	2.9	86.67	43.34	3	14.45
Full dress....	2.2	79.92	1.1	42.19	1.6	60.43	1.6	60.81	30.42	10	3.04
Overcoats....	2.6	40.16	2.5	70.20	2.1	38.57	2.4	49.64	24.82	3	8.28
Hats.....	3.7	9.20	3.4	10.31	3.4	8.30	3.5	9.27	4.64	3	1.55
Shirts.....	3.1	7.90	4.6	11.77	4.0	8.87	3.9	9.95	4.76	2	2.38
Undershirts..	5.8	7.21	4.8	6.67	5.4	9.44	5.3	7.77	3.89	2	1.95
Trousers.....	4.5	7.33	4.3	5.15	4.3	7.24	4.4	6.57	3.29	2	1.65
Neckties.....	3.8	3.20	4.8	5.92	4.7	4.21	4.4	4.44	2.22	1	2.22
Collars.....	5.0	1.12	6.7	1.76	4.1	1.10	5.3	1.33	0.67	2	1.34
Cuffs.....	1.4	0.96	1.2	0.80	1.0	0.25	1.2	0.67	0.34	1	0.34
Gloves.....	2.1	3.55	2.0	4.78	1.6	1.72	1.9	3.35	1.68	2	0.84
Shoes.....	2.4	13.20	2.3	12.60	1.8	10.46	2.2	12.09	6.05	2	3.03
Rubbers.....	0.2	0.43	0.5	1.03	0.3	0.42	0.3	0.63	0.32	1	0.32
Socks.....	4.7	1.44	5.6	2.03	3.4	0.99	4.6	1.49	0.75	½	1.50
Scarfs.....	1.4	3.10	1.2	4.08	0.9	1.14	1.2	2.77	1.38	2	0.69
Handkerchiefs	2.6	0.69	6.3	1.73	9.9	2.10	6.3	1.51	0.76	½	1.52
Umbrella.....	1.3	4.06	1.2	3.90	1.4	3.81	1.3	3.92	1.96	2	0.98
Other articles	...	10.00	...	10.00	...	10.00	...	10.00	5.00	3	1.67
Total.....	...	280.22	...	304.60	...	232.62	...	272.49	.....	...	47.66
Grand Total	...	514.23	...	656.14	...	626.49	...	598.92	.....	...	84.82

MOTHER'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 960–1679 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Silk *Haori*....	3.0	35.56	5.3	82.59	5.6	91.76	4.6	69.97	34.99	10	3.50
Cotton *Haori*.	3.7	8.98	3.8	15.71	2.3	7.64	3.3	10.78	5.39	4	1.35
Silk *Wataire*..	3.1	37.60	5.2	90.16	5.6	99.53	4.6	75.76	38.88	13	2.92
Cotton *Wataire*....	2.3	4.76	4.7	18.20	4.6	17.14	3.9	13.37	6.69	3	2.23
Silk *Awase*...	1.8	17.12	2.1	21.66	3.4	49.81	2.4	29.53	14.77	10	1.48
Cotton *Awase*	2.0	4.20	3.3	8.50	2.9	8.15	2.7	6.95	3.48	3	1.16
Silk *Hitoye*...	2.9	26.55	5.3	59.91	5.3	53.59	4.5	46.68	23.34	8	2.92
Cotton *Hitoye*	6.5	9.21	4.2	12.63	7.8	14.18	6.2	12.01	6.01	3	2.00
Woolen *Hitoye*	2.0	12.05	3.2	28.18	1.9	12.30	2.4	17.51	8.76	3	3.92
Obi (sash)....	4.8	57.31	6.1	101.50	7.7	92.63	6.2	83.81	41.91	7	5.99
Silk *Jyuban*..	2.9	15.21	1.8	16.72	3.3	30.01	2.7	20.65	10.33	13	0.80
Woolen *Jyuban*....	2.3	10.26	2.0	7.16	3.0	10.27	2.4	9.23	4.62	3	1.54
Cotton *Jyuban*....	4.0	1.96	4.8	3.11	3.3	2.38	4.0	2.48	1.24	2	0.62
Topcoat.....	1.8	30.00	1.8	26.29	1.4	24.90	1.7	27.06	13.53	5	2.71
Shawl.....	1.7	4.21	3.0	14.60	1.9	4.80	2.2	7.87	3.94	3	1.31
Gloves.....	1.1	0.67	0.8	1.70	0.7	0.74	0.9	1.04	0.52	2	0.26
Umbrella and parasol....	...	3.78	2.1	4.25	1.9	5.89	1.8	4.64	2.32	3	0.78
Clogs and sandals....	5.5	6.18	6.6	7.96	3.4	4.02	5.2	6.05	3.03	$\frac{1}{2}$	6.05
Tabi.....	3.7	0.75	4.7	1.13	6.9	1.59	5.1	1.16	0.58	$\frac{1}{2}$	1.16
Handkerchiefs	3.9	0.83	7.2	1.33	5.8	1.11	5.6	1.09	0.55	$\frac{1}{2}$	1.09
Obitome.....	3.3	4.51	2.4	13.06	3.0	10.55	2.9	9.37	4.69	3	1.06
Obiage.....	2.6	5.65	2.1	5.19	3.1	6.31	2.6	5.72	2.86	3	0.96
Koshihimo ...	2.2	2.12	2.3	3.70	2.9	3.81	2.5	3.21	1.61	2	0.81
Other articles	...	45.51	...	44.33	...	40.54	...	43.45	21.73	3	7.24
Total.....	...	344.98	...	589.57	...	593.65	...	509.39	.....	...	53.32

BOY'S EXPENDITURE FOR CLOTHING IN THE LARGER CITIES, AVERAGE AGE, 7; INCOME GROUP, 960–1679 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	0.8	3.75	1.6	10.52	0.9	5.99	1.1	6.75	3.38	1	3.38
Overcoat	1.0	4.73	1.2	11.06	0.8	4.47	1.0	6.75	3.38	2	1.69
Silk *Haori*	0.2	0.98	1.3	8.80	0.9	5.11	0.8	4.96	2.48	10	0.25
Cotton *Haori*	2.9	3.28	3.5	5.32	3.3	7.27	3.2	5.29	2.65	3	0.88
Silk *Wataire*	0.4	2.07	0.8	3.86	1.1	3.79	0.8	3.21	1.61	10	0.16
Cotton *Wataire*	4.8	9.12	3.6	6.20	3.9	7.05	4.1	7.46	3.73	3	1.24
Silk *Awase*	0.1	0.42	0.9	3.86	0.5	2.84	0.5	2.37	1.19	10	0.12
Cotton *Awase*	2.1	3.97	3.6	3.74	2.1	3.24	2.6	3.65	1.83	3	0.61
Silk *Hitoye*	0.8	3.34	2.6	6.67	0.1	0.23	1.2	3.41	1.71	10	0.17
Woolen *Hitoye*	1.7	5.34	1.3	4.62	1.2	2.89	1.4	4.28	2.14	2	1.07
Cotton *Hitoye*	6.2	6.51	5.2	4.86	6.5	6.22	6.0	5.90	2.95	3	0.98
Hakama	1.3	2.02	1.1	1.77	1.2	2.33	1.2	2.04	1.02	2	0.51
Cap	1.8	1.86	2.7	3.20	1.4	1.42	2.0	2.16	1.08	1	1.08
Shirts and undershirts	3.8	1.50	3.0	1.40	4.6	1.90	3.8	1.60	0.80	1	0.80
Trousers	3.0	1.09	3.2	1.24	2.9	1.18	3.0	1.17	0.59	1	0.59
Jyuban	4.2	1.00	2.5	1.82	3.3	1.70	3.3	1.51	0.76	2	0.38
Shoes	1.4	2.86	1.6	4.80	1.2	3.11	1.4	3.59	1.80	1	1.80
Stockings	3.2	0.67	3.3	0.96	3.1	0.45	3.2	0.69	0.35	$\frac{1}{3}$	1.05
Clogs and sandals	3.3	0.58	4.3	0.68	3.4	0.58	3.7	0.61	0.31	$\frac{1}{2}$	0.62
Tabi	4.0	0.75	5.3	1.10	2.6	0.50	4.0	0.78	0.39	$\frac{1}{2}$	0.78
Umbrellas	1.1	1.66	1.3	1.09	0.9	0.41	1.1	1.04	0.52	2	0.26
Other articles	...	16.84	...	16.44	...	15.18	...	16.15	8.08	3	2.69
Total	...	74.34	...	104.01	...	77.86	...	85.37	42.69	...	21.08

GIRL'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 960–1679 *yen*

	Tokyo		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	0.6	2.92	0.1	0.34	0.2	1.25	0.3	1.50	0.75	2	0.38
Overcoats	1.2	3.88	0.8	4.94	1.0	5.85	1.0	4.89	2.45	3	0.82
Silk *Haori*	3.1	21.26	3.2	25.50	3.1	26.03	3.1	24.26	12.13	7	1.73
Woolen *Haori*	2.9	12.65	3.1	13.04	2.7	10.30	2.9	12.00	6.00	3	2.00
Cotton *Haori*	1.7	3.89	4.1	9.13	3.4	7.69	3.1	6.90	3.45	3	1.15
Silk *Wataire*	2.8	30.31	5.2	39.36	2.3	15.32	3.4	28.33	14.17	7	2.03
Woolen *Wataire*	2.4	8.70	2.1	8.71	2.7	9.70	2.4	9.04	4.52	3	1.51
Cotton *Wataire*	3.9	8.28	3.6	7.10	3.3	5.02	3.6	6.80	3.40	3	1.13
Silk *Awase*	1.9	10.25	1.6	11.90	2.3	12.59	1.9	11.58	5.79	7	0.83
Woolen *Awase*	1.8	8.60	1.5	6.13	2.0	6.81	1.8	7.18	3.59	3	1.20
Cotton *Awase*	2.3	3.40	1.9	3.41	2.8	5.41	2.3	4.07	2.04	3	0.68
Silk *Hitoye*	2.9	15.72	2.8	17.70	2.1	12.73	2.6	15.38	7.69	7	1.10
Woolen *Hitoye*	2.0	5.08	1.7	5.33	2.7	6.10	2.1	5.50	2.75	2	1.38
Cotton *Hitoye*	5.7	6.84	9.1	10.63	8.3	9.57	7.7	8.92	4.46	3	1.49
Shirts	1.2	0.88	1.5	1.72	1.2	0.95	1.3	1.18	0.59	1	0.59
Underwear (under petticoat)	1.3	1.25	2.0	1.50	1.3	1.56	1.5	1.44	0.72	1	0.72
Jyuban	3.9	8.85	6.8	9.08	7.1	18.70	5.9	12.21	6.11	3	2.04
Obi (sash)	4.6	20.62	5.9	23.56	5.3	21.75	5.3	21.98	10.99	3	3.66
Hakama (shirt)	1.2	4.76	1.4	4.95	1.5	6.61	1.4	5.44	2.72	2	1.36
Caps	0.6	0.66	0.2	0.50	0.2	0.11	0.3	0.42	0.21	1	0.21
Shoes	1.3	3.93	1.5	4.58	0.8	2.75	1.2	3.75	1.88	1	1.88
Stockings	1.4	0.38	2.8	0.59	1.1	0.26	1.8	0.41	0.21	½	0.63
Clogs and sandals	3.6	2.11	4.3	2.91	4.1	2.33	4.0	2.45	1.23	½–½	2.45
Tabi	5.1	1.09	4.7	2.99	5.0	0.98	4.9	1.02	0.51	½	1.02
Umbrellas and parasols	1.4	1.80	1.7	2.46	1.1	1.20	1.4	1.82	0.91	2	0.46
Other articles	...	16.84	...	16.44	...	15.18	...	16.15	.....	...	2.69
Total	...	204.95	...	232.23	...	206.75	...	214.62	.....	...	34.99

FAMILY EXPENDITURE FOR MISCELLANEOUS GOODS[11] (CLASSIFIED UNDER "CLOTHING") IN THE LARGE CITIES; INCOME GROUP, 960–1679 *yen*

	Tokyo (*yen*)	Nagoya (*yen*)	Kobe (*yen*)	Average (*yen*)
Buttons	7.45	15.18	5.90	9.51
Pins	11.58	12.33	10.86	11.59
Combs	19.13	20.58	9.77	16.49
Face powder	2.17	1.80	2.53	2.17
Perfume and oil	5.34	4.36	3.38	4.36
Hair dressing	6.03	5.82	6.25	6.03
Baths	12.38	8.50	10.25	10.38
Laundry	8.91	3.69	9.22	7.28
Soap, etc.	5.32	4.66	4.05	4.68
Dressmaking	11.31	9.70	12.92	11.31
Needles, threads	1.90	1.35	1.50	1.58
Other articles[12]	15.00	15.00	15.00	15.00
Total	106.52	102.99	91.63	100.36
Each adult	35.51	34.33	30.54	33.45
Each child	11.84	11.44	10.18	11.15

FAMILY EXPENDITURE FOR CLOTHING; INCOME GROUP, 1680–3000 *yen* IN THE LARGE CITIES

	Value of Clothing (*yen*)	Expenditure per Year (*yen*)
Father—		
Japanese clothing	348.28	67.56
European clothing	220.69	74.45
	568.97	142.01
Mother	542.53	96.49
Boy (average age, 9)	77.14	37.81
Girl (average age, 7)	180.46	55.46
Total	1,369.10	331.77
Number of families	118	
Average income of a family	2,855.82 *yen*	

[11] The expenditure is included in "Other Articles" of each member of the family in the foregoing tables.

[12] The amount is the investigator's estimate.

FATHER'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 1680–3000 *yen*

I. Japanese Clothing

	Tokyo		Osaka		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Silk *Haori*	7.4	127.44	12.9	220.63	9.1	250.66	12.4	156.13	10.4	188.72	94.36	10	9.44
Cotton *Haori*	1.8	4.91	0.8	3.75	3.3	12.03	2.8	13.67	2.2	8.59	4.29	4	1.07
Silk *Wataire*	3.0	48.50	10.9	195.50	7.3	193.28	8.3	132.22	7.4	142.38	71.19	10	7.12
Cotton *Wataire*	2.1	8.04	3.3	13.06	2.9	13.31	5.7	24.16	3.5	14.64	7.32	3	2.44
Silk *Awase*	2.5	32.00	4.8	79.13	5.7	92.20	4.4	73.32	4.4	69.16	34.58	10	3.46
Cotton *Awase*	1.9	3.68	1.8	5.38	3.7	13.43	3.7	17.90	2.8	10.10	5.05	4	1.26
Silk *Hitoye*	2.5	30.42	5.9	85.63	5.3	51.67	4.5	55.79	4.6	55.88	27.94	6	4.66
Woolen *Hitoye*	2.1	13.75	2.5	21.00	2.7	21.40	2.8	22.40	2.5	19.64	9.82	3	3.27
Cotton *Hitoye*	8.5	23.66	5.1	12.88	8.6	15.26	7.8	21.77	7.5	18.39	9.20	3	3.07
Hakama	2.0	27.54	3.4	54.88	3.3	40.50	2.7	20.76	2.9	38.11	19.09	5	3.82
Jyuban	5.9	19.62	6.5	29.38	4.3	11.58	8.7	20.35	6.4	20.23	10.12	3	3.37
Clogs	3.4	7.25	7.5	8.71	3.3	4.33	5.8	5.52	5.0	6.45	3.23	½	6.46
Tabi	5.0	1.35	13.1	3.49	5.0	2.52	8.2	2.06	7.8	2.36	1.18	½	2.36
Obi	2.2	14.50	5.5	31.50	3.2	31.20	4.3	21.38	3.7	24.65	12.33	5	2.47
Other articles	...	91.41	.....	69.80	...	67.07	.....	80.45	.....	77.19	.....	...	12.87
Total	...	454.07	.....	834.72	...	820.44	.....	676.88	.....	696.55	.....	...	67.56

II. European Clothing

	Tokyo		Osaka		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Sack coats	4.5	114.88	2.9	81.50	4.7	153.67	3.1	76.67	3.8	106.68	53.34	3	17.78
Full dress	2.2	107.50	0.9	57.13	2.8	256.67	1.2	69.17	1.8	122.87	61.44	10	6.14
Overcoats	3.0	112.51	2.1	77.50	2.7	58.24	1.8	52.50	2.4	75.19	37.60	3	12.53
Hats	5.2	18.75	4.1	25.13	4.7	29.80	3.3	21.75	4.3	23.86	11.93	3	3.98
Shirts	3.5	8.79	4.4	12.31	8.7	11.35	5.8	11.83	5.6	11.02	5.51	2	2.76
Undershirts	5.4	20.14	4.8	9.21	7.0	12.42	7.5	13.17	6.1	13.74	6.87	2	3.44
Trousers	5.8	15.18	3.8	6.44	6.0	8.76	6.5	7.83	5.5	9.55	4.78	2	2.39
Neckties	12.5	7.50	5.1	6.79	6.9	6.12	5.1	4.03	7.4	6.11	3.06	1	3.06
Collars	15.0	4.37	7.4	1.64	7.3	1.50	7.7	2.50	0.4	2.50	1.25	½	2.50
Cuffs	0.2	0.60	0.9	0.19	1.7	0.41	0.7	0.17	0.9	0.34	0.17	1	0.17
Gloves	1.5	4.25	1.6	3.75	3.3	4.88	1.8	3.67	2.1	4.14	2.07	2	1.03
Shoes	2.8	13.98	2.4	17.13	4.0	34.80	2.7	18.53	3.0	21.11	10.56	2	5.28
Rubbers	0.5	1.12	0.1	0.23	1.0	1.19	0.2	0.33	0.5	0.72	0.36	1	0.36
Socks	5.4	1.80	8.3	3.38	5.7	2.90	6.5	4.05	6.5	3.03	1.52	½	3.04
Scarfs	1.6	8.13	1.0	5.25	3.5	5.42	0.8	3.13	1.7	5.48	2.74	2	1.37
Handkerchiefs	6.0	1.34	10.4	2.64	8.7	1.94	11.3	2.35	9.1	2.07	1.04	½	2.08
Umbrellas	1.5	10.50	1.8	8.24	1.7	6.28	1.7	6.83	1.9	7.96	3.98	2	1.99
Other articles	.....	20.00	.....	20.00	...	20.00	.....	20.00	...	20.00	10.00	3	3.33
Total	.....	471.34	.....	339.46	...	616.13	.....	318.51	...	436.37	218.19	...	73.20
Grand Total	.....	925.41	.....	1174.18	...	1436.57	.....	995.39	...	1117.92	558.96	...	140.76

MOTHER'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 1680–3000 *yen*

	Tokyo		Osaka		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
Silk *Haori*	5.8	94.75	8.8	156.88	11.0	172.14	8.5	159.50	8.5	145.82	72.91	10	7.29
Cotton *Haori*	1.5	5.12	2.5	6.31	5.6	17.25	3.3	18.83	3.2	11.88	5.94	4	1.49
Silk *Wataire*	8.7	196.44	10.1	190.63	7.8	163.26	11.0	219.83	9.4	192.54	96.27	13	7.41
Cotton *Wataire*	2.8	12.36	4.8	22.13	4.5	13.90	4.8	18.82	4.2	16.80	8.40	3	2.80
Silk *Awase*	4.0	100.50	6.8	104.21	7.2	91.19	5.7	75.67	5.9	92.89	46.45	10	4.65
Cotton *Awase*	1.5	4.58	3.2	10.88	5.4	15.41	4.0	16.20	3.5	11.77	5.89	3	1.96
Silk *Hitoye*	3.9	52.52	8.3	91.88	8.5	62.76	7.2	88.83	7.0	74.00	37.00	8	4.63
Cotton *Hitoye*	7.5	20.24	8.6	21.87	9.3	17.60	12.3	35.00	9.4	23.68	11.84	3	3.95
Woolen *Hitoye*	3.6	82.29	2.1	17.38	3.2	24.25	2.5	19.67	2.9	19.90	9.95	3	3.32
Obi	7.0	186.36	13.6	293.75	8.9	260.80	15.5	196.67	11.3	234.40	117.20	7	16.75
Silk *Jyuban*	6.5	30.75	5.9	66.63	5.0	45.14	7.0	84.50	6.1	56.76	28.38	13	2.19
Woolen *Jyuban*	2.1	9.54	2.8	6.59	5.5	17.50	3.8	12.67	3.6	11.58	5.79	3	1.93
Cotton *Jyuban*	6.4	13.75	3.8	4.75	2.6	1.13	4.2	4.61	3.8	6.06	3.03	2	1.52
Top-coats	2.6	52.53	2.3	46.13	2.0	34.65	2.0	43.17	2.2	44.12	22.06	5	4.41
Shawls	2.5	21.54	2.1	10.44	2.4	4.95	2.2	10.67	2.3	11.90	5.95	3	1.98
Gloves	1.9	0.90	1.2	1.49	2.5	2.26	1.5	2.58	1.8	1.81	0.91	2	0.46
Umbrellas and parasols	2.5	11.65	2.1	8.61	2.4	12.35	2.2	6.08	2.3	9.67	4.84	3	1.61
Clogs and sandals	3.0	3.37	4.5	4.98	5.1	7.60	6.2	6.58	4.7	5.63	2.82	½	5.64
Tabi	5.9	1.33	6.7	1.69	5.5	2.83	9.2	2.45	6.9	2.08	1.04	½	2.08
Handkerchiefs	6.0	1.69	8.9	1.91	8.2	1.57	9.5	1.54	8.2	1.68	0.84	½	1.68
Obitome	7.1	16.88	3.5	16.38	3.1	8.60	4.0	22.29	4.4	16.04	8.02	3	2.68
Obiage	3.5	8.18	3.6	13.29	3.5	8.85	3.7	15.75	3.6	11.52	5.76	3	1.92
Koshihimo	2.5	3.32	3.8	6.19	3.5	5.44	4.2	6.42	3.5	5.34	2.67	2	1.34
Other articles	...	91.41	....	69.80	....	67.7	....	80.45	....	77.19	38.60	3	12.87
Total	...	958.00	....	1174.80	....	1058.50	....	1148.78	....	1085.06	542.53	...	96.49

BOY'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 1680–3000 *yen*

	Tokyo		Osaka		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	2.7	10.84	2.8	8.89	3.1	26.50	2.7	12.25	2.8	14.62	7.31	1	7.31
Overcoats	1.2	6.36	1.1	7.66	2.0	22.99	1.8	14.60	1.5	12.90	6.45	2	3.23
Silk *Haori*	1.3	7.12	0.7	4.50	0.5	8.13	2.0	17.50	1.1	9.31	4.66	10	0.47
Cotton *Haori*	3.8	5.13	3.2	10.67	3.6	7.75	4.7	6.46	3.8	7.50	3.75	3	1.25
Silk *Wataire*	1.6	8.52	2.1	12.50	1.0	6.83	1.8	12.83	1.6	10.17	5.09	10	0.51
Cotton *Wataire*	3.8	6.00	4.5	9.03	3.9	7.55	3.6	8.67	4.0	7.81	3.91	3	1.30
Silk *Awase*	0.4	2.24	1.5	5.83	1.5	10.21	1.3	7.33	1.2	6.40	3.20	10	0.32
Cotton *Awase*	2.5	4.76	2.1	3.67	2.9	6.10	4.2	5.80	2.9	5.08	2.54	3	0.85
Silk *Hitoye*	1.8	5.72	1.3	4.83	1.5	5.55	2.0	9.83	1.7	6.48	3.24	10	0.32
Woolen *Hitoye*	1.6	6.58	1.7	5.83	1.2	5.64	1.3	6.08	1.5	6.04	3.02	2	1.51
Cotton *Hitoye*	6.1	5.69	4.0	4.83	6.8	8.70	7.3	7.36	6.1	6.65	3.33	3	1.11
Hakama	2.4	3.17	2.3	2.08	1.7	7.21	2.0	4.90	2.1	4.34	2.17	2	1.09
Hats and caps	2.5	1.30	2.1	2.25	3.0	5.24	2.2	2.95	2.5	2.94	1.47	1	1.47
Shirts and undershirts	4.3	1.92	3.7	2.33	6.2	3.45	4.3	2.36	4.6	2.52	1.26	1	1.26
Trousers	4.5	1.95	3.0	1.75	3.4	2.34	2.8	0.96	3.4	1.75	0.88	1	0.88
Jyuban	3.3	1.79	3.3	2.30	4.0	2.60	3.1	3.59	4.4	2.57	1.29	2	0.65
Shoes	2.8	7.46	1.8	4.91	2.2	13.55	1.8	4.87	2.2	7.70	3.85	1	3.85
Stockings	5.2	1.38	3.7	1.45	7.5	0.99	3.4	1.10	5.0	1.23	0.62	[illegible]	1.86
Clogs and sandals	3.7	1.13	4.1	1.21	5.0	2.05	4.7	1.78	4.4	1.54	0.77	[illegible]	1.54
Tabi	3.6	0.69	3.8	0.81	4.5	1.10	6.0	1.27	4.5	0.97	0.49	2	0.98
Umbrellas	1.2	1.22	1.1	1.25	1.8	2.96	1.5	1.36	1.4	1.70	0.85	2	0.43
Other articles	...	38.80	...	31.60	...	30.67	...	35.15	...	34.06	17.03	3	5.68
Total	...	129.77	...	130.22	...	188.11	...	169.00	...	154.27	77.14	...	37.81

GIRL'S EXPENDITURE FOR CLOTHING IN THE LARGE CITIES; INCOME GROUP, 1680–3000 *yen*

	Tokyo		Osaka		Nagoya		Kobe		Average		Actual Value (*yen*)	Duration (Year)	Cost per Year (*yen*)
	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)	No.	Value (*yen*)			
European dress	1.6	11.57	0.4	3.19	0.5	4.12	0.6	3.60	0.8	5.62	2.81	2	1.41
Overcoats	1.2	10.79	0.3	2.38	1.2	8.60	0.4	2.68	0.8	6.11	3.06	3	1.02
Silk *Haori*	4.3	52.34	4.4	75.30	2.2	20.86	3.9	45.88	3.7	48.60	24.30	7	3.47
Woolen *Haori*	3.1	14.15	2.7	10.40	3.0	12.70	3.1	14.36	3.0	12.90	6.45	3	2.15
Cotton *Haori*	2.5	4.75	3.9	12.53	8.1	14.56	3.3	6.77	4.5	9.65	4.83	3	1.61
Silk *Wataire*	5.3	49.99	5.6	63.53	4.0	34.05	3.5	37.82	4.6	46.35	23.18	7	3.31
Woolen *Wataire*	2.9	15.22	2.7	12.72	3.2	12.20	3.0	12.50	3.0	13.16	6.58	3	2.19
Cotton *Wataire*	3.0	6.24	4.8	10.70	6.5	10.61	3.8	8.07	4.5	8.91	4.46	3	1.49
Silk *Awase*	2.2	13.28	3.2	21.35	4.5	26.22	2.8	22.48	3.2	20.83	10.42	7	1.49
Woolen *Awase*	3.2	12.44	4.1	12.36	3.4	14.25	2.5	9.70	3.3	12.19	6.10	3	2.03
Cotton *Awase*	2.5	2.25	3.4	8.47	6.7	11.43	2.8	5.05	3.9	6.80	3.40	3	1.13
Silk *Hitoye*	4.8	25.12	4.2	33.11	5.8	34.63	2.8	20.52	4.4	28.35	14.18	7	2.03
Woolen *Hitoye*	2.5	6.50	2.8	8.51	3.6	11.03	2.5	8.99	2.9	8.76	4.38	2	2.19
Cotton *Hitoye*	6.8	6.25	7.6	9.60	7.1	8.18	8.0	8.14	7.4	8.04	4.02	3	1.34
Undershirts	1.2	1.03	0.2	0.12	0.5	0.67	2.8	1.72	1.2	0.89	0.45	1	0.45
Underwear (under petticoat)	2.3	1.62	1.2	0.75	1.6	1.35	1.8	1.78	1.8	1.38	0.69	1	0.69
Jyuban	4.8	6.16	8.5	26.47	6.8	18.61	6.1	21.66	6.6	18.23	9.12	3	3.04
Obi	4.2	37.43	6.1	42.03	8.5	54.82	6.4	60.40	6.3	48.67	24.34	3	8.11
Hakama	1.5	6.50	1.2	7.38	1.0	3.98	0.7	1.63	1.1	4.85	2.43	2	1.22
Hats	0.4	0.81	0.6	0.80	0.5	0.40	0.6	0.31	0.5	0.58	0.29	1	0.29
Shoes	1.1	6.88	1.2	4.82	0.9	3.20	1.1	4.60	1.1	4.88	2.44	1	2.44
Stockings	2.7	1.06	4.7	0.85	2.4	0.52	1.8	0.77	2.9	0.80	0.40	$\frac{1}{3}$	1.20
Clogs and sandals	3.8	2.02	6.2	3.30	4.0	8.41	5.5	3.42	4.9	4.29	2.15	$\frac{1}{2}$	4.30
Tabi	8.1	1.68	7.4	1.56	12.8	2.58	6.8	1.52	8.8	1.84	0.92	$\frac{1}{2}$	1.84
Umbrellas and parasols	2.2	4.50	2.3	5.96	1.3	2.12	2.3	4.13	4.0	4.18	2.09	2	1.05
Other articles	...	38.80	...	31.60	.....	30.67	...	35.15	...	34.06	17.03	3	5.68
Total	...	339.38	...	409.79	.....	350.67	...	343.65	...	360.92	180.46	...	55.46

FAMILY EXPENDITURE FOR MISCELLANEOUS GOODS[13] (CLASSIFIED UNDER "CLOTHING") IN THE LARGE CITIES; INCOME GROUP, 1680–3000 *yen*

	Tokyo (*yen*)	Osaka (*yen*)	Nagoya (*yen*)	Kobe (*yen*)	Average (*yen*)
Buttons	8.79	15.20	8.98	12.30	11.32
Pins	15.62	7.24	6.60	4.80	8.57
Combs	72.12	26.01	13.55	48.12	39.95
Face powder	3.54	2.83	2.29	2.63	2.82
Perfume and oil	8.12	6.29	10.20	6.09	7.68
Hair dressing	6.25	8.90	6.87	10.08	8.03
Baths	18.59	12.08	16.25	17.66	16.15
Laundry	15.34	22.17	22.60	17.60	19.43
Soap, etc	15.56	13.93	13.72	14.80	14.50
Dressmaking	26.52	11.67	17.02	24.68	19.97
	3.78	3.09	3.12	2.60	3.15
Other articles[14]	20.00	20.00	20.00	20.00	20.00
Total	214.23	149.41	141.20	181.36	171.57
Each adult	71.41	49.80	47.07	60.45	57.19
Each child	23.80	16.60	15.69	20.15	19.06

YEARLY EXPENDITURE FOR CLOTHING IN THE SMALL CITIES

	Income 240–959 *yen*		Income 960–1,679 *yen*		Income 1,680–3,000 *yen*		Average	
	Value (*yen*)	Per Cent	Value (*yen*)	Per Cent	Value (*yen*)	Per Cent	Value (*yen*)	Per Cent of Total
Father—								
Japanese clothing	22.30		32.93		58.53		37.92	
European clothing	23.88		40.21		62.09		42.06	
	46.18	37.3	73.14	42.1	120.62	41.4	79.98	40.7
Mother	33.05	25.3	53.21	30.7	91.45	31.4	59.24	29.8
Each boy	23.47	18.0	18.63	10.7	28.84	9.8	23.65	11.9
Each girl	25.33	19.4	28.70	16.5	50.58	17.4	34.87	17.6
Total	128.03	100	173.68	100	291.49	100	197.74	100
No. of families	133		163		140			
Average income	701.81		1,247.06		2,905.87			
Per cent. of total expenditure	18.2		13.9		10.0			

[13] The expenditure is included in "Other Articles" of each member of the family in the foregoing tables.

[14] The value is the investigator's estimate.

FATHER'S EXPENDITURE FOR CLOTHING IN THE SMALL CITIES

I. Japanese Clothing

	240–959 *yen*			960–1,679 *yen*			1,680–3,000 *yen*		
	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Actual Value (*yen*)	Cost per Year (*yen*)
Silk *Haori*	4.7	47.73	2.39	5.8	70.10	3.51	10.5	154.90	7.75
Cotton *Haori*	3.5	11.41	1.43	2.1	7.47	9.35	2.6	9.32	1.17
Silk *Wataire*	2.7	28.71	1.44	3.8	36.09	1.81	6.7	93.78	4.68
Cotton *Wataire*	3.5	10.53	1.76	2.9	10.89	1.82	2.7	11.22	1.87
Silk *Awase*	1.9	14.64	0.73	3.3	33.10	1.66	3.9	44.73	2.24
Cotton *Awase*	4.1	8.08	1.01	3.0	8.22	1.03	2.7	9.22	1.16
Silk *Hitoye*	1.7	10.30	0.86	3.1	22.28	1.86	4.4	41.41	3.45
Woolen *Hitoye*	0.9	6.81	1.14	2.0	14.83	2.47	2.4	18.96	3.16
Cotton *Hitoye*	5.3	10.21	1.70	6.6	13.40	2.21	8.2	20.29	3.38
Hakama	2.2	17.11	1.85	2.7	28.12	2.81	3.5	52.64	5.27
Jyuban	4.9	6.01	1.00	5.2	10.08	1.18	7.5	22.87	3.81
Clogs	4.2	2.47	2.47	3.7	3.30	3.30	4.2	3.81	3.81
Tabi	3.4	1.07	1.07	5.2	1.51	1.51	7.2	2.17	2.17
Obi	2.6	4.06	0.81	3.3	16.07	1.61	5.3	46.39	4.64
Other articles	...	16.02	2.67	...	28.29	4.72	.....	59.94	9.99
Total	...	195.16	22.30	...	303.75	32.93	.....	591.43	58.53

II. European Clothing

	240–959 *yen*			960–1,679 *yen*			1,680–3,000 *yen*		
	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)
Sack coats	1.5	25.38	4.23	2.7	64.90	10.82	3.1	76.40	12.74
Full dress	0.5	13.89	2.70	1.0	45.55	2.28	1.4	70.85	3.55
Overcoats	1.3	20.88	3.15	2.4	46.11	7.69	2.4	75.35	12.56
Hats	2.5	5.25	0.88	3.2	11.75	19.62	4.0	32.78	5.47
Shirts	1.6	1.95	0.49	2.6	6.71	1.68	5.1	10.05	2.51
Undershirts	3.0	2.81	0.71	3.9	6.12	1.53	6.5	11.12	2.78
Trousers	2.7	2.08	0.52	3.5	4.74	1.19	3.9	5.67	1.42
Neckties	1.6	1.23	0.62	2.7	2.32	1.16	4.4	4.11	2.06
Collars	2.7	0.51	0.52	5.3	1.00	1.00	7.1	1.55	1.55
Cuffs	2.2	0.50	0.52	1.4	0.66	0.33	2.7	0.54	0.27
Gloves	1.5	0.92	0.23	1.8	2.04	0.51	2.8	4.81	1.20
Shoes	1.6	9.42	2.36	2.1	12.99	3.25	2.1	16.18	4.05
Rubbers	0.1	0.24	0.12	0.4	0.65	0.33	0.3	0.72	0.36
Socks	3.7	0.72	0.72	5.3	1.86	1.86	6.5	2.49	2.49
Scarfs	0.9	1.72	0.43	0.9	3.21	0.81	1.5	8.50	2.13
Handkerchiefs	4.4	0.42	0.42	7.8	0.95	0.95	8.9	1.37	1.87
Umbrellas	1.2	2.60	0.65	1.4	4.88	1.22	1.2	7.11	1.78
Other articles	...	5.00	0.83	...	10.00	1.67	...	20.00	3.34
Total	...	95.52	23.88	...	226.44	40.21	...	349.60	62.09
Grand total	...	290.68	48.63	...	511.19	73.14	...	941.03	120.62

MOTHER'S EXPENDITURE FOR CLOTHING IN THE SMALL CITIES

	240–959 *yen*			960–1,679 *yen*			1,680–3,000 *yen*		
	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)
Silk *Haori*	4.3	41.58	2.08	5.8	81.71	4.09	8.3	139.92	6.99
Cotton *Haori*	3.3	12.79	1.60	3.5	12.11	1.38	4.2	12.17	1.52
Silk *Wataire*	5.1	55.12	2.12	6.5	95.42	3.67	11.2	216.31	8.32
Cotton *Wataire*	4.3	12.41	2.07	4.0	15.95	2.66	5.5	20.48	3.42
Silk *Awase*	3.0	29.45	1.48	3.7	39.33	1.97	6.5	85.16	4.26
Cotton *Awase*	3.8	10.90	1.82	3.6	16.16	2.70	3.4	12.53	2.09
Silk *Hitoye*	3.5	20.91	1.31	4.6	44.08	2.76	6.4	72.63	4.54
Cotton *Hitoye*	6.6	13.58	2.26	8.0	18.15	3.03	10.2	26.12	4.36
Woolen *Hitoye*	1.0	6.26	1.04	2.2	14.40	2.40	2.4	18.60	3.10
Obi (sash)	6.7	56.87	4.06	8.3	100.79	7.20	11.7	209.59	14.97
Silk *Jyuban*	2.4	14.48	0.56	2.5	24.42	0.94	3.9	51.89	1.99
Woolen *Jyuban*	1.3	3.18	0.53	2.6	9.50	1.59	3.2	11.36	1.89
Cotton *Jyuban*	2.9	3.66	0.92	4.5	4.40	1.10	5.3	4.79	1.35
Top-coats	1.3	13.33	1.34	1.6	21.49	2.15	1.7	37.46	3.74
Shawls	1.1	3.36	0.56	1.8	6.29	1.05	2.0	8.35	1.39
Gloves	0.8	0.50	0.13	1.0	0.95	0.24	2.1	2.26	0.57
Umbrellas and parasols	1.6	4.41	0.74	2.2	5.16	0.86	2.3	8.40	2.10
Clogs and sandals	3.9	2.78	2.78	4.5	4.11	4.11	5.1	5.99	5.99
Tabi	4.6	1.02	1.02	5.7	1.28	1.28	6.9	1.63	1.63
Handkerchiefs	4.7	0.57	0.57	5.9	0.70	0.70	7.4	1.56	1.56
Obitome	2.7	2.18	0.37	3.4	2.60	0.87	4.4	18.78	3.13
Obiage	2.4	3.18	0.53	2.7	4.31	0.72	3.4	6.94	1.16
Koshihimo	3.6	2.11	0.53	3.2	4.19	1.05	3.7	5.54	2.77
Other articles	...	16.02	2.67	...	28.29	4.72	.....	59.94	9.99
Total	...	165.33	33.05	...	558.74	53.21	.....	1037.89	91.45

BOY'S EXPENDITURE FOR CLOTHING IN THE SMALL CITIES

	240–959 *yen*			960–1,679 *yen*			1,680–3,000 *yen*		
	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)
European dress	0.6	2.95	1.48	6.0	3.73	0.19	1.6	7.11	3.56
Overcoat	1.1	7.87	1.97	0.9	4.59	1.15	1.1	7.32	1.83
Silk *Haori*	0.9	5.54	0.28	0.9	4.57	0.23	0.8	5.64	0.28
Cotton *Haori*	2.9	7.61	1.27	3.1	5.22	0.87	3.5	9.18	1.53
Silk *Wataire*	1.1	6.41	0.32	1.0	6.29	0.32	0.9	5.22	0.26
Cotton *Wataire*	3.6	9.20	1.54	4.2	6.28	1.05	4.1	8.82	1.47
Silk *Awase*	1.0	4.96	0.25	0.5	2.26	0.12	0.9	5.10	0.26
Cotton *Awase*	3.3	7.19	1.20	3.0	4.40	0.74	3.1	8.76	1.46
Silk *Hitoye*	0.8	4.44	0.22	0.2	0.78	0.04	0.6	2.61	0.13
Woolen *Hitoye*	0.5	1.38	0.35	1.2	2.38	0.60	1.0	5.65	1.42
Cotton *Hitoye*	5.5	8.47	1.41	6.2	6.08	1.02	8.2	11.89	1.98
Hakama	1.4	3.16	0.79	1.2	2.59	0.65	1.8	4.28	1.07
Caps	2.6	2.40	1.20	2.4	2.73	1.37	1.9	2.13	1.07
Shirts and undershirts	3.6	2.70	1.35	2.8	1.48	0.74	3.6	2.51	1.26
Trousers	2.2	1.52	0.76	3.1	1.33	0.67	2.4	1.69	0.85
Jyuban	2.3	1.50	0.38	4.9	1.13	0.29	2.9	1.71	0.43
Shoes	1.2	4.19	2.09	1.2	3.03	1.52	1.2	4.39	2.20
Stockings	2.2	0.48	0.96	2.3	0.49	0.74	3.6	0.70	1.05
Clogs and sandals	4.6	0.99	2.97	3.9	1.38	1.88	3.8	0.87	0.88
Tabi	3.1	0.66	0.99	3.6	0.56	5.06	3.5	0.73	0.73
Umbrellas	1.2	1.05	0.26	1.2	1.25	1.25	2.0	2.23	0.56
Other articles	...	8.67	1.45	...	16.15	2.69	...	28.31	4.72
Total	...	93.34	23.47	...	78.70	18.63	...	126.85	28.84

GIRL'S EXPENDITURE FOR CLOTHING IN THE SMALL CITIES

	240–959 *yen*			960–1,679 *yen*			1,690–3,000 *yen*		
	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)	No.	Value (*yen*)	Cost per Year (*yen*)
European dress ..	0.03	0.13	0.04	0.2	0.75	0.19	0.5	1.97	0.50
Overcoats.....	0.2	1.25	0.21	0.6	4.53	0.76	0.7	3.31	0.55
Silk *Haori*.....	2.0	15.80	1.13	2.4	20.12	1.43	3.4	36.35	2.59
Woolen *Haori*....	1.6	7.25	1.21	2.0	8.16	1.36	2.5	10.82	1.81
Cotton *Haori*....	3.2	8.18	1.37	3.3	6.79	1.13	3.7	10.40	1.57
Silk *Wataire*.....	2.2	18.37	1.31	2.3	19.45	1.39	4.7	50.14	3.58
Woolen *Wataire*..	1.5	7.36	1.28	1.9	8.33	1.39	2.5	11.58	1.93
Cotton *Wataire* ..	3.4	9.36	1.56	4.3	9.70	1.62	4.4	18.57	3.10
Silk *Awase*.....	1.5	10.60	0.76	2.3	13.56	0.97	2.2	18.72	1.34
Woolen *Awase*...	1.6	7.45	1.24	2.0	7.59	1.27	2.6	11.16	1.86
Cotton *Awase*....	2.7	6.84	1.14	2.7	5.91	0.99	3.6	9.25	1.54
Silk *Hitoye*.....	1.6	10.00	0.72	2.0	10.41	0.75	3.5	29.06	2.08
Woolen *Hitoye*...	1.7	6.15	1.54	1.8	5.30	1.33	2.3	7.35	1.34
Cotton *Hitoye*....	5.5	10.10	1.69	6.9	8.02	1.34	8.1	12.39	2.07
Shirts.....	0.2	0.21	0.11	0.1	0.14	0.07	0.7	0.46	0.23
Underwear (under petticoat).....	0.2	0.10	0.05	0.5	0.34	0.17	1.3	1.86	0.93
Jyuban.....	3.1	4.79	0.80	5.4	7.26	1.21	6.5	13.96	2.33
Obi (sash).....	3.6	13.63	2.27	3.2	13.65	2.28	4.6	46.79	7.80
Hakama (skirt) ..	1.6	3.88	0.97	1.3	3.37	0.85	1.2	4.04	1.01
Caps.....	0.2	0.19	0.10	0.8	1.29	0.65	0.7	3.78	1.89
Shoes.....	0.3	0.98	0.49	0.6	1.88	0.94	1.0	2.67	1.34
Stockings.....	0.4	0.19	0.29	1.6	0.32	0.48	2.3	0.63	0.95
Clogs and sandals	5.2	2.03	2.03	5.1	2.00	2.00	4.1	2.01	2.01
Tabi.....	5.0	1.12	1.12	4.5	1.02	1.02	4.5	0.94	0.94
Umbrellas and parasols.....	1.4	2.21	0.56	1.2	1.89	0.48	1.8	3.77	0.94
Other articles....	....	8.67	1.45	...	16.10	2.69	...	23.31	3.89
Total.....	....	156.82	25.33	...	177.78	28.70	...	340.29	50.58

FAMILY EXPENDITURE FOR MISCELLANEOUS GOODS[15] (CLASSIFIED UNDER "CLOTHING") IN THE SMALL CITIES

	240–958 *yen*	960–1,679 *yen*	1,680–3,000 *yen*
Buttons	1.08	4.01	5.79
Pins	0.37	6.48	9.80
Combs	2.50	8.45	35.43
Face powder	1.44	1.02	2.26
Perfume and oil	2.54	2.13	3.77
Hair dressing	3.07	3.65	4.01
Baths	5.65	5.75	14.62
Laundry	5.23	4.31	8.89
Soap, etc	2.57	2.64	5.42
Dressmaking	2.39	4.91	7.50
Needles, threads	1.22	1.51	2.34
Other articles[16]	5.00	10.00	20.00
Total	33.06	54.86	119.83
Each adult	11.02	18.29	39.94
Each child	3.67	6.10	13.31

[15] The amount of the expenditure is included in "Other Articles" of each member of the family in the foregoing tables.

[16] The value is the investigator's estimate.

CHAPTER IX

National Clothing of Japan

Differences in individual, social, and natural conditions create complications in studying the amount of expenditure for apparel. For the study of the expenditure for clothing, as was the case in the study of food, two different methods of investigation, extensive and intensive, are possible. The national clothing (woven fabrics) may be determined by the extensive method of investigation, though the estimate cannot be claimed to be very accurate owing to the inaccuracy of the statistical data. The first step in this method of investigation is to discover the amount of the total produce of woven fabrics; then, to subtract all exports and add all imports; and finally to divide by the number of the

The Consumption of Silk Fabrics

	National Consumption per Year (*tan*)	Consumption per Man per Year (*sun*)
Figured fabrics	982,851	6.05
Crepes[1]	1,759,024	10.84
Habutaye[2]	949,878	5.80
Nanako	221,734	1.37
Itoori	1,658,267	10.22
Tsumugi and *Futoori*	2,257,200	13.89
Plain silk	1,739,215	10.70
Ro[3]	387,683	2.38
Sukiya	91,208	0.56
Kaiki[4]	1,126,560	6.94
Kasaji (for umbrellas)	153,639	0.95
Hakamaji	203,245	1.26
Other silks	1,916,506	11.79
Total[5]	13,447,010	82.75

[1] Calculated by the subtraction of 45,555 *tan* of export.
[2] 2,195,994 pounds of export not included.
[3] Calculated by the subtraction of 183,269 yards of export.
[4] Calculated by the subtraction of 712,549 yards of export.
[5] *Obiji* (for sash) 894,666 pieces, export of *kohakuori*, 1,365,138 yards, and export of *shitsuhon*, 714,247 yards, not included in the figures.

total population reduced to the equivalent of adult man. For the reduction of the population the scale of equivalents used in the calculation of the national diet is applied for the sake of convenience, since there is not much difference in the scale of equivalents for the consumption of food and that for clothing.

The following tables, and the one on the preceding page, calculated from statistics in the Thirtieth Statistical Report of the Department of Agriculture and Commerce, published in 1915, will explain the general condition of the consumption of woven fabrics in Japan as a whole.

The consumption of silk fabrics in value, calculated by the subtraction of the exports from the total production, is as follows:

The total value of silk fabrics	117,426,286 *yen*
The value of exports	30,100,979 *yen*
	87,325,307 *yen*

The consumption per man per year is 1.92 *yen*.

THE CONSUMPTION OF MIXED SILK AND COTTON FABRICS

	National Consumption per Year (*tan*)	Consumption per Man per Year (*sun*)
Figured fabrics	878,031	5.40
Satins[6]	1,291,884	7.95
Crepes	1,751,613	10.78
Futakoori and other materials	4,837,171	29.79
Kobaikaiki	60,690	0.36
Hakamaji	112,681	0.70
Other materials	2,557,606	15.74
Total[7]	11,489,676	70.72

The value of the total consumption of the mixed silk and cotton fabrics is 29,842,032 *yen*, and 66 *sen* is the value of the consumption per man per year.

The value of the total production of the cotton fabrics

[6] Calculated by the subtraction of the export of 1,242,581 yards.
[7] 2,597,404 pieces (4,299,592 *yen* in value) of *obiji* not included.

THE CONSUMPTION OF COTTON FABRICS

	National Consumption per Year (*tan*)	Consumption per Man per Year (*sun*)
Bleached cotton goods[8]	80,004,437	422.18
Futako and other striped goods	25,296,077	133.49
Kasuri	8,293,615	43.78
Cotton crepes[9]	4,203,259	22.18
Dyed cotton goods	8,833,980	46.60
Cotton flannel[10]	2,923,092	15.43
Mosquito nets	2,113,267	11.16
Hakamaji	450,080	2.38
Other materials[11]	12,665,689	77.98
Total[12]	144,783,496	775.18

is 152,747,694 *yen*. Adding 10,707,429 *yen*[13] of imports and subtracting 25,761,395 *yen* of exports, 137,693,728 *yen* is the amount of the national consumption; and 3.02 *yen* is the consumption per man per year.

The total production of the hempen and linen fabrics in value is 308,358,502 *yen*. Adding 1,161,381 *yen* of imports, we have 309,519,883 *yen* for the total amount of the national

THE CONSUMPTION OF WOOLEN FABRICS AND WOOLEN MIXTURES

	National Consumption per Year	Consumption per Man per Year
Muslin[14]	4,663,505 *tan*	24.60 *sun*
Flannel[15]	123,866 "	0.65 "
Serges and woolen cloth[16]	907,296 "	4.80 "
Total[17]	5,694,667 "	30.05 "

[8] Calculated by the subtraction of 5,192,671 *tan* of export.
[9] Calculated by the subtraction of 10,230,461 yards of export.
[10] Calculated by the subtraction of 9,649,935 yards of export.
[11] Calculated by subtraction of 1,691,694 *tan* of other exports.
[12] The following not included: towels, 4,165,618 dozens; *obiji*, 6,663,709 pieces; export of shirtings, 96,986,780 yards; import of shirtings and sheetings, 27,058,701 yards, cotton flannel, 303,158 yards, satins and Italian cotton, 13,730,437 yards.
[13] Includes hempen fabrics.
[14] Calculated by the addition of 340,500 yards of imports and the subtraction of 688,523 yards of exports.
[15] Calculated by the addition of 385,050 yards of imports.
[16] Calculated by the addition of 3,128,803 yards of imports and the subtraction of 266,973 yards of exports.
[17] The following are not included: blankets, 112,181 pieces; rugs and shawls, 276,662; and other items in value 2,345,508 *yen*.

consumption. The consumption per man per year is 6.81 *yen*.

The total value of the consumption of the woolen fabrics and woolen mixtures is 28,348,603 *yen*. Adding 8,746,329 *yen* of imports and subtracting 1,163,173 *yen* of exports, we see that 35,931,759 *yen* is the sum total of the national consumption; and 79 *sen* is the consumption per man per year.

Summing up all the figures given in the foregoing tables, the national clothing of Japan (woven fabrics) in the terms per man per year can be stated as follows:

	Consumption per Man per Year		Total National Consumption (*yen*)
	Quantity (*sun*)	Value (*yen*)	
Silk fabrics	82.75	1.92	87,325,307
Silk and cotton mixed fabrics	70.72	0.66	29,842,032
Cotton fabrics	775.18	3.02	137,693,728
Hempen and linen fabrics	.....	6.81	309,519,883
Woolen fabrics and woolen mixtures	30.05	0.79	35,931,759
Total	.....	13.20	600,312,709

Owing to the fact that the unit of measure for *obiji* (sash cloth) is different from that of other fabrics, it is better to state these figures in a separate table as follows:

	Consumption per Man per Year		Total National Consumption	
	Quantity (Piece) [18]	Value (*yen*)	Quantity (Piece)	Value (*yen*)
Obiji in silk fabrics	0.020	0.093	894,666	4,208,772
Obiji in silk and cotton mixed fabrics	0.057	0.095	2,597,404	4,299,592
Obiji in cotton fabrics	0.147	0.019	6,663,709	864,948
Total	0.224	0.206	10,155,779	9,373,312

The fabric most used is cotton; the most valuable materials are hemp and linen. The chief use of the latter, however, is not for clothing. Therefore the cotton fabrics

[18] A piece (*hon*) is about 12 feet in length and 1 foot in width.

form the chief material for Japanese clothing. The consumption of the cotton fabrics per man per year is 31.4 yards, entailing an expenditure of 3.02 *yen*. The materials next in importance are silk fabrics and silk mixtures. The consumption per man per year is 6.37 yards, an expense of 2.58 *yen*. Woolen fabrics and woolen mixtures are only used to a small extent; their consumption per capita per annum is 1.2 yards, their value 0.79 *yen*. The use of woolen fabrics and woolen mixtures is generally limited to a portion of the urban population.

A peculiar piece of Japanese clothing is the *obi*, or sash. It is one of the most important parts of the dress, especially for women. The width of a woman's *obi* is about one foot and its length about twelve feet. As it is used to wind around the dress at the waist, it constitutes the most conspicuous part of the whole dress. Naturally very expensive materials are used for the *obi*. The average consumption per man per year is 0.22 pieces, with a value of 0.21 *yen*. However, the use of the *obi* fabrics is largely limited to women, a woman using on an average nearly a half piece at an expenditure of 40 *sen* per year.[19] The use of the woman's *obi* in Japan corresponds to the use of the hat in America in that it is worn primarily for the sake of fashion or ornament. Not much practical advantage results from the use of the *obi* in spite of its high price.

[19] Men's *obi* are used to some extent; they are about four inches in width and twelve feet in length. But the greatly simplified and inexpensive kinds are in popular use.

CHAPTER X

Improvement of Clothing

There are four kinds of clothing materials: cotton fabrics, hempen and linen fabrics, silk fabrics, and woolen fabrics. Each of them has its special characteristics.[1] For the maintenance of a uniform temperature of the body, which is the chief use of clothing, woolen fabric is the best material, and cotton stands next. For the purpose of ornament, the social taste of the present generation counts silk first in order, and wool next. Woolen fabrics, especially flannel, combine a number of the essential qualities of clothing. They are poor conductors of heat, and therefore retain the body heat instead of allowing it to disperse into the atmosphere. The great porosity and absorptivity of woolen fabrics tend to make easy the escape of the exudations of the skin and the body exhalation.

As compared with cotton, wool is rather expensive, but the cost is merely the expression of market price. Its relative value must be decided after careful consideration of its economic nature in regard to its capacity to satisfy the wants for clothing. It is often claimed that woolen clothes are not satisfactory for wear next to the skin as they

[1] The following table shows the comparative nature of the different materials:

	Cotton	Hempen and Linen	Silk	Woolen
Heat maintenance.....	strong	very weak	weak	very strong
Porosity.....	strong	strong	weak	very strong
Moisture absorptivity...	weak	very weak	very weak	strong
Moisture evaporability..	quick	very quick	slow	very slow
Gaseous and odorous absorptivity.....	small	small	small	very small
Filth retention.....	small	small	very small	very great
Irritation to skin.....	slight	great	very slight	very great

—Yamagata, Ishokujyu, pp. 297–298.

cause irritation. If the quality of the fabric is right, however, this assertion is not true. On the contrary, the value of flannel is great when worn next to the skin; for in addition to the protection it affords from the cold, it is also beneficial during the heat of summer, because through its porosity the perspiration is first absorbed and then allowed to escape. Considering the many important qualities to be found combined in flannel, one comes to the conclusion that woolen fabrics are the best materials for clothing. However, in tropical countries where the maintenance of the body temperature is not essential, cotton fabrics take the place of woolen.

From the standpoints of the fitness of a material for the purpose of ornament and of national self-sufficiency, silk fabrics, which are a product of Japan, would be the best. Nevertheless, for the efficient standard of living an important place cannot be given to silk. The nature of silk makes it an inappropriate fabric for common use in Japan. At present (1913) wool cannot be obtained in Japan, and the importation of woolen fabrics is very large.[2]

However, it has recently been proved that sheep raising in the northern part of Japan is a promising industry, and the import will be much decreased in the next few decades. Wool spinning is now a growing industry; five large factories produce about ten million yards per year. On the other hand, although cotton spinning is one of the most important industries and the consumption of cotton fabrics is very great, there is little hope, owing to geographical conditions, that cotton will ever be cultivated to any extent in

[2] Thirtieth Statistical Report of the Department of Agriculture and Commerce, Japan.

	Quantity (yard)	Value (*yen*)
Woolen cloths and serges	14,496,576	10,479,476
Muslin	158,972	47,542
Flannels	682,214	304,076
Other materials	.....	1,613,818
Total	.....	12,444,912

Japan. Such being the case, from the standpoint of national self-sufficiency woolen fabrics must be claimed as the better material for clothing in Japan. Naturally, therefore, an improvement in clothing would call for a much greater use of woolen fabrics.

In the improvement of clothing the form of dress is an important element. In Japan, in the last few decades men have come to use the European costume to a great extent. At the present time both European and Japanese dress is in common use except among certain classes of people. The European clothing is generally worn as the street and the working dress, and the Japanese clothing as the house and the ceremonial dress. It would be a convenient custom to use two different styles of dress for different occasions if it were not necessary to consider the expense of clothing. Japanese clothes, which can be worn very loosely, are well fitted for a life of ease, but are not fitted for working purposes; European clothes, which can be worn snugly and are unencumbered by any superfluous accessories, are very convenient for active work.

Expenditure for two kinds of clothing, however, is somewhat of a waste and can hardly be justified in an efficient standard of living. For the improvement of clothing, in the future it would be better to use one set of clothing, either European or Japanese, whichever is more practical and advantageous according to the needs of the individual. It must be noted, however, that the custom of wearing European clothing is limited to certain classes of men and children. There is no possibility that the European costume will ever be commonly used by women, and the following argument, therefore, refers chiefly to men's apparel.

In comparing European and Japanese clothing the following points should be observed:

(1) The Japanese dress is not serviceable for active work.

(2) The cutting and the sewing of the Japanese dress require a greater expenditure of time and labor than does the making of the European garment.

(3) The materials used for the Japanese dress—namely,

silk and cotton—are not so satisfactory as wool, which is the main material used for the European dress.

On the other hand, the objections to the European dress are:

(1) It fits too tightly to the body and is not so comfortable as the Japanese dress, especially for those who are unaccustomed to it.

(2) The making at home of the European dress for men is generally impracticable.

(3) To mend the European dress is very difficult, while the Japanese is very easily mended and is commonly remade.

In answer to the first objection one may say that the discomfort would disappear after the people get accustomed to European garments. The second and third objections are quite important at present, but the time will soon come when human labor will be too expensive to allow clothing to be made at home, because in the family the benefits of division of labor cannot be obtained. Several attempts to improve the Japanese dress have been made, but none of them so far have been successful.

Moreover, a comparison of the minimum necessary

MINIMUM EXPENDITURE FOR EUROPEAN AND JAPANESE CLOTHING[3]

	European Clothing[4]	Japanese Clothing[5]	
	Cost per Year	Total Value (*yen*)	Cost per Year (*yen*)
Father	$33.00	186.43	55.33
Mother	23.00	132.06	32.29
Each boy	12.00	38.16	18.42
Each girl	15.00	64.07	23.38
For washing[6]	10.00	.....	.....
Total	$105.00	420.72	129.42

expenditures for clothing shows definitely that European clothing is more economical than Japanese.

It must be noted that while the family income in Chapin's

[3] The value of a Japanese *yen* is about one half of the American dollar, but the purchasing power of the *yen* in Japan is about the same as that of the dollar in America.

[4] Chapin, p. 166.

[5] See p. 76.

[6] The cost of the washing of Japanese clothing is included in the figures for each member of the family.

estimate of the minimum expenditure for clothing is about $800, my corresponding figure is about 600 *yen*. The difference in the number of garments is shown in the following table.

Japanese[7]			European[8]		
Kinds	Number of Pieces	Annual Cost (*yen*)	Kinds	Number of Pieces	Annual Cost (dollar)
I. Father:					
Haori	7	3.37	Overcoats	1	5.00
Wataire	8	3.28	Suits	1	10.00
Awase	5	1.34	Pantaloons	1	2.00
Hitoye	10	4.71	Overalls	2	1.50
Hakama	2	1.66	Total		18.50
		14.36			
European clothing		32.04			
Total		46.40			
II. Mother:					
Haori	8	2.97	Cloaks	1	2.50
Wataire	6	2.53	Dresses of wash goods	2	2.50
Awase	5	1.90	Woolen dresses	1	5.00
Hitoye	12	4.45	Waists	3	1.50
Obi	4	3.21	Petticoats	1	.50
Total		15.06	Hats	1	1.50
			Total		13.50
III. Boy:					
Haori	3	0.76	Overcoats	1	2.50
Wataire	5	1.16	Suits	1	2.50
Awase	4	1.12	Trousers	1	.50
Hitoye	8	1.97	Waists	2	.50
Hakama	2	.59			
European coats	1.5	2.18	Total		6.00
European overcoats	1	1.12			
Total		8.90			
IV. Girl:					
Haori	6	2.49	Cloaks	1	2.00
Wataire	8	3.29	Dresses of wash goods	4	2.00
Awase	5	2.04	Woolen dress	1	1.50
Hitoye	10	2.76	Waists	4	1.00
Obi	3	1.45	Petticoats	2	.50
Overcoats	1	1.51	Hats	2	1.25
Total		13.54	Total		6.25

[7] See pages 77–78.

[8] Chapin, p. 166.

In comparing the cost of cutting and sewing European and Japanese costumes, one finds that the latter have a tendency to be more expensive than the former. This is due to the fact that the Japanese clothing, with some exceptions, is made by hand and by means of a few simple tools, while large numbers of European garments can be turned out rapidly through the use of improved machinery. A ready-made suit passing through the hands of forty different workers indicates an advanced stage in the division of labor that can never be expected in Japanese dressmaking.

For women, however, it is neither practicable nor advisable to adopt the European costume for common use. Some twenty years ago Japanese women tried to wear European clothes, but now the attempt is gradually being abandoned for the following reasons:

(1) The Japanese, generally speaking, have comparatively short legs in proportion to the rest of the body, and on Japanese women the European styles are not becoming.

(2) The inconvenience of the superfluous parts of the Japanese costume is not felt so much by Japanese women, who are not required to do such active work as men.

(3) The style and form of Japanese dress is more becoming to Japanese women, in whose moral training great stress is placed on the virtues of gentleness and meekness.

(4) Women's experience in wearing European dress is almost nil, and it will take a long time to create the habit of its use.

After all these factors are taken into consideration, the following suggestions may be offered for the improvement of women's clothing:

Simplification and Economy.—Japanese custom tends to lavishness and waste in expenditure for clothing. Many different kinds of suits are required to appear properly on different occasions. First, three different weights of garments—*wataire*, *awase*, and *hitoye*—in both *kimono* (coat) and *haori* (overcoat) are needed for the different seasons. Then the garments for each season must include an everyday dress, a visiting dress, and a ceremonial dress.

Yet the use of the ceremonial dress and of the visiting dress is greatly limited. It is often the case that these costly clothes are used only once or twice a year. They are simply hoarded and are used very little. Under these circumstances the natural outcome is that at each social call the woman changes her garment to display her large store of clothing. Such a custom is very expensive and has no practical advantage.

Freedom of Movement and Reasonable Durability of Material.—In olden times, when women of the upper classes could enjoy an easy and inactive life and were under no economic pressure, the sumptuous costume which is now popularly worn by women might have been approved. Such clothes, both in material and in form, are not fitted for an active life; often even a walk or light work for an hour or two causes appreciable wear and tear. At present, as the activity of woman increases, her costume should be improved to fit the needs of her changing modes of living. It should be serviceable and require little attention in the way of mending or remaking.

Grace and Beauty.—Ornament is one of the important objects of clothing. Practicability should not impair graceful and beautiful lines. So far the so-called improved garment which has been proposed from time to time has been rather a failure, because it does not combine aesthetic lines with its practical and economical nature. Of course the conception of beauty is greatly influenced by habit, and improvements are sometimes not appreciated until one becomes familiar with them.

It is highly desirable for the maintenance of an efficient standard of living that specialists shall design an improved garment based on the foregoing principles. For this purpose the following practical suggestions are offered:

Universal Use of Hakama for Women.—Properly the *hakama*, which is a kind of skirt to put over the *kimono*, is used by men only. About fifteen years ago, however, school-girls were initiated into the use of the hakama in order to allow greater freedom of movement, especially

during physical exercises in school. It was a success, and nowadays the *hakama* is in common use among not only school-girls, but teachers, physicians, clerks, and some others of the female sex. The improved style of the *hakama* is not only practical, but is becoming to Japanese women.

Abolition or Simplification of the Obi (*sash*).—As was stated before, the woman's *obi* is a gorgeous thing. It is about twelve feet long and one foot wide, with a heavy and magnificent lining. Not only is it very expensive, but the fashion of winding it three times tightly around the abdomen is not hygienic. The *obi* is to Japanese clothing what the corset is to European clothing. From the standpoint of the efficient life it is senseless to wind the *obi* so many times about the body and to tie it in a way that makes a large and heavy bundle on the back. The recent popular use of the *hakama* has already encouraged several devices for the simplification or abolition of the *obi*. As a consequence the expenditure for clothing will gradually be cut down in the future. At present the expenditure for the *obi* is one of the greatest items in the cost of clothing. In the minimum expenditure the *obi* costs the mother 3.21 *yen* a year out of her total expenditure of 32.29 *yen* for clothing.

Use of European Shoes.—Clogs and sandals are costly, and, moreover, the price is likely to become higher and higher. A pair of fairly good clogs or sandals costs over two *yen*, and can be used for only a short time. Their manufacture must be by hand, as not much machinery can be used. Their use is limited to Japan only, and the advantage of large-scale industry and the opportunity for a world-wide market can never be obtained. In the minimum expenditure for clothing the cost of clogs and sandals is as shown in the table on the following page.

Machine Work.—The time will soon come when making clothing by hand will be a process too expensive for economic living. The improved garment must be one which can be made by the sewing machine.

As to clothing for children, the European dress is much better from the standpoint of both hygiene and economy.

NUMBER AND COST OF CLOGS AND SANDALS

	Number of Clogs and Sandals	Annual Cost (*yen*)	Per Cent Total Expenditure for Clothing	Total Expenditure for Clothing (*yen*)
Father[9]	4.0	2.70	12	23.29
Mother	5.0	4.20	13	32.29
Each boy[10]	8.6	1.07	5	18.42
Each girl[11]	4.4	2.44	10	23.38
Total	22.0	10.41	10	97.38

Such Japanese garments as the *wataire*, which is very heavy and not adapted to frequent cleaning, should not be used for children. The use of the European dress for children results in some saving in expenditure for their clothing.

In conclusion, it must be remembered that the function of clothing in our lives has a very intimate relation to housing conditions. The improvement of clothing, therefore, must be made in connection with that of housing. The suggestions for improvement made in this chapter may be practicable only when improvement in housing is worked out.

[9] Besides 1.99 for shoes.
[10] Besides 1.69 for shoes.
[11] Besides 1.28 for shoes.

CHAPTER XI

Some Principles of Expenditure for Clothing

From the studies of the expenditure for clothing the following general principles may be deduced.

(1) The expenditure for clothing in the family budget increases with the severity of the climate.

(2) The expenditures for food, clothing, and housing stand in relation to each other in the family budget. Under-consumption in food and improper housing, or either one of them, will cause a greater expenditure for clothing, and vice versa.

(3) The expenditure for clothing has a tendency to increase more rapidly than the income increases.

(4) In the apportionment of expenditure for clothing among the members of the family the father's expenditure for clothing is greater than that of the mother.

The fundamental object to be attained by clothing—namely, the maintenance of a uniform temperature of the body—gives rise to the first two principles. The atmospheric temperature varies according to differences in climate, seasons, and weather conditions. The human body should be so protected as to maintain a mean temperature of 98° F. Good circulation of the blood can be expected only when the body is kept at the proper temperature. When the body is cold, the blood capillaries and vessels contract, and the blood cannot circulate as freely as it should. Naturally in a cold climate a person needs more clothing than in a warm climate, and the expenditure for clothing increases according to the increase of severity in the climate.

Besides clothing, food and housing exert a great influence upon the bodily temperature. Food produces heat by the internal combustion of carbon and oxygen. Housing is similar to clothing in its effect upon the human body.

Thus the three agents are interrelated with reference to the maintenance of body temperature.

Clothing has another important function to perform; namely, to serve as an ornament for the body. Good clothing should satisfy the wants for decency and comfort besides those for mere necessity. It should not only serve its practical purpose, but its material, make, and style should be suitable to the social standing of the individual. It should be pleasing to others as well as to the wearer. Comfort in addition to necessity, and ornament in addition to practicality, are desirable for the advancement of both individual and social life. However, comfort and ornamentation have a close relation to luxury and vanity. Many people, especially women who have not the will power to adjust their wants to their means, are liable to spend more for clothing than can be justified in an efficient standard of living.[1]

The common belief that women spend more for clothing than men is erroneous. The fourth principle—namely, that the father's expenditure for clothing is greater than that of the mother—is verified by a number of studies in family budgets of the poor and middle classes.[2] The reasons for this fact may be enumerated as follows:[3]

[1] See above, p. 17.

[2] AVERAGE EXPENDITURE AND PER CENT OF EXPENDITURE FOR EACH MEMBER OF THE FAMILY (CHAPIN, PP. 174–175).

Income	Total Expenditure for Clothing		Father		Mother		Boy		Girl	
		%		%		%		%		%
$400 to $499 ..	$60.65	13.0	$16.30	27.0	$9.89	16.0	$11.11	18.0	$9.06	15.0
$500 to $599 ..	67.95	12.4	25.26	37.0	14.81	22.0	9.54	14.0	7.88	12.0
$600 to $699 ..	83.48	12.9	28.10	33.6	17.48	21.0	10.68	12.8	10.90	13.0
$700 to $799 ..	98.79	13.4	34.19	34.6	20.23	20.5	12.98	13.2	12.23	12.4
$800 to $899 ..	113.59	14.0	34.10	30.0	22.76	20.0	16.13	14.2	15.96	14.1
$900 to $999 ..	132.34	14.6	40.36	30.5	27.71	21.0	19.29	14.6	16.96	12.8
$1000 to $1099	155.57	15.5	44.02	28.3	32.25	20.8	24.32	15.7	24.79	16.0
$1100 to $1199	163.80	14.9	58.06	35.4	38.49	23.5	19.79	12.0	18.13	11.0
$1200 to $1299	189.57	15.2	56.04	29.5	41.46	22.0	26.45	14.0	20.15	10.6
$1300 to $1399	180.48	13.7	52.35	29.0	41.81	23.0	25.42	14.0	28.05	15.5
$1500 to $1599	260.97	16.8	66.47	25.5	54.34	21.0	31.64	12.0	54.09	20.7

[3] The special reason why this principle holds in regard to the Japanese is stated in Chapter X.

(a) The father, as the chief wage earner of the family, must necessarily have certain kinds of clothing in which to perform his duties. The mother may not be forced to go out, but the father must appear frequently in social and professional activities. Consequently he must dress according to his standard of life. It is true that women crave good clothing much more than men, but the mother who can attend to most of her duties in her inexpensive house dress has no immediate need for such a variety of apparel as has the father.

(b) In the routine of daily work a man's activity is much greater than a woman's. The man's clothing consequently receives the greater wear and tear.

(c) Owing to the fact that the father is the wage earner of the family, he spends his income for clothing much more freely than does the wife. However, this is not true when the family income is divided among the members according to a certain fixed principle.

(d) The inborn skill of woman in the art of ornamentation makes her expenditure for clothing less than it might otherwise be. Yet this reason is very often annulled by the fact that women—especially young women—love beautiful clothing and often indulge themselves in a vain and extravagant manner.

PART IV

COST OF HOUSING

CHAPTER XII

Expenditure for Housing

The investigation of the housing conditions which I undertook in 1914–1915 was limited to the following cities: large cities (population over 200,000), Tokyo, Osaka, Nagoya, and Kobe; small cities (population 30,000–200,000), Tottori, Nagahama, Hakodate, Hiroshima, Matsumoto, and Okayama. The method of inquiry which was used is like that used in the study of clothing, and for the sake of convenience the same schedule was used for both clothing and housing.[1] Out of 863 schedules which were received from the eleven high school teachers in the different cities, 183 were rejected, and 680 were used for the study.[2] The reason that so many schedules were rejected is because special care was given to the selection of representative houses in the respective income groups. However carefully selected, the 680 used cannot be claimed to be the exact representatives of all Japanese houses in the same income classes. But in spite of its imperfection, the inquiry

[1] See Chapter VIII, pages 71, 72.

[2] Number of Housing Schedules Received, Rejected, and Used; Arranged by Income Classes.

Income Classes	Large Cities			Small Cities		
	Rec.	Rej.	Used	Rec.	Rej.	Used
240–259 *yen*	114	8	106	167	11	156
960–1679 (*yen*)	102	43	59	187	45	142
1680–3000 (*yen*)	138	11	127	155	43	112
Total	354	62	292	509	121	388

throws some light on general housing conditions in Japanese cities.

Some of the leading facts as to housing conditions in Japanese cities are as follows:

Size of House.—A typical family of the income group 240–959 *yen* lives in a house of 889 square feet in the small cities, and of 529 square feet in the large cities. A family of 960–1679 *yen* income lives in 1504 square feet in the small cities, and in 1058 square feet in the large cities. A family of 1680–3000 *yen* income lives in 2351 square feet in the small cities, and in 2138 square feet in the large cities. Taking an average of all the income groups, a family lives in a house of 1580 square feet in the small cities, and of 1246 square feet in the large cities. Thus the ratio between the size of the small city house and the large city house is about 100 to 79.

Number of Rooms.—For the family of the income group 240–959 *yen* the number of rooms in a house is 5.5 in the small cities, and 4.1 in the large cities. The fact that the house in the small cities has more rooms is not true in the other income groups. For the income group 960–1679 *yen* it has 7 rooms in the small cities and 7.8 rooms in the large cities, for the income group 1680–3000 *yen* 9.8 rooms in the small cities and 12 rooms in the large cities. On an average of all income groups a house has 7.2 rooms in the small cities, and 8 rooms in the larger cities.

Size of Rooms.—The house in the large cities has on an average more rooms than that in the small cities, in spite of the smaller size of the house. Consequently the size of the room must be smaller in the large cities. For the families of the income group 240–959 *yen*, the average sized room is 5.1 mats (92 square feet) in the small cities, and 4.6 mats (83 square feet) in the large cities.[3] For the income group 960–1679 *yen*, the average is 6.4 mats (115 square feet) in the small cities, and 5 mats (90 square feet) in the large cities. For the income group 1680–3000 *yen*, the

[3] Japanese rooms are generally measured by the number of mats which cover the floor. The regular size of a mat is 3 by 6 feet.

average is 7.2 mats (130 square feet) in the small cities, and 5.7 mats (103 square feet) in the large cities. The average of all the income groups is 6.2 mats (112 square feet) in the small cities, and 5.1 (92 square feet) in the large cities. As a whole, the amount of income, the size of the house, and room size are proportionate to each other.

House Rent.—The rent in the large cities is of course much greater than that in the small cities. For the families of the income group 240–959 *yen* the rent for the average

RENT PER MONTH, NUMBER OF ROOMS, ETC., IN THE SMALL CITIES

I. Income Group, 240–959 yen

	Tottori	Naga-hama	Hako-date	Hiro-shima	Yone-zawa	Matsu-moto	Average
No. of families	28	27	29	23	24	25	.....
Size of house (sq. feet)	1186	774	770	1062	936	626	889
No. of rooms	6.5	5.1	4.8	5.0	5.5	6.2	5.5
Size of room (mats)	4.5	4.9	5.9	4.2	6.1	5.1	5.1
(sq. feet)	81	88	106	76	110	92	92
Rent per month (*yen*)	3.56	4.07	5.20	5.86	4.10	4.45	4.54
Monthly rent per mat	0.12	0.16	0.19	0.28	0.12	0.14	0.18
Family income (*yen*)	789	521	815	746	583	757	702

II. Income Group, 960–1679 yen

	Tottori	Oka-yama	Hako-date	Hiro-shima	Yone-zawa	Matsu-moto	Average
No. of families	25	22	23	31	21	20	.....
Size of house (sq. feet)	2174	1364	1199	1440	1541	1303	1505
No. of rooms	6.9	7.8	5.6	8.0	6.8	6.9	7.0
Size of room (mats)	6.1	6.4	7.8	5.8	7.7	7.3	6.4
(sq. feet)	110	115	140	104	139	131	115
Rent per month (*yen*)	10.83	9.21	10.33	13.56	12.28	7.20	10.57
Monthly rent per mat	0.26	0.18	0.24	0.29	0.24	0.14	0.23
Family income (*yen*)	1202	1178	1099	1490	1407	1107	1247

III. Income Group, 1780–3000 yen

	Tottori	Hiroshima	Matsumoto	Okayama	Average
No. of families	23	28	30	31	.....
Size of house (sq. feet)	2340	1426	2110	3024	2351
No. of rooms	8.6	9.3	7.9	13.3	9.8
Size of room (mats)	8.9	5.7	8.5	5.8	7.2
(sq. feet)	160	103	153	104	130
Rent per month (*yen*)	13.44	16.75	15.20	19.80	16.25
Monthly rent per mat	0.18	0.32	0.22	0.26	0.25
Family income (*yen*)	2290	2550	3524	3258	2906

house (889 square feet) is only 4.54 *yen* per month in the small cities. In the large cities, however, it is 11.11 *yen* in spite of the decrease in house area to 529 square feet. Only 8 per cent of the family income is spent for rent in the small cities, but it increases 22 per cent in the large cities. For the income group 960–1679 *yen* the rent for a house of 1505 square feet is 10.57 *yen* in the small cities, and in the large cities it increases to 18.42 *yen* per month in spite of the decrease to 1073 square feet in house area. Of the family income only 10 per cent is spent for rent in the small cities, while 16 per cent is expended in the large cities. For the income group 1680–3000 *yen* the rent for a house of 2351 square feet is 16.25 *yen* per month in the small cities, but it increases to 44.23 *yen* in the large cities in spite of the decrease to 2138 square feet of house area. This fact means that 7 per cent of the family income is spent for rent in the former, and 19 per cent in the latter. An average of all the income groups shows that rent in the small cities is 10.45 *yen* per month, and 24.60 *yen* in the large cities, and that the house area decreases from 1580 square feet in the small cities to 886 square feet in the large cities. The expenditure, then, for rent in the small cities is 8 per cent, and in the large cities 18 per cent.

As to the general housing conditions in the city of Tokyo, the official statistics published by the city in 1914 show that the total number of houses in the city is 307,966. The area occupied by one-story buildings is 187,824,564 square feet, and that occupied by buildings of two stories and over is 37,981,116 square feet. By the subtraction of the area occupied by the buildings not used for living purposes, 296,888 houses with an area of 204,494,436 square feet was used for residential purposes, that is, 488,025. The average area occupied by an average family of 3.9 members is 418 square feet. Fifty-five per cent of the total number of houses are one story and 45 per cent two stories and over; out of 45 per cent of the latter only 2 per cent are houses of three stories and over. Of these houses, 91 per cent are built of wood.

RENT PER MONTH, NUMBER OF ROOMS, ETC., IN THE LARGE CITIES

	Income Group, 240–959 *yen*				Income Group, 960–1,679 (*yen*)		
	Tokyo	Nagoya	Kobe	Average	Nagoya	Kobe	Average
No. of families	38	32	36	(114)	32	27	.....
Size of house (sq. feet)	594	500	490	529	1123	1019	1073
No. of rooms	3.6	4.6	4.0	4.1	7.2	8.3	7.8
Size of room (mats)	5.3	4.6	3.8	4.6	5.1	4.8	5.0
(sq. feet)	95	83	68	83	92	86	90
Rent per month (*yen*)	13.86	9.35	10.12	11.11	15.40	21.48	18.42
Monthly rent per mat	0.73	0.44	0.53	0.57	0.42	0.54	0.48
Family income (*yen*)	572	579	654	602	1346	1345	1346

	Income Group, 1,780–3,000 *yen*				
	Tokyo	Osaka	Nagoya	Kobe	Average
No. of families	28	35	27	37	.....
Size of house (sq. feet)	2128	2419	2059	1940	2138
No. of rooms	12.1	12.9	11.1	11.7	12.0
Size of room (mats)	6.0	5.8	6.2	4.6	5.7
(sq. feet)	108	104	112	83	103
Rent per month (*yen*)	50.78	49.97	37.55	38.83	44.28
Monthly rent per mat	0.70	0.63	0.35	0.72	0.60
Family income (*yen*)	2882	2867	3010	2665	2856

SUMMARY OF RENT PER MONTH, NUMBER OF ROOMS, ETC., IN THE DIFFERENT INCOME GROUPS

	Income Group, 240–959 *yen*			Income Group, 960–1,679 *yen*			Income Group, 1,780–3,000 *yen*			Average of All Groups
	Small Cities	Large Cities	Average	Small Cities	Large Cities	Average	Small Cities	Large Cities	Average	
No. of families	156	114	.....	120	59	.....	112	127	.....	.....
Size of house (sq. feet)	889	529	709	1505	1073	1290	2351	2138	2245	1415
No. of rooms	5.5	4.1	4.8	7.0	7.8	7.4	9.8	12.0	10.9	7.6
Size of room (mats)	5.1	4.6	4.9	6.4	5.0	5.7	7.2	5.7	6.5	5.7
(sq. feet)	92	83	88	115	90	103	130	103	117	103
Rent per month (*yen*)	4.54	11.11	7.83	10.57	18.42	14.50	16.25	44.28	30.27	17.53
Monthly rent per mat	0.18	0.57	0.38	0.23	0.48	0.36	0.25	0.60	0.43	0.38
Family income (*yen*)	702	602	652	1247	1346	1296	2906	2856	2881	1610

A valuable study of the housing of the poorest classes in the tenement districts of Tokyo was made by the Department of Interior Affairs.[4] The housing of 3031 families

[4] The investigation was carried on in 1911–1912 in the typical poor section of Tokyo in the Asakusa and Shitaya districts.

was investigated; 73 per cent of these families live in one room, 25 per cent in two rooms, and 2 per cent in three rooms and over. The commonest size of the rooms is 4.5 mats, or 81 square feet. When a family of 3.9 persons live in a room of 81 square feet it means that each person occupies the small space of 21 square feet. This great overcrowding is the prevailing condition among the very poor. The sum of 1.40 to 2 *yen* is commonly the rent paid by families with an income of less than 10 *yen* per month, and 3 to 4 *yen* is paid by families with an income of 20 to 25 *yen*.

NUMBER OF ROOMS OCCUPIED BY THE POOREST CLASSES IN THE TENEMENT DISTRICTS OF TOKYO

Streets	No. of Families Occupying One Room	No. of Families Occupying Two Rooms	No. of Families Occupying Three Rooms	No. of Families Occupying More than Three Rooms	Total
Kanasugishita St.....	656	102	4	2	
Ryusenji St.....	493	193	13	2	
Iriya St.....	230	105	—	—	
Mannen St.....	460	142	17	17	
Yamabushi St.....	288	198	11	—	
Jinkichi St.....	31	13	—	—	
Niiya St.....	47	7	—	—	
Total.....	2205	760	45	21	3031

RENT PER MONTH AMONG THE POOREST CLASSES IN THE TENEMENT DISTRICTS OF TOKYO

Amount of Rent per Month (*yen*)	No. of Families	Amount of Rent per Month (*yen*)	No. of Families
1.00–1.20	15	2.80–3.00	6
1.20–1.40	110	3.00–3.20	6
1.40–1.60	235	3.20–3.40	27
1.60–1.80	94	3.40–3.60	14
1.80–2.00	201	3.60–3.80	—
2.00–2.20	52	3.80–4.00	2
2.20–2.40	30	4.00–4.20	—
2.40–2.60	137	4.20–4.40	7
2.60–2.80	67	Unknown	22
		Total.....	1025

From the results of the study some principles of expenditure for housing may be deduced. However, it must be noted that the fundamental object to be attained by housing is almost the same as that of clothing. The principles of expenditure for housing are therefore largely similar to those for expenditure for clothing.

(1) The expenditure for housing in the family budget increases with the severity of the climate.

(2) The expenditures for food, clothing, and housing stand in correlation to each other in the family budget.

(3) The expenditure for housing tends to increase rapidly as the income increases.

(4) The expenditure for housing in the family budget is much greater in the city than in the country; also, the larger the city the greater the expenditure.

(5) The rate of rent per month paid by poor families is greater than that charged families of the middle and high classes.

An interpretation of most of these facts is not necessary because it is self-evident in connection with the statements which were given under the heading of clothing, and which will be given in the following chapter. As to the last principle, however, the reasons may be summarized as follows:

(a) Usually the members of the family in the small income group are overcrowded in a small house. They are often careless in the use of the building. The natural consequence is that the house is more or less liable to become damaged.

(b) Houses occupied by poor families are in great danger of being destroyed by fires due to carelessness.

(c) The collection of rent from the poor families is a difficult and expensive task.

(d) The poor people move frequently and the landlord loses the rent during the unoccupied intervals.

Thus the expenditure for housing is comparatively heavier for the poor people, and their housing conditions will get worse and worse unless measures are taken for improvement.

CHAPTER XIII

Improvement of Housing

The expenditure for housing must cover all the requirements in the fulfilment of the proper functions of a house. For the maintenance of the efficient standard of living the following conditions must be observed:

(1) The house should be durable and large enough to accommodate the family comfortably.

(2) The house should have ample facilities for a good water supply and the sanitary disposal of waste materials.

(3) The house should have good ventilation and plenty of sunlight.

(4) The building plan should be adapted to the needs of economic and social life.

(5) The house should be located in a place both healthful and convenient.

As is the case with clothing, a good house must satisfy the wants of decency and comfort besides those of mere necessity. However, the temptation to indulge in luxurious expenditure for housing is very strong, because though "your friend may not see the holes in your socks, you can not deceive him so easily if your window panes are broken. So pride encourages every man to hire the best house he can afford."[1]

Just as there are minimum expenditures for food and clothing, so also must there be a lower limit in the expenditure for housing. But that limit is very hard to ascertain. The only possible way to determine it is to work with the results of the physiological experiments on the space necessary for human living. It is calculated that a man inspires from 16 to 18 cubic feet of air in an hour, and at the same time he expires from 0.5 to 0.7 cubic feet of carbonic acid

[1] Streightoff, p. 70.

gas. Air which contains more than six ten-thousandths of carbonic acid gas is injurious to life. Based upon these figures, the minimum space which is physiologically necessary for one man has been estimated at 600 cubic feet for an ordinary living room, 1000 cubic feet for dormitories or other buildings for group life, and 1300 cubic feet for hospitals or other buildings where fresh air is especially needed.

The rooms most commonly used in Japan may be divided into two kinds: the six-mat room, which is 9 by 12 feet, or 108 square feet, and the eight-mat room, which is 12 by 12 feet, or 144 square feet. The usual height of the ceiling from the floor is 8½ feet. Thus a six-mat room, which has a spatial area of 918 cubic feet, is large enough for one and a half persons, and an eight-mat room, which contains 1214 cubic feet, is large enough for two persons. This means that 72 square feet of floor space are necessary for one person. In the ordinary building plan of the Japanese house, on account of the large amount of space devoted to porches, the room area of a house occupies about fifty per cent of the whole house area. Therefore the house area which is necessary for an adult is 144 square feet. In the following table are noted the house areas required for families of from two to five adult members.

A family of two adult members	288 sq. feet.
A family of three adult members	432 sq. feet.
A family of four adult members	576 sq. feet.
A family of five adult members	720 sq. feet.

Boys over 18 and girls over 16 years of age will be counted as adults. Among younger boys and girls those over 14 years will be considered as three quarters of an adult, children from 5 to 14 as one half, and children under 5 as one quarter.[2]

Owing to the fact that Japanese houses are built more openly and lightly than American houses, it would seem that less space would be sufficient in Japanese houses.

[2] Bowley and Burnett-Hurst, Livelihood and Poverty, p. 22.

However, this is not always true because the generation of carbonic acid gas from the imperfect heating and lighting system is greater, and the custom of sleeping on the floor makes the sleeper more susceptible to the effect of bad gases. Therefore the minimum house dimension for an average family of two adults and three children must be at least 500 square feet, or a house of three small rooms (two six-mat rooms and one four-and-half-mat room), besides the kitchen and other bare floor space.[3]

Sunlight is another element which is indispensable in housing. In England one square foot of window area is considered necessary for 125 square feet of living room. Under the school-building regulations in Japan the windows of class rooms should occupy a space equal to one fifth to one quarter of the floor area. Because of the fact that Japanese houses are generally one or two story buildings of the bungalow type, most rooms have direct access to outside light. Though the dark room and overcrowding have always been the two leading housing problems in Europe and America, in Japan the dark room problem is not so great. Overcrowding, however, is serious in large cities. On account of the increase of the urban population year by year, the housing conditions in poor sections are getting worse, and the improvement of housing is now very necessary for the maintenance of an efficient standard of living.

Japanese houses, generally speaking, are divided into four different types.

The Japanese Type.—The Japanese type of building, which has grown out of the influence of ancient Korean, Indian, and Persian architectures, has many attractive features in large edifices such as palaces, temples, and so on. This type, however, is not so suitable for ordinary dwelling purposes.

The European Type.—The European type of building is now widely used for public offices, schools, barracks, and other modern buildings. Yet, for the ordinary family life

[3] The percentage of the room area to the whole house area is greater in the smaller houses.

of the Japanese, it is not considered desirable unless some improvements are made in it.

Mixed Type of the Japanese and the European.—In the present age, when the Japanese carry on two different modes of living, it is quite natural and convenient to have Japanese and European rooms built side by side. For example most families in the middle and high classes provide guest rooms in two different styles: the Japanese room for the visitors wearing the Japanese costume, and the European room with chairs for those wearing the European costume. However convenient this practice may be, the fact that it means a double expenditure in many ways makes it undesirable from the standpoint of economy. Moreover it is difficult to get harmonious architecture in building together rooms of entirely different styles.

United Type of the Japanese and the European.—The united type of building is the one which ought to be adopted for improved housing. Instead of putting European and Japanese types together side by side without much consideration for cost or harmony of architecture, the harmonious union of the Japanese and the European is the main object of this new type. The adoption of the superior points and the rejection of the inferior in both types may do much toward creating an ideal home from the standpoint of efficient living.

Some points to be adopted from the Japanese, among others, are the Japanese characteristic open style in order to give a pleasing sensation of openness and good ventilation, and the use of such unique parts of the building as the *tokonoma*, the *oshiire*, the *kabe*, and so on. The points to be adopted from the European, among others, are the use of glass window panes in order to get sufficient sunlight, and the use of hard floors, tables, chairs, and bedsteads, and the use of the European doors together with the large Japanese screen (*fusuma*). The extent to which these superior points of both types are adopted must differ according to varying circumstances.

For the general improvement of Japanese houses the following suggestions may be made:

Encouragement of Cooperative Ways of Living.—This should be carried out especially in poor sections. The cooperative heating system (in the cold districts) and the cooperative kitchen in apartments and tenement houses, and the common use of yard, garden, bath, kitchen, washing place, and so on, would be beneficial if rightly managed.

Utilization of Space between Ceiling and Roof, and of Ground under First Floor.—The majority of cottages occupied by the poor and middle classes are one or two storied dwellings without cellars or attics. A more economical use of building space is now becoming necessary.

Improvement in Architecture.—The Japanese house in the beginning is not costly, but it needs repair frequently because of its more or less fragile structure. Moreover the devastation by fire is rather great in Japan. Housing is therefore comparatively expensive. The union type of house should be built much more strongly and uninflammable materials should be used as much as possible. Improvements of this kind in architecture are more expensive in the beginning, but are more economical in the long run.

Abolition of Tatami (*Straw Matting*).—The use of *tatami* is unhygienic and uneconomic. Not only is it difficult to clean, but a change of the surface mat is necessary almost every year.

Improvement of Building Plans.—Practicality or utility more than a showy appearance should be the principle followed in drawing up building plans. For example, though the sitting room and the kitchen are used constantly, they occupy a place much inferior to that of the parlor and the front vestibule, which are little used.

PART V

COST OF LIVING AS A WHOLE

CHAPTER XIV

Cost of Living among Tenant Farmers

In the preceding chapters the inquiries were chiefly made concerning three fundamental items of the cost of living. With the aim of obtaining reliable data of the cost of living as a whole, I undertook an investigation of the family budgets of the tenant farmers of the lowest class. The purpose in selecting this class of people is that the results of the inquiry may throw some light upon the conception of the minimum cost of living and the standard of living among the class of people who form the greatest part of the population. It is desirable, also, to get reliable data from their simple mode of living, since life in the city is far too complicated to offer any information as satisfactory as that which is obtained in the rural districts.

In 1913, 250 families were visited by me and eight assistants. After careful examination, however, only 217 schedules have been used, the rest being rejected as unsatisfactory because of their inaccuracy and incompleteness. The districts and the families investigated were selected as being representative of general economic conditions. Each family chosen was self-supporting and consisted of two parents and from two to four children under fifteen.[1] The cost of the investigation, which was paid by the Tohoku Imperial University, Sapporo, was $115.[2] This sum does

[1] For the selection of families the College Farm Report of 1913, which contains a minute directory of the tenants, was carefully consulted.

[2] The expense was as follows:

Traveling expenses	$ 65
Printing of schedules and stationery	23
Services of two assistants	25
Sundries	2
Total	$115

not include remuneration for the services of the investigators, whose regular salaries are paid by the Japanese government.

The schedules were collected from tenants of the College Farms situated in four different regions of Hokkaido (the Northern Island of Japan).[3] Farming in these regions is conducted much more extensively than on the main island of Japan. But because the climate is very severe and the farming season much shorter, the economic standing of small farmers in the main island and in Hokkaido is about similar. Corn, wheat, beans, oats, and potatoes are the principal crops. There are no dairies on these farms. The average area of each piece of land cultivated by a tenant's family is 12.6 acres. Owing to the fact that the farms are owned by the government for scientific purposes, the rent charged for these farms is very much less than the regular rate. As a consequence the value of the right of tenancy is so high that it is almost equal to the real land value. The average total capital of the families investigated is 1330 *yen*. This sum includes all forms of fixed capital: the right of tenancy, which forms 57 per cent of the capital, or 751 *yen;* the buildings, which is 15 per cent, or 196 *yen;* clothing, 12 per cent, or 163 *yen;* and horses, 8 per cent, or 108 *yen*. The rest of the forms of capital are all valued at less than 5 per cent. The distribution of capital may be summarized as follows:

AVERAGE CAPITAL

Forms of Capital	Value (*yen*)	Per Cent of Capital	Remarks
Real estate (right of tenancy)	750.82	57	Area of land, 12.6 acres
Buildings	195.95	15	2.4 buildings with area of 1159 sq. feet
Clothing	162.82	12	
Horses	108.48	8	Number of horses, 1.23
Furniture	58.47	4	
Farm implements	51.23	3	
Chickens	1.15	1	Number of chickens, 2.58
Hogs	0.87		Number of hogs, 0.12
Total	1329.79	100	

[3] The four regions are Misomaye, Kakuta, Furano, and Yamabe.

The average income received by each family is 589 *yen*. Seventy-six per cent of the sum comes from crops, and 11 per cent from labor done for others. The labor each family expends on its own farm is not calculated in this income. The remaining sources of income form less than 5 per cent of the whole.

DISTRIBUTION OF INCOME

Form of Income	Value (*yen*)	Per Cent	Remarks
Crops	451.66	76	Crops sold, 289.30 *yen*
Labor	61.33	11	Work on other farms
Manures produced on farm	24.50	4	Human waste, 556 gals. (40 gals. at 50 *sen*); horse manure, 28,945 lbs. at 50 *sen*
Horses	20.09	4	0.24 horses sold
Chickens	0.96		
Hogs	0.85		0.13 hogs sold
Sundries	29.64	5	
Total	589.03	100	

The expenditure of each family is 519.66 *yen*. This sum includes the farming expenditure, 216.32 *yen*, and the living expenditure, 303.34 *yen;* that is, 58 per cent of the total expenditure is consumed in the cost of living. Then, nearly 60 per cent of the cost of living is expended for food, of which 55 per cent is produced on the farm and 45 per cent is bought from stores. The next largest item is clothing, which forms 9.3 per cent of the expenditure. The cost of housing is only 2.6 per cent in spite of the fact that the expense for a sinking fund is included. Each family owns its home, but the housing conditions are very poor. Recreation, 6.6 per cent of the expenditure, is the third great item. This percentage is spent mostly for smoking and for pilgrimages.[4] The fourth item is lighting and heating, which comprises 5.9 per cent of the whole. The lighting is very inexpensive, but the heating costs a great deal, as

[4] A pilgrimage from one Buddhist temple to another in the different parts of the country during the winter months is a fad among ignorant older people.

the regions are cold. The wood which is gathered from the farm lands is the chief supply of fuel at present, but the time will soon come when the supply must be obtained from

DISTRIBUTION OF EXPENDITURE

Cost of farming	216.324 *yen*[5]
Cost of living	303.339 *yen*
Total	519.663 *yen*

other sources. The fuel problem is therefore becoming a matter of great concern in the rural districts. The expenditure for medical aid, 5 per cent, is comparatively high, chiefly due to the fact that the standard of living is too low.

COST OF LIVING

Items	Amount (*yen*)	Per Cent	Items	Amount (*yen*)	Per Cent
Food[6]	181.077	59.7	Recreation	20.020	6.6
Clothing	28.302	9.3	Charity and religion	6.924	2.3
Housing	7.962	2.6	Health	14.748	4.8
Lighting and heating	18.060	5.9	Education	4.258	1.4
Taxes and fees	11.862	3.9	Saving	1.186	0.4
Society	6.304	2.1	Other items	2.636	0.9
			Total	303.339	100

For the investigation of food consumption forty representative families—ten families in each of four regions—were selected. A blank note-book containing thirty pages was given to each family whose diet during thirty days was to be studied. The housewives or the husbands were asked to fill out the blanks every day under the supervision of the farm inspectors of the college, to whom I previously gave instructions as to the method of inquiry. Each page of the book was for a detailed account of the food consumed in a day. The kinds and quality of food bought or furnished by the farm, the price paid, the menu, and the method of cooking were to be stated in this account. In addition a

[5] Rent of land, 29.05 *yen;* sinking fund, 54.16 *yen,* implements and furniture, 10.30 *yen.* Furniture is included in the cost of farming for the sake of convenience in calculation.

[6] The value of the food produced on the farm is 117.70 *yen.*

report of the chief work engaged in and of the weather conditions of the day was requested in order that the relation of these things to food consumption might be ascertained. Although the fact cannot be shown by statistics, it has been clearly proved that food in greater quantity and of a simpler nature is generally consumed on fair days when a great deal of hard work has been accomplished than on bad days. A smaller quantity of more varied food is consumed on rainy days when light or indoor work is done.

The menu of the daily diet is extremely simple and monotonous. Almost the same dishes are used throughout the year.[7] The only change worthy of note is the variation in vegetables according to the seasons. Naked barley to the amount of 3.45 *go* (0.164 gallons), mixed with 1.95 *go* (0.094 gallons) of rice, is consumed on the average by each adult in a day. The quantity of rice consumed is a little over one half the quantity of naked barley, but it is much more expensive than barley. Sixty-one and nine tenths per cent of the food expenditure is for the principal food and 38.1 per cent for the subordinate food. Of the former, 34.7 per cent is for rice and 27.2 per cent for naked barley. The subordinate food consists of animal and plant food. However, only 8 per cent, or 1 *sen*, is spent for animal food (fish). This food is much more expensive than are vegetables, and therefore the quantity consumed is naturally very small. The most important kind of subordinate food is the vegetable. Though a great quantity of vegetables is consumed the expenditure for them amounts only to 8 per cent of the total expenditure for food because of their cheapness in farming districts. Then come in order *miso*, 5.8 per cent; pickles 4.9 per cent; liquor (*saké*), 0.6 per cent; *shoyu*, 0.2 per cent; and sugar, 0.2 per cent. The total cost of food per man per day is 12.1 *sen*. The same diet would cost 14.3 *sen* in Tokyo. The details of this food investigation may be found in Chapter V.

The foregoing results secured from a limited number of

[7] Rice and naked barley for the principal food, and *miso* soup or stew with plenty of vegetables for the subordinate food.

families in a limited region are probably not so accurate as could be desired. The fact, however, that the life of the tenant family is very simple, and that not much variation can be found in the standard of living among the small farmers of Japan, justifies the foregoing as fairly reliable results.

In comparing these results with other investigations, much similarity is found notwithstanding differences in localities, periods of time, and methods of inquiry. The statistics obtained in Shizuoka Prefecture show that the average small farmer's family of 6.3 members has an income of 816.75 *yen;* that the total cost of living is 334.9 *yen*, which constitutes 42 per cent of the receipts; the expenditure for food is 194.45 *yen*, which is 56 per cent of the cost of living.[8] The average cost of food in six farming regions in Aichi Prefecture is 213.68 *yen*, which is 63 per cent of the cost of living.[9] In the Island of Oki an average tenant family consisting of two adults and two children spend 111.76 *yen*, that is, 69 per cent of the cost of living, and the average land-owning farmer's family, consisting of 5 adults and 2 children, spends 201.55 *yen* for food, which is 54 per cent of the cost of living.[10] The Agricultural Association of Japan estimates that the average family of the Japanese farmers spends 157 *yen* for food, which is 40 per cent of the cost of living. On the whole the cost of living for the small farmer's family is about 300 *yen*, 40 to 60 per cent of which sum is expended for food.

[8] Data secured in Shiratori and nine other farming districts in the Prefecture by the Agricultural Association of the Prefecture.

[9] Yamazaki, Nokano Keizai, p. 80.

[10] Journal of the Agricultural Association of Japan, No. 387 (1914).

CHAPTER XV

Minimum Cost of Living

The cost of living varies greatly according to differences in individual, social, and territorial conditions.[1] In order to get a general knowledge of such a subject, a method of computation which is more or less arbitrary is often more successful than a method which depends merely upon rigid statistical figures. However, the computation should be established as far as possible upon precise data. The results of the investigation already described and the considerations suggested in the preceding chapters are the foundation upon which I shall now attempt to compute the minimum cost of living in Japan.

In approaching the subject it must be remembered that "the term, the standard of life, is here taken to mean the standard of activities adjusted to wants";[2] that wants were classified as necessity, decency, comfort, and luxury wants; and that, in its scientific interpretation, there are two standards of living, the absolute standard and the relative standard.[3] The mode and scale of activities adjusted to the necessity wants was called the absolute standard of living.[4] The minimum cost for the maintenance of this lowest possible standard of living will be called the minimum cost of mere living, or, in brief, the cost of existence. The mode and scale of activities adjusted to the wants for necessity, decency, and comfort in any particular society at any time or in any place was differentiated from the relative standard of living by the term "the efficient standard of living."[5] The minimum cost for the maintenance of

[1] See page 14.
[2] See page 15.
[3] See pages 16–17.
[4] See page 16.
[5] See page 18.

this standard will be called the minimum cost of efficient living, or, in brief, the minimum cost of living.

For the computation of these two kinds of cost the minimum costs of food, clothing, and housing should first be worked out; the total cost of living must then be deduced from these three fundamental items.

Minimum Cost of Food.—In the study of the prisoner's diet the cost per capita per diem was 8.25 *sen* according to local prices, and 10.38 *sen* according to Tokyo prices. In the study of the diet of a family supported by a woman day-laborer living in "primary" poverty it was 11 *sen* according to local prices, and 12.1 *sen* according to Tokyo prices. The quality of these diets is extremely simple, 86.5 per cent of the former and 84.6 per cent of the latter consisting of the principal food, that is, rice and naked barley.[6] The diet in its quantity and quality is not physiologically sufficient to do more than barely sustain life. The average of these two diets, 10 *sen* according to local prices and 11 *sen* according to Tokyo prices, would be the minimum cost of diet for mere living, or, in other words, the minimum food cost of existence.

In the study of the tenant farmer's diet the cost per capita per diem was 12.13 *sen* according to local prices and 14.30 *sen* according to Tokyo prices.[7] This diet may be sufficient in quantity, but its quality cannot be scientifically approved. Of the cost, 61.9 per cent is for the principal food, and very little animal nutrient is taken. However, this sum when used in the most economical way may be able to provide a fairly well balanced and sufficient diet.

The study of the sailor's and soldier's diet shows the cost of diet per capita per diem to be 39.3 *sen* in the navy, and 34.39 *sen* in the army, both according to Tokyo prices, 25.2 per cent of the cost in the navy and 29.1 per cent of the cost in the army being used for the principal food, namely, rice, naked barley, and bread. More than half of the cost

[6] See page 35.
[7] See page 31.

is for animal food. The quantity is ample and the quality fair, but not much attention to economy in selection and cooking of food materials can be expected in a diet which is prepared in such great quantities as it is in the navy and the army. The ordinary family cannot purchase food materials in great quantities, but experienced housewives can utilize an inexpensive diet and at the same time obtain the essential nutritive values. The average cost of the soldier's diet, 37 *sen*, which is about the same as the cost of the standard diet suggested by the Japanese Bureau of Hygiene, would be the cost of a diet for the middle class of people who do not pay much attention to the economy of food.[8]

In the study of the standard diet of a middle class family the cost per capita per diem was 25.9 *sen* according to small-city prices and 30.5 *sen* according to Tokyo prices.[9] As was stated in Chapter IV, the purpose of that study was to suggest a diet which can be approved from both the theoretical and the practical standpoint.[10] Accordingly 26 *sen* and 30 *sen* in the small and large cities respectively would be fair standards for efficient food expenditure. However, it must be remembered that in this standard diet animal protein forms about one third of the entire protein, and the Japanese dietary habit and custom have been to obtain protein from plant food to a much greater extent than is suggested by Atwater and the Japanese Bureau of Hygiene. Dietary experimentation shows that the moderate substitution of plant food for animal food may be able to reduce the cost nearly 10 per cent without any reduction of fuel value in the diet. Such a diet is not unsatisfactory, especially for those whose labor is physical rather than mental. Taking all these facts into consideration, 21 to 29 *sen* with an average of 25 *sen*, and 24 to 32 *sen* with an average of 28 *sen* in the small and large cities respectively would be the minimum cost of diet for efficient living. The

[8] See pages 36–37.
[9] See pages 38–39.
[10] See page 38.

monthly cost of food for a normal family of 3.3 adult units in the small cities is from 21 to 29 *yen* with an average of 25 *yen*, and in the large cities from 24 to 32 *yen* with an average of 28 *yen*.

THE MINIMUM COST OF DIET

	Small Cities		Large Cities	
	Per Man per Day (*sen*)	Per Family[11] per Month (*yen*)	Per Man per Day (*sen*)	Per Family per Month (*yen*)
Prisoner	8.3	—	10.4	—
Woman laborer	10.0	—	12.1	—
Minimum cost of existence	10	10	11	11
Tenant farmer ("secondary" poverty)	12.1	12	14.3	14
Soldier (Navy)	—	—	39.3	—
Soldier (Army)	—	—	34.4	—
Standard diet (Bureau of Hygiene)	—	—	36.5	—
Standard diet (improved)	25.9	—	30.5	—
Minimum cost of living	25 (21–29)	25 (21–29)	28 (24–32)	28 (24–32)

Minimum Cost of Clothing.—In the study of clothing the yearly cost in the small income group (240 to 959 *yen*) in the large cities was for the father 55 *yen*, for the mother 32 *yen*, for the boy 18 *yen*, and for the girl 23 *yen*, making a total of 129 *yen*. In the small cities it was for the father 46 *yen*, for the mother 33 *yen*, for the boy 23 *yen*, and for the girl 25 *yen*, making a total of 127 *yen*.[12] The cost of clothing is nearly the same in the large cities as it is in the small cities. The quality, quantity, and kinds of clothing in both instances are certainly sufficient, if not indeed over-sufficient. Considering the fact that Japanese habit and custom make for some waste in clothing, it would not be difficult to cut down the father's expenditure by 24 *yen* at least (that is, the average cost of his Japanese clothing), and the rest of the family's expenditure by 10 per cent if the

[11] Family unit 3.3.
[12] See pages, 76, 92.

money were rightly expended for the improved costume suggested in Chapter X. Then 60 to 132 *yen* with an average of 96 *yen* would be the minimum cost of clothing for efficient living both in the large and in the small cities.

The minimum absolute cost for clothing is hard to compute because there are great differences in natural and social conditions. The extremely low cost of clothing, however, for the tenant farmer (28 *yen*) and for the woman laborer (3 *yen*) will furnish a clue to the minimum cost of clothing for existence; 3 to 20 *yen* with an average of 12 *yen* a year would probably be the necessary expenditure.[13] The minimum cost of clothing for a normal family for a year, then, will be summarized as follows:

	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)
Absolute standard (minimum cost of existence)	3	20	12
Efficient standard (minimum cost of living)	60	132	96

Minimum Cost of Housing.—The minimum space for housing which is physiologically necessary for a normal family is 500 square feet.[14] Such a house usually consists of two rooms 9 by 12 feet and 9 by 9 feet, besides a small kitchen and a little other bare floor space. In the study of housing in the small income group the size of the house was found to be 529 square feet in the large cities and 889 square feet in the small cities; the number of rooms 4.1 and 5.5, and the average size of a room 83 square feet and 92 square feet respectively. The monthly rent of this house was 11.11 *yen* and 4.54 *yen* respectively.[15] If rightly arranged and managed, the conditions of these houses might not be very inadequate, and 8 to 20 *yen* with an average of 14 *yen* in the large cities and 5 to 15 *yen* with an average of 10 *yen* in the small cities would be the minimum housing cost for efficient living.

[13] Page 130.
[14] Page 123.
[15] Pages 117, 119.

The studies of poverty in Tokyo and Sapporo (woman laborer) must be the basis for an estimate of the minimum housing expenditure for existence.[16] The rent in the farming districts is too low to be used for cities. Considering the fact that the city authorities in Tokyo set 3 *yen* as the monthly rent for the poverty line, the minimum cost of housing for existence would be 0.50 to 2.50 *yen* with an average of 1.50 *yen* in the small cities, and 0.75 to 3.25 *yen* with an average of 2 *yen* in the large cities. These houses have an insufficient spatial area and are in poor repair, yet for the purpose of mere existence they are habitable, for life is not affected so seriously by bad housing as by poor nourishment.

The minimum monthly cost of housing may then be summarized as follows:

	Small Cities			Large Cities		
	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)
Absolute standard (minimum cost of existence).....	0.50	2.50	1.50	0.75	3.25	2.00
Efficient standard (minimum cost of living).....	5.00	15.00	10.00	8.00	20.00	14.00

In summing up, the tables on page 139 will show the minimum cost of the three fundamental items in the cost of living.

The rest of the items—namely, lighting and heating, education, society, religion, health, recreation, saving, and sundries—should also be considered to get the sum total of the cost of living. However, a fixed standard of these expenditures can hardly be established, owing to their exceedingly variable nature. They are also more or less inconsiderable in comparison with the three fundamental items. The best indices of the cost of living, therefore, are the percentages spent for food, clothing, and housing.

In considering food expenditure one finds Engel's laws

[16] Page 120.

MINIMUM COST OF THE THREE FUNDAMENTAL ITEMS IN THE COST OF LIVING FOR A NORMAL FAMILY

I. *Standard of Existence*

	Small Cities			Large Cities		
	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)
Food:						
Monthly.....	7	13	10	8	14	11
Yearly.....	84	156	120	96	168	132
Clothing:						
Monthly.....	0.25	1.80	1.00	0.25	1.80	1.00
Yearly.....	3	20	12	3	20	12
Housing:						
Monthly.....	0.50	2.50	1.50	0.75	3.25	2.00
Yearly.....	6	30	18	9	39	24
Total:						
Monthly.....	7.75	17.30	12.50	9	19.05	14
Yearly.....	93	206	150	108	227	168

II. *Standard of Living*

	Small Cities			Large Cities		
	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)	Minimum (*yen*)	Maximum (*yen*)	Average (*yen*)
Food:						
Monthly.....	21	29	25	24	32	28
Yearly.....	252	348	300	288	384	336
Clothing:						
Monthly.....	5	11	8	5	11	8
Yearly.....	60	132	96	60	132	96
Housing:						
Monthly.....	5	15	10	8	20	14
Yearly.....	60	180	120	96	240	168
Total:						
Monthly.....	31	55	43	37	63	50
Yearly.....	372	660	516	444	756	600

to be as true in Japan as they are in other countries: (1) The smaller the income the greater the proportionate expenditure for food; (2) the proportion expended for food is a sure index of the material prosperity of a people. Both the woman laborer's family and the tenant farmer's family

expend 60 per cent for food. Families of the Ainu race and other primitive families often spend as much as 90 per cent.[17] The proportion expended for food diminishes with the increase in size of the city, for in the large cities the proportion expended for rent and a few other items is much greater than in the small cities. Studies made in other countries show that the percentage for food is generally 40 to 70 in the small income groups.[18] Taking all these facts into consideration, 65 per cent would be about the average proportion expended for food by families in "primary poverty"; or, in other words, 65 per cent of the income must be spent for food in the maintenance of existence.

Similarly the percentage for clothing at this lowest possible standard would be 6 per cent both in the small and in the large cities, and the cost of housing 10 per cent in the small cities and 12 per cent in the large cities. Calculating from these percentages, we find that the total cost of existence would be 180 *yen* a year in the small cities, and 200 *yen* in the large cities. The presumable range of these incomes is 120 to 260 *yen* in the small cities and 130 to 270 *yen* in the large cities, according to the different social and physical circumstances of the individuals. The amount left, accordingly, for lighting, heating, and all other items which are indispensable for physical welfare, together with all those relating to intellectual, moral, and religious development, would be only 30 *yen* in the small cities and 32 *yen* in the large cities. In the present generation a life without these things cannot be called living; it is nothing more than a bare existence, which in the long run will result in physical and spiritual deterioration.

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[17] See page 18.

[18] (1) Belgium: Food 70.8 per cent, income 565 fr. (Zeitschrift des statistischen Bureaus des königlichen Sachsischen Ministeriums des Innern, 1857); (2) Massachusetts: Food 64 per cent, income $300–450 (Massachusetts Bureau of Statistics of Labor, 1885); (3) Saxony: Food 62 per cent, income under 1200 fr. (Zeitschrift, 1857); (4) United States: Food 48 per cent, income $200–400 (18th Report of Commissioner of Labor); (5) United States: Food 44.2 per cent, income $200–400 (More); (6) United States: Food 40.8 per cent, income $400–499 (Chapin).

For efficient living the items relating to education, society, religion, recreation, and saving must not be neglected. Living in a civilized nation must include "a well drained dwelling with several rooms, warm clothing, with some changes of underclothing, pure water, a plentiful supply of cereal food, with a moderate allowance of meat and milk, and a little tea, etc., some education and some recreation, and lastly, sufficient freedom for his wife from other work to enable her to perform properly her maternal and household duties."[19] Judging from the data now in existence, 35 per cent for food would not be too far from the average standard for efficient living in both the small and the large cities in the present generation. This percentage, together with the 11 per cent and 10 per cent for clothing, and 14 per cent and 17 per cent for housing in the small and the large cities respectively, will amount to 860 *yen* and 960 *yen*, the suggested minimum cost of living in the small and the large cities respectively.

The tables on page 142 show the minimum cost of existence and of living according to the efficient standard arranged to show the percentage spent for each item.

In summary, therefore, the results of this study show that in 1913 in the large cities a normal family of 3.3 units with an income less than 200 *yen* could not maintain existence, and with an income less than 960 *yen* could not maintain a standard of efficient living. In the small cities the respective figures are 180 *yen* and 860 *yen*. In short, the minimum cost of living in Japan (Tokyo) is 960 *yen*, and the distribution of this expenditure is 336 *yen* for food, 96 *yen* for clothing, 168 *yen* for housing, and 360 *yen* for other items. This amount of income, if expended in the most economical way, permits the normal mode and scale of activities adjusted not only to the necessity wants, but also in a slight degree to the decency and comfort wants.

Ordinarily the standard of living falls into three broad divisions: that of the poor, of the middle class, and of the rich; each of them again may be subdivided into lower and

[19] Marshall, p. 121.

THE ABSOLUTE STANDARD OF LIVING—"PRIMARY" POVERTY

	Small Cities			Large Cities		
	Per Cent of Total Expenditure	Amount		Per Cent of Total Expenditure	Amount	
		Monthly (*yen*)	Yearly (*yen*)		Monthly (*yen*)	Yearly (*yen*)
Food:						
Minimum	.....	7	84	.....	8	96
Maximum	.....	13	156	.....	14	168
Average	65	10	120	65	11	132
Clothing:						
Minimum	.....	0.24	3	.....	0.25	3
Maximum	.....	1.80	20	.....	1.80	20
Average	6	1	12	6	1	12
Housing:						
Minimum	.....	0.50	6	.....	0.75	9
Maximum	.....	2.50	30	.....	3.25	39
Average	10	1.50	18	12	2	24
Other items:						
Average	19	2.50	30	17	3	36
Total:[20]						
Average	100	15	180	100	17	200

THE EFFICIENT STANDARD OF LIVING

	Small Cities			Large Cities		
	Per Cent	Amount		Per Cent	Amount	
		Monthly (*yen*)	Yearly (*yen*)		Monthly (*yen*)	Yearly (*yen*)
Food:						
Minimum	.....	21	252	.....	24	288
Maximum	.....	29	348	.....	32	384
Average	35	25	300	35	28	336
Clothing:						
Minimum	.....	5	60	.....	5	60
Maximum	.....	11	132	.....	11	132
Average	11	8	96	10	8	96
Housing:						
Minimum	.....	5	60	.....	8	96
Maximum	.....	15	180	.....	20	240
Average	14	10	120	17	14	168
Other items:						
Average	40	27	344	38	30	360
Total:[20]						
Average	100	70	860	100	80	960

[20] Figures in round numbers.

higher. Although these terms are indefinitely used and lack scientific precision, customary usage will justify the following interpretation of the terms. Poor is the term used in a broad sense for all those who are in economic insufficiency. Professor Hollander defines the term thus: "Midway between the modestly circumstanced and the outright dependent are the poor in the sense of the inadequately fed, clad, and sheltered."[21] In Rowntree's definition the term includes both "primary" and "secondary" poverty.[22] The poor, according to my definition of the standard of living, are all those whose income is sufficient to meet only the mode and scale of activities adjusted to the necessity wants (used in the narrow sense), with no allowance for decency, comfort, or luxury wants.

The middle class includes all those whose income, if expended in the most economical way, allows them to enjoy the efficient standard of living. That is, the income is sufficient to maintain the mode and scale of activities adjusted to the decency and comfort wants, besides necessity, but there is no allowance for the luxury wants.

The rich is a term used to designate those higher than the middle class, and includes all those who receive an income greater than that necessary for the maintenance of the efficient standard of living. The surplus is ordinarily spent in luxury, saving, investment, or social betterment.

With this exposition of the term in mind, income limits for the three grades of living in the large cities of Japan may be set approximately as follows:

Class	Grade	Minimum | Maximum
Poor	Low	less than 200 *yen*
	High	200– 700 *yen*
Middle Class	Low	700–1200 *yen*
	High	1200–1800 *yen*
Rich	Low	1800–2500 *yen*
	High	2500 *yen* and over

[21] J. H. Hollander, Abolition of Poverty, p. 2.
[22] Rowntree, Poverty, pp. 86–87.

In the United States the minimum cost of living for 1913 was about $1000 in the large cities.[23] A comparative study of the Japanese and the American cost of living might make an interesting discussion in connection with this chapter, and I hope to make another and more minute inquiry. However, in conclusion the following observations may be made:

(1) The minimum cost of living in Japan—namely, 960 *yen* or $480—is about one half of the American minimum cost of living ($1000).

(2) The purchasing power of Japanese money in Japan, however, is about twice as much as that of American money in America. Consequently 960 *yen* furnishes about as good a livelihood in Japan as $1000 in America.

(3) The habitual use in Japan of cheap but nutritious foodstuffs such as fish, rice, beans, *miso*, *tofu*, and so on, serves to lessen the sum of money expended for food. Cutting down the food expenditure, then, is not so difficult a problem in Japan as it is in America.

(4) The apportionment for rent is much less in Japan, and a lower cost of living as a whole is therefore practicable.

(5) The common belief that the standard of living in Japan is very much lower than in the United States is not scientifically proved. Probably it is a misconception.

(6) The low cost of living does not necessarily mean a low standard of living. The arguments which make no clear distinction between the standard of living and the cost of living are erroneous.

(7) Both a high standard of living and a low cost of living are desirable for economic advancement. But the rate of increase in the cost of living in Japan is and will be much greater than the rate of increase in the standard of living. This is one of the consequences of the transition from the closed national economic stage to the open world economic stage which has taken place so rapidly within the last few decades.

[23] Estimated at "$900 or over," by Chapin, 1907 (p. 246); "more than $600 in Southern cities," by Ryan, 1905 (p. 150); "more than 1000 dollars," by Smart (Ryan, p. 136); "from $800 to $900" by More (p. 270).

GLOSSARY

Ame—Honey-like jelly made of wheat.
Awase—Medium weight garment, lined.
Bancha—Inferior kind of green tea.
Daikon—Kind of garden radish.
Futakoori—Kind of silk fabric woven with threads of two strands.
Futoori—Kind of thick coarse fabric.
Go—0.1 *sho*, 0.04765 United States standard gallon, or 1.2705 gill (United Kingdom). (1 pint = 3.14 *go*.)
Goishicha—Kind of compressed tea.
Gomanoyu—Vegetable oil made of Semanium Orientalis.
Gyokuro—Superior kind of green tea.
Habutaye—Kind of glossy silk fabric.
Hakama—Kind of skirt.
Hakamaji—Skirt cloth.
Hakimono—Clogs and sandals.
Hakucha—Kind of compressed tea.
Haori—Kind of coat to wear over the main garment (*wataire*, *awase*, or *hitoye*).
Hitoye—Light garment, not lined.
Itoori—Kind of silk fabric with fine twisted threads.
Jyuban—Kind of underwear, combination suit.
Kabe—Mud wall.
Kaiki—Kind of glossy silk fabric.
Kasaji—Umbrella cloth.
Kasuri—Cloth with minute marks of various forms.
Katsubushi—Dried flesh of bonito, a kind of condiment.
Kimono—Clothing, garments.
Kin—160 *momme*, 1.323 pounds.
Kobaikaiki—Kind of silk fabric.
Koku—100 *sho*, 4.96 bushels.
Konnyaku—Kind of edible root, something like taro.

Koshihimo—Smaller sash tied round hip, keeping dress in place.

Miso—The most widely used food preparation, made of wheat, beans, and salt. It forms a substance something like soft cheese.

Myoga—Edible plant (Gingiber Mioga).

Nanako—Kind of silk fabric woven with threads of three strands.

Negi—Onion, something like spring onion.

Obi—Sash.

Obiage—Smaller sash tied around hip, keeping in place the larger sash.

Obiji—Sash cloth.

Obitome—Smaller sash used to fasten and support the larger sash; generally a fancy buckle is attached.

Oshiire—Kind of closet.

Rekicha—Kind of compressed tea.

Ro—Kind of gauze.

Saké—National strong liquor brewed from rice; it contains about 15 per cent of alcohol.

Sen—0.01 yen, about ½ cent.

Sencha—Ordinary green tea.

Sho—10 *go*, 0.4765 United States standard gallon, 0.39703 gallons (United Kingdom), 1.8 litre.

Shoyu—Kind of sauce made of beans and barley with plenty of salt.

Sukiya—Thin silk fabric for making summer garments.

Sun—1/10 *shaku*, 1.49 inches.

Tabi—Kind of sock, close-fitting covering for the feet, made by sewing together pieces of cloth.

Takuwan-zuke—Kind of pickle, tsukemono, which was first prepared by a priest named Takuwan.

Tan (square measure)—0.245 acre, 300 *tsubo*.

Tan (linear measure)—280 *sun*, 11.6 yards.

Tōfu—Preparation made of bean curd hardened by mixing with a small quantity of the brine left after the deliquescence of salt (bean jelly).

Tokonoma—Alcove in the parlor; regarded as the seat of honor.

Tsukemono—Vegetables, generally radish and turnip, pickled in a mixture of salt and rice bran.
Tsumugi—Kind of pongee.
Umé—Variety of plum (prunus mume).
Umeboshi—Plums (*ume*) pickled in salt.
Uba—Skin of bean curd.
Wataire—Padded garment.
Woroncha—Kind of black tea.
Yakifu—Preparation made of wheat ground whole, something like a cracker.
Yen—100 *sen*, about 50 cents (7.5 dg. fine gold.)

INDEX

SUMPTUARY LAW IN NÜRNBERG

SERIES XXXVI NO. 2

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE
Under the Direction of the
Departments of History, Political Economy, and Political Science

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SUMPTUARY LAW IN NÜRNBERG

A STUDY IN PATERNAL GOVERNMENT

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CONTENTS

SUMPTUARY LAW IN NÜRNBERG

INTRODUCTION

Sumptuary regulation prevailed throughout Europe in the legislation of all varieties of sovereign authority from an early date in the Middle Ages until the opening of the nineteenth century. Statutes of the English parliament, ordinances of the French kings, decrees of the emperors and diets of Germany were issued from time to time with the intention of restricting the different classes of the population in the indulgence of what was thought to be luxury. Alongside of these acts of general legislation some of the most interesting forms of sumptuary ordinance are to be found in the little governments of the free cities of the mediaeval Roman Empire, particularly in Germany and Italy. One of these communities affords the subject of this study.

In the weakness of the national power the German cities at an early date shook themselves free from the larger political units in which they were situated, and were able to establish a practical independence in the management of their internal affairs, which they extended to many of their relationships with the outer world. Within the contracted circles fixed by their ponderous walls there developed homogeneous communities of a peculiar type. They were not so populous but that the burghers were thrown into more or less intimate relationships with each other in their crafts and trades, as well as in the frequent social encounters of a small society.[1] The mere physical

[1] It is easy to get an exaggerated notion of the size of the mediaeval communities. At the end of the Middle Ages only a very few of the German cities had a population of 20,000. Strassburg and Nürnberg, the largest, slightly exceeded this figure. Not a great many could count over 10,000. The majority of the imperial free cities numbered between 5000 and 10,000. The greater proportion of them did not reach the 5000 mark (Inama-Sternegg, Deutsche Wirtschaftsgeschichte, vol. iii, part 1, pp. 25–26).

nearness of the authority which had jurisdiction over them brought to pass an intimacy of control which corresponded to the literally personal familiarity of the magistrates with their lives and interests. The city councils early attained a position of power in their communities which made it possible for them to exercise the most intensive supervision. As champions of the burghers in their struggles to break away from external authority, they firmly grounded their own power, while they multiplied their functions until these included the whole compass of dominion, from mustering an army to fixing the price of bread. Such conditions, social and political, favored a development of the paternalism of which the sumptuary regulations are a pronounced expression.

The sumptuary ordinances have an important incidental value in furnishing an interior view of mediaeval life. In restricting luxury they reveal in the act of enumeration the customs, the dress, the furnishings of the age. They enable one to look directly into the private doings of the men and women, and to catch them in attitudes and engagements which otherwise escaped record because they were too familiar, but which to the later world are both picturesque and significant. They make the people seem more human, and help us to visualize a life which at best is too remote.

Studies of sumptuary legislation are not without precedent, but historians have been interested in the subject chiefly for its sidelights upon manners. They have displayed a certain curiosity for the picturesque and the antique. Careful enumerations have sometimes been made,[2] but too often these laws have been treated as a phenomenon of interest because they were odd. Consequently the task of relating the sumptuary legislation to the total scheme of mediaeval law-making yet remains to be done. For sumptuary law was not an excrescence. It

[2] For instance, H. Bodemeyer, Die Hannoverschen Luxus- und Sitten-gesetze; Schwarten, Verordnungen gegen Luxus- und Kleiderpracht in Hamburg (Zeitschrift für Kulturgeschichte, 6.); Liebe, Die Kleiderordnungen des Erzstifts Magdeburg; etc.

claims the serious interest of the student of jurisprudence and of civilization because it registers the high water-mark of the mediaeval spirit of government, that paternalism which the authorities openly avowed as their "väterliche Fürsorge" for the governed. It carries to ultimate expression the idea of the Middle Ages that the state was responsible not only for "the enforcement of thrift in industry," but as well for the economy and the conformity to moral standards of the family life of every person under its care.

Sumptuary regulation was of a piece with the whole design of mediaeval municipal law-giving. We have learned to accept as normal to that period the minute regulation of prices, the strict supervision of purchase and sale, the fixation of wages, and the prescription of the quality of goods and the conditions of production. It is only a step from these matters to that regulation of personal expenditure which is the typical feature of sumptuary legislation. In the sumptuary ordinance we may see reflected at its clearest the paternal attitude of the legislators, and realize in its purest expression the sense of responsibility which they felt for the whole round of the activities of the citizen, from economic to moral. The town fathers required him not only to transact his business in accordance with standards of equity which they authorized, but also to adjust his personal economy, to dress, to curtail his luxuries, after their ideas of propriety. When the government undertook to dictate what a citizen should spend on his clothes, his wedding, his feasts, the christening of his baby, the burial of his kin, it laid its hand directly upon some of the liveliest of human desires. These laws therefore serve to illustrate the relationship of citizen and state on the plane of most intimate contact.

The sumptuary legislation prior to the Reformation has an interest of its own, which has been heightened by a popular misconception. It has been the custom to associate close governmental supervision of personal conduct with a sharpening of conscience that followed the Reforma-

tion. When we think historically of Blue Laws, our thoughts at once run to Geneva and the Puritans. But, as Professor Vincent pointed out some years ago,[3] laws of the same type as the regulations of Protestant Geneva or of the Puritans were part of the normal program of legislation in the free cities of Europe long before the day of Calvin or Cromwell, and while Roman Catholic faith still enjoyed its monopoly. Professor Vincent's later studies in Basel and Zürich have supported this conclusion with fresh evidence. The enactments of the reformed cities, which have monopolized attention by their exaggerated strictness, were by no means unique, however much their rigor and particularity may have been stimulated by fervid religious impulses. They were of a piece with legislation that had prevailed throughout Europe since the thirteenth century. It therefore becomes of especial interest to study the paternal regulative policy as it prevailed in the Middle Ages proper, in order to know to what extent it was pressed, what motives it discloses, and what conception of the duty of the city state to the citizen in the realm of his economies and morals it exhibits, before the influences of Protestantism began to tell.

The interesting results of the studies in Switzerland suggested the desirability of investigating, upon a similar plan, the sumptuary legislation of communities of the same type in Germany. The range of choice was wide, physically limited only by the accessibility of materials; for the making of sumptuary laws was a widespread phenomenon, and went on actively in cities as distant and as diverse in circumstances as Cologne and Hamburg, Stralsund and Görlitz, Hanover and Ulm. For the selection of Nürnberg as the subject of this preliminary study there were several good reasons. Apart from the fact that the extant sumptuary laws of Nürnberg for the centuries preceding the Reformation are numerous and are within reach, the constitution and the political position of the city offered

[3] J. M. Vincent, "European Blue Laws," in Annual Report of the American Historical Association, 1897, pp. 355–373.

in an unusual degree the conditions of a normal experiment. The stability of the city government, which with a momentary interruption remained unaltered for some five hundred years,[4] gave its laws the character of a continuous policy, and made it unnecessary, in tracing the course of sumptuary legislation, to allow for disturbances due to shifting authorities. The government itself, monopolized by a few old families, was peculiarly in position to exercise paternal oversight of the most characteristic sort. Furthermore the public life of Nürnberg had a cosmopolitan quality. Its traders had continual intercourse with the rest of Germany and with the world.[5] One has only to read the Jahrbücher of the fourteenth century, mainly from the pen of a brewer of the city,[6] to recognize the breadth of horizon that lay open to the citizen of Nürnberg. He breathed an atmosphere astir with significant interests. One may therefore expect to find in the Nürnberg laws a minimum of provincialism, or fewer of the antiquated customs which might survive in more sequestered communities. The place was apparently abreast of the times; and however strange to modern eyes its sumptuary laws may seem, they were characteristic and typical of the period.

In the present study attention has been directed mainly to the Nürnberg ordinances that appeared before the Reformation. The object has been to determine to what extent paternal interference had been proposed, to what extent the government felt responsible for the conduct of persons in their private capacities, before the Reformation could have had any influence over the authorities in enlivening their conscience or modifying their notions of government. We can measure the extent of this intention to interfere only by the particularity of the regulations, and by the signs of alert watchfulness. The endeavor has been

[4] For full account of the Nürnberg government, see below, Chapter I.

[5] Johann Müller, "Regiomontanus," selected Nürnberg as his residence and the seat of his studies because of its centrality in thought and trade, and its consequent stimulus and convenience for the scholar (J. Janssen, History of the German People, vol. i, p. 141).

[6] Chroniken der deutschen Städte, Nürnberg, vols. iv and v, pp. 47–706. (Paged continuously.)

to record any indications of either slackening or invigoration of the interest of the city fathers in the laws; and further, to trace any lines of development in the social theory which they sought to apply. It has also been continually an object to decipher the motives of the council, and to define, as far as they could be inferred, the grounds on which it proceeded against what seemed to it extravagance or impropriety in conduct. It will be seen that motives and lines of regulative policy that have been attributed to the impulses of the Protestant movement had been operative long before, and in fact originated when mediaeval conceptions of life were still reigning undisturbed.

It would be misleading to leave the impression that the sumptuary laws of Nürnberg are interesting only in relation to the Reformation. They have their primary significance in themselves and in reference to the age and the society in the conceptions of which they are rooted. They introduce the student of the Middle Ages directly to a philosophy of government and of life which has entirely passed out of our experience; and in this they have their first value. The picturesqueness, which has absorbed much attention, detracts nothing from their usefulness for this more serious purpose. It gives them a certain appeal to the imagination, and helps one to reconstruct the framework of the social life which they serve to interpret. This is my reason for describing the ordinances in more detail than the main objects of the study seem to require. It is a great aid to appreciation of them always to bear this framework in mind. To have it pictured in the background of one's thinking is part of that reconstruction in imagination in which one seeks the external aid of contemporary art, and with all such materials rebuilds the city: the lofty gables; the shadowed streets; the massive girdle of moat and battlemented wall; the men and women who came and went in costumes which have grown curious and strange in the long lapse of time. This reconstruction is something more than a pleasant exercise of fancy. It kindles curiosity to know how life appeared to these people, what comforts

they enjoyed, what limitations hemmed them in, and what thoughts and ambitions they evidently entertained. One task of this study is to find out, if possible, the sentiment of the ordinary citizen toward his city government, and to ascertain how far its minute regulation was accepted as natural and proper. Almost every clause in the sumptuary ordinances discloses some legal obstruction, some new reminder of the government, which the citizen was liable to meet in his daily walk as a result of the paternal attitude of the council. By the variety and the multiplicity of these items one may calculate the points of personal contact with the state.

The present investigation must be regarded as introductory, even in respect to the sumptuary legislation of Nürnberg. It deals only with the ordinances as issued, and omits many questions which cannot be answered except by a study of their actual administration. It is important to show first what the council believed to be its duty in the matter of regulation; and for the determination of theory the statutes have been diligently compared over a considerable period of time. The actual pressure of the laws upon the citizen, and other interesting problems which turn upon their enforcement, have been left for further observation.

In the first of the chapters that follow I have undertaken to relate the making of sumptuary ordinances to the general scheme of government in Nürnberg, and to indicate its place in the other legislative activities of the council. I have then given an analysis of the wedding regulations, because in Nürnberg, previous to the Reformation, these were the fullest of the sumptuary laws, and they are best adapted to exhibit the distinguishing characteristics of the ordinances. They are taken up with special reference to the increase of wealth that came to the city in the fifteenth century. The main object of the chapter is to discover what light they shed on the vigor of the regulative policy and on the motives that underlay their making. The fact that the comprehensive wedding ordinance of 1485, the

Hochzeits-büchlein, as it was called, was still in effect and was subjected to revision in the year after the council had committed itself to Protestantism, made it seem desirable, where it was convenient, to point out the immediate effect of the Reformation on at least this one class of sumptuary law, and to indicate the path of further investigation.

The chapter on Wedding Regulations and the Reformation includes a sketch of the Protestant movement in Nürnberg, which assists in explaining the nature of the changes wrought in the paternal ordinances. At that point the argument required a brief indication of the extent to which moral legislation other than sumptuary had been enacted before the Reformation; and this forms the subject of the fifth chapter. The study then returns to a discussion of the main divisions of the sumptuary ordinances, and takes up in successive chapters those which regulated christenings, funerals, and apparel, one object being to exhibit the many different directions in which the citizen was likely to encounter the paternal restraints of the government. In the last chapter a specimen of clothing regulation of the seventeenth century is considered, in order that the contrast with those rules which date from the Middle Ages may set in relief some of the ulterior problems of sumptuary law, to the further illumination of which this study has undertaken to contribute.

CHAPTER I

Government of Nürnberg

The council of Nürnberg, which constituted its government, was aristocratic throughout the history of the city. In some of the great mediaeval towns, as in Cologne, Brunswick, Magdeburg, the old families ("geschlechter") were unhorsed during the fourteenth century in those uprisings of the gilds which occurred in rapid succession throughout Germany and whose interrelations have never been fully illuminated. The Nürnberg geschlechter had a narrow escape in 1348; in that year the gilds for an instant triumphed; but the families were restored by a favorable stroke of fortune, and they returned to settle a grip on the government which they were able to render secure and retain permanently.

At some time during the eleventh century the settlement that was to become the city of Nürnberg began to cluster on the north bank of the Pegnitz River about a rocky prominence which was crowned with a castle of the Franconian emperors. Attracted by the shelter of this stronghold and by a neighboring shrine of St. Sebald, which contained some wonder-working relics of the saint, settlers swarmed upon the open ground between the rock and the stream, and engaged in trade on the strength of a grant of market rights from the king, and for a while looked to the castellan ("burgvogt") both to guard and to govern them.[1] With the germination of independent government, of which nothing is to be known except by chance and uncertain glimpses, we are not concerned. Suffice it to say that by the middle of the thirteenth century a council had definitely appeared as an organ of the community, and probably had

[1] K. Hegel, in Chroniken der deutschen Städte, Nürnberg, vol. i, pp. xiv–xv.

been operative for some time previous; and this, with the "schultheiss," a royal appointee, with important functions as judge and executive, and the jurors ("schöffen"), who sat in his court, made up the local administration.[2] The police ordinances of the later years of the thirteenth century are issued in the name of "Schultheiss und Bürger des Rats";[3] judicial documents, on the other hand, in the name of schultheiss and schöffen.[4]

The jurisdiction of the "burggraf," which we saw to have been at first all inclusive, was whittled away until it shrank to the limits of his castle.[5] The schultheiss, whose entry on the scene as a second royal official had seriously curtailed the burggraf's power and marked the beginning of his loss of control over the town, for a while played the most conspicuous rôle in administration. But in time his prominence in turn declined, and in the opening of the fourteenth century he is found subordinate to the council.[6] As other authorities declined in power, it was the city council that grew at their expense. By purchase, or by grace of imperial grant, it gathered into its hand the full judicial powers, the imperial tolls, the office of schultheiss, and the residue of the burggraf's rights and perquisites. The process was finished, and the city had become its own master—or, to be more exact, the council had become fully master of government in the city—by the middle of the fifteenth century.[7]

We know something of the forms into which the government had settled in the fourteenth century, before the outbreak of the gilds. The jurors of the court of the schultheiss (who was at first an imperial functionary) had become amalgamated with the "bürger des rats" in the ruling body. Thirteen jurors ("schöffen") and thirteen councilors ("consuln") made it up. These were the twenty-

[2] Ibid., pp. xvii–xviii.
[3] Hegel, in Chroniken, Nürnberg, vol. i, p. xviii, citing Murr's Journal zur literarischen und Kunst-Geschichte, vol. vi, pp. 47–70.
[4] Hegel, in Chroniken, Nürnberg, vol. i, p. xviii.
[5] Ibid., pp. xviii–xix.
[6] Hegel, in Chroniken, Nürnberg, vol. i, p. xxi.
[7] Ibid., pp. xxi–xxiii.

six burgomasters of the city, half of them senior burgomasters, half junior burgomasters. Pairs of these, a junior and a senior, in alternation conducted business, under the style of "frager." Beside this ruling council stood a larger council in a subordinate position. Its members were the "genannten," so called. They were brought in for consultation and assent only in the most important matters. Such, in bare outline, was the great organ of the community at the opening of the fourteenth century, when, as noted above, it got the upper hand among the authorities that had claims to jurisdiction over Nürnberg.[8]

One cannot interpret a body of statute law with intelligence without knowing by what class of the community the making of it was controlled. It is a point of extreme importance in a study of paternal legislation to learn the social complexion of the legislative power. It is ascertainable that at least as early as 1340 the right to sit in the Nürnberg council had been narrowed down to a patriciate; that is, to an inner circle of distinguished families, whose exclusive eligibility was a prerogative of birth and was passed on to their sons. What it was that originally set them above the unprivileged is not clear. They were not "altbürger"—descendants of those who came over in the Mayflower, so to speak; for families which did not move to town until the fourteenth century, or even later, were admitted to the charmed circle. The patriciate probably originated in an imperial official class which grew by accretion from the surrounding country.[9]

The council as the main instrument of government was monopolized by the patriciate at the time when the uprising of the gilds and the coup d'état of 1348 took place. The upheaval was an incident of the tempestuous days in the

[8] Hegel, in Chroniken, Nürnberg, vol. i, p. xxiv.

[9] "As the city proceeded principally from the castle, and as even in the thirteenth century several Nürnberg family names appear among the knights and vassals (Ministerialen), we may pretty safely suppose that the nucleus of the Nürnberg patriciate was formed by 'Burgmannen' of knightly rank, to whom in time other 'Ministerialen'-families from the Franconian imperial district also attached themselves" (Hegel, Chroniken, Nürnberg, vol. i, p. xxiv).

empire that ushered in the rule of Charles IV of Bohemia. The council of Nürnberg made a declaration in favor of Charles; whereupon a majority of the crafts gilds, taking local advantage of the faction that was rending the empire, declared for the Bavarian party; and with the support and under the leadership of Markgraf Ludwig of Brandenburg and certain renegade aristocrats of the city, the craftsmen drove the ruling notables from the community. The insurgents constructed a council from among themselves and held out until the fall of the next year. Then Charles came to terms with the Bavarian party. Nürnberg, with its deeply committed government, was in difficulty, and had to submit. The old council was reinstated. The heads of the revolt were punished by the reseated aristocrats with death or banishment.[10]

Before the end of the century, however, eight craftsmen were to be found seated in the council among the aristocrats. When they came there or how is not ascertainable. It is supposed that they were admitted not long after the restoration of the patriciate, as a concession to the popular feeling that had been generated and crystallized in the uprising.[11] But other new figures appeared by the side of these. "Alte genannten," they were called. There were eight of them, as there were eight craftsmen. They were selected from the retired burgomasters at first, afterwards from the large council, but in either case they belonged to the old families. Hegel thinks that they were introduced in connection with the addition of the eight representatives of the crafts gilds.[12] At any rate they were a counterpoise for the craftsmen, and their presence operated to annul whatever numerical advantage in the council the craftsmen had gained by admission to the government.

We have a most interesting and satisfactory picture of the council when it had become the exclusive government of Nürnberg, in a letter of the humanist Christoff Scheurl to

[10] Hegel, Chroniken, Nürnberg, vol. i, p. xxv. See also L. Rösel, Alt-Nürnberg, pp. 109–119.
[11] Hegel, in Chroniken, Nürnberg, vol. i, pp. xxv–xxvi.
[12] Ibid., p. xxvi.

Johann Staupitz, Luther's friend, and vicar-general of the Augustinian order.[13] It was written in 1516, when the city had reached the height of its prosperity; and it portrays not merely the governmental structure, but facts as to its operation, and the way in which its offices were regarded by contemporaries, which would not appear in a constitutional document.

The craftsmen had even less weight in the decisions of the council than the extent of their representation might lead us to suppose. The passive attitude which their deputies had come to take in view of the restraints that had made their position almost purely a titular one, is reflected in Scheurl's curt description of them. "There are also in the city eight crafts from each of which one man is elected to the council. . . .These have the liberty, when they wish, of coming to the council and casting a vote; when this does not suit them, of staying at home. They administer no office, acquiesce in what is concluded by the other councilmen, and when a question goes around, they agree with those whose vote is regarded as nearest the just thing."[14] "All government of our city and commonwealth," says Scheurl in another place, "rests in the hands of those who are called 'geschlechter,' that is, persons whose ancestors and great-ancestors have since long ago also been in the government here and ruled over us. Foreigners who have rooted themselves here, and the common people have no power"; and the legal theorist goes on

[13] A most satisfactory text of the letter is to be found in Chroniken der deutschen Städte, Nürnberg, vol. v, Anhang A, pp. 781–804. Scheurl was a native of Nürnberg, born in 1481. He completed his higher education at Bologna, where after a course of eight years he obtained the doctorate "beider Rechte." One of his friends at Bologna was Johann Staupitz, and at his recommendation Scheurl was called to take the chair of jurisprudence at the new university at Wittenberg. He taught there till in 1512 he was appointed "rechtsconsulen" in Nürnberg. In this capacity he served until his death in 1542. He was therefore a trained observer, and, writing in 1516, was treating of a subject with which his business made him thoroughly familiar. The German translation (the original was in Latin) was not done by Scheurl, and it lacks the conciseness of the original, but it is more valuable as a historical document because it describes the offices and functions of the council in their current German names.

[14] Chroniken, Nürnberg, vol. v, p. 796.

complacently to justify this fact: "it belongs not to them because all power is from God, and to rule well belongs to few, and only those who are endowed by the Creator of all things and by nature with peculiar wisdom."[15]

Roughly speaking, in Scheurl's time the government of Nürnberg was administered by two councils, a large council of genannten and a small council above this, the "ehrbar rat." But Scheurl's analysis reveals within this simple structure an intricate gradation of powers, wheels within wheels. The broad basis of the government, the college of the genannten, was itself by no means popular. Its membership, in so far as it did not consist of members of the patriciate, who needed only to marry to qualify, was under control of the small council.[16] The genannten chosen outside the pale of aristocracy were "persons of an honorable life and vocation, who," says Scheurl, "obtain their living by honorable trades [mit eherlichen dapfern gewerben], and not by despised crafts [verachten hantwerke], except some few craftsmen who have obtained a respectable position and bring tangible good to the common city by their handiwork, more than others."[17] In the curl of the lip with which this enlightened aristocrat refers to the crafts one gains an immediate insight into the gaping differences in social rank which occupation made in the Nürnberg of the time. It was an honor to sit in the large council. Its seal was highly valued, and it participated, as we shall see, in the election of the vigorous body that stood above it. But as far as law-making went, its powers were slight. Its "sentence, opinion and vote" were taken only when a tax was imposed, war was levied, or "the subjects [underthanen] [were] warned of contingent dangers."[18]

There were forty-two members in the small council, which stood at the head of the administration. This group was divided and subdivided by lines which marked off ascending grades of power. We have already noticed the eight depu-

[15] Ibid., p. 791.
[16] Rösel, pp. 146–147.
[17] Chroniken, Nürnberg, vol. v, p. 787.
[18] Chroniken, Nürnberg, vol. v, p. 787.

ties of the crafts, and remarked on the listless attitude which they assumed toward business.[19] Of the thirty-four aristocrats in the council, eight were the alte genannten.[20] The remaining twenty-six were known as burgomasters. Thirteen of the burgomasters were schöpfen, and sat as jurors in the criminal court.[21] The twenty-six burgomasters were cut by another division into thirteen senior and thirteen junior burgomasters. From the inner circle of senior burgomasters was taken a still more intimate circle of seven elders ("eltern herrn"), who were the real heart of the government. But still the concentration went on. From the seven elders were selected the three headmen ("hauptmänner") of the city; and two of these were made the treasurers, and were known as "losunger." Finally one losunger, distinguished by seniority in office, was recognized as formal chief of the administration.[22]

These narrowing circles represent distinctions not merely titular. Actual administration and power were concentrated toward the center and summit. The two losunger as treasurers had more importance than the other hauptman, who shared with them the custody of the seal, the keys, and so on, together with the military leadership of the community.[23] The three hauptmänner, again, had this authority of custody and leadership in addition to that investing the remainder of the seven elders. The seven elders in turn were sharply distinguished by superior power from the other senior burgomasters, from whom they were selected. Scheurl's statement is that "all power of the whole Nürnberg administration rests in the hands of the seven 'eltern herrn,' for all secret affairs are handled by them, and all grave matters passed upon, before they come to the other councilmen, so that the highest authority is in them, and the others have very little knowledge or power in comparison with them."[24] Finally, in the outermost and

[19] See above, p. 19.
[20] See above, p. 18.
[21] Chroniken, Nürnberg, vol. v, p. 796.
[22] Chroniken, Nürnberg, vol. v, pp. 786–787.
[23] Ibid., pp. 793–794.
[24] Ibid., p. 794.

least influential circle stood the eight alte genannten. They were not burdened with exacting duties. Scheurl compares them with retired veterans. When the vote was taken in full council they cast theirs or not, as it pleased them. It is notable that these eight persons, who seem to be supernumeraries, had dormant powers just sufficient to balance, and if necessary neutralize, those of the eight craftsmen. Scheurl remarks that the position had declined in esteem. Any three of the alte genannten, as we shall see, were eligible as electors, and the three selected ranked as senior burgomasters.[25]

Scheurl imparts a fact, not apparent in the formal constitution, which clothes these gradations with added significance. He tells us that there were corresponding degrees of rank among the families. The inner doors of the council were not open even to all of the patriciate. "Although there are many families in our city from whom the council is composed," he remarks, "still many of them are to be found who cannot rise further than to the grade of senior burgomaster; then the families from whom are taken the seven elders are very few; much fewer are those from whom the headmen are taken; those, however, from whom the treasurers are chosen are the fewest of all."[26] These arrangements, he goes on to say, were not required by law, but they were matters of uninterrupted usage. They put the most important powers in the hands of a very small innermost ring of an aristocracy itself highly exclusive. Incidentally it was made almost impossible for discontented craftsmen to break the hold of the families upon authority—certainly unless they could enlist the aid of a foreign enemy. It was provided, for instance, that in case of disturbance the citizens were to resort to the hauptmänner to take oath and obtain leadership; and under the existing hierarchy this fact meant that the loyal would be directed by the bluest of the aristocrats.[27]

The council was formally elective, and the election took

[25] Chroniken, Nürnberg, vol. v, p. 795.
[26] Ibid., p. 792.
[27] Chroniken, Nürnberg, vol. v, p. 792.

place yearly, in the springtime. The intricate arrangements by which the powers of government were exercised by an ascending scale of aristocrats were safeguarded carefully from being disturbed on this occasion by means of a peculiar method of election. The populace had nothing to do with it, except to call upon God to take care of the process.[28] First of all, the large council—itself aristocratic and seated for life—came together on the third day of Easter week, and selected two electors. The field of choice in this selection was limited to the small council, and further, within it, to the seven elders or senior burgomasters. Then the small council completed the electoral commission itself by selecting three of its own number, who had to be alte genannten. This electoral commission of five, a majority of whom had been selected by, and two of whom had been selected from,[29] the body of men on whose election they were to pass, proceeded to shut themselves up in a chamber especially guarded, and so made proof against outside influence, and to elect "a whole council except the eight alte genannten." Their task was simple enough, for, as one might expect, they regularly chose those who were already seated in the council. Sometimes an old man would ask to be retired; on rare occasions a councilman would be dropped for misconduct; otherwise only when death intervened did they have to exercise their right of choice. "It is held a great disgrace," writes Scheurl, "when anyone is removed from the council against his will."[30]

The designation of persons to fill the more important offices within the small council was not left even to the electoral commission, deeply dyed in aristocracy as it was, but was assumed by the burgomasters themselves, and accomplished by another elaborate electoral process. Thus when a vacancy occurred among the seven elders or in the office of the two losunger, the two hauptmänner selected

[28] Ibid., p. 785.

[29] The two senior burgomasters were the only electors themselves in line for election.

[30] Chroniken, Nürnberg, vol. v, pp. 788–789.

five from the council, who made four nominations. The nominee who received the highest number of votes was elected. The eight alte genannten were also the choice of the small council.[31]

I have traced in detail the mechanism of the Nürnberg government and the safeguards in which it was encased in order to show how free it was of all tangible restraints imposed by the people over whose lives it presided. Its forms were such as to offer freest opportunity for manifestation of paternalism. If in the laws it enacted we find it laying its hand on the wheels of private life and undertaking to regulate personal economies and conduct by moral chronometers of its own, we are justified in presuming these interferences to be, as far as form of government is concerned, typical. In respect of government, Nürnberg offers the qualifications of a perfect experiment. A single class of men, those to whom the citizens would be inclined to look with respect on account of their ancient lineage and station, and with something of pride, at least in the fifteenth and early sixteenth centuries, inasmuch as they were then leaders in the enterprises that made the city wealthy and famous—this single class, with the solidarity of a common pride and of responsibility long supported, had gathered into its hands all the political power of the growing city. These men had succeeded in dissipating the force of a concession made to the gilds under constraint, and had removed their power from the disturbing touch of hostile interests, by means of a series of internal adjustments that have all the appearance of clever contrivance, and by a mystery of election that was in no wise calculated to jeopardize their position. They were safely entrenched in authority, and they remained so until the beginning of the nineteenth century. They were in a position to exercise over the lives of the citizens a paternalism of the purest type.

This is not the place to discuss the character of the Nürnberg patriciate; but the statements of a recent book on the Reformation[32] make it of interest to note that most

[31] Chroniken, Nürnberg, vol. v, pp. 792–793.
[32] H. C. Vedder, The Reformation in Germany.

of the members were merchants, and thoroughly identified with the burgher class.[33] As an explanation of the prompt adhesion to Luther of the free cities—such a critical factor in his success—it has been asserted that the Roman Church had the dislike of the burghers because of the support it gave to the sumptuary laws, which discriminated against them in favor of the knights, and thus compromised their social standing.[34] But in Nürnberg, at least, any sumptuary laws which bound the rising commercial class—covetous of high station, and as sumptuous in display as the gentry—were of the merchants' own making. If the wives and daughters of the burghers could not shine in as resplendent velvet, diamonds, and ermine as their perhaps less wealthy sisters who chanced to have knights and ladies for parents, it was not because they were forbidden by some distant body composed of the husbands of the envied, but it was by reason of the decrees of their own husbands and fathers. It is undoubtedly true that the church had a considerable influence in securing the passage of sumptuary laws, but it is not to be supposed for a moment that a free-handed council like that of Nürnberg would submit to laws dictated by the clergy, and so framed as to discriminate against the burgher class and deprive them of the insignia of a social rank upon which they had set their hearts. Certainly this influence would not bind them so tightly as to drive them to break with the church to be rid of it, or even as to be a serious consideration when they were meditating the advantages of going over to the Protestant camp.

As regards the courts of the city, we are chiefly interested to note their complete subordination to the council. In 1459, when it received from Emperor Frederick III a perpetual grant of criminal jurisdiction, the council had gathered into its hand the last of the rights necessary to

[33] Rösel, p. 139. Such prominent families as those of Ebner, Behaim, Pfinzing, Gross, Praun, Tucher, Paumgärtner, Kress, Grundherr, Rummel, Muffel, Nützel, Schürstab, Imhoff, early came to special distinction in commerce; and "even industry did not remain foreign to the Nürnberg 'Geschlechter.'" See also p. 142.

[34] Vedder, pp. xxxv–xxxvi. For an example of ecclesiastical influence upon sumptuary law, see below, p. 110.

complete its judicial supremacy; and the constitution of the courts shows how jealously it wielded them. Penal cases were heard by such of the seven elders as were also jurors (schöpfen); and cases that involved capital punishment were tried by the thirteen schöpfen, who were incorporate members of the council. Even these last were required to follow in their verdict the vote on the case of the council in full session.[35] The civil court was constituted in the same manner as the criminal until 1497;[36] after that date it was separated from the council and was composed of eight of the genannten, who had independent means and could give their whole time to its business. Still, two members of the council sat in it as assessors; the learned doctors who advised it on points of law were appointees of the council; and appeal from its decisions could be taken to the council. Again, the "pfänder," the sheriff, was taken from the genannten, but four members of the council sat with him in cases arising under the laws by which the gilds were regulated; and they, with him, had the power to appoint the masters of the crafts. "In short," says Scheurl, "what the guild-masters are elsewhere, the five 'rügsherrn' are with us."[37] All the vital judicial organs were administered either by members of the council or by its appointees under close supervision.

It is difficult to discover in the terms of the sumptuary laws the court by which they were applied, but what evidence we have points to the "fünfergericht."[38] This was a court composed of five members of the council. "Among these are always the two whose term as burgomasters ended in the previous month, and the two whose term as burgomasters has just begun this present month." The fifth was appointed in rotation from the whole number of the council, the two losunger excepted. The court was therefore renewed every month in personnel. The mem-

[35] Chroniken, Nürnberg, vol. v, p. 796.
[36] Hegel, in Chroniken, Nürnberg, vol. i, p. xxviii.
[37] Chroniken, Nürnberg, vol. v, p. 799.
[38] See below, p. 123.

bers sat three times a week, on Monday, Wednesday, and Friday, in the afternoon, in three-hour sessions.

> Before them all cases of slander and injuries are adjudicated, and those who have disobeyed the laws punished. In all cases brought before them they proceed dispatchfully and briefly, without discursion and the red tape of courts. They accept no written plaint, and permit no party attorney or advocate. They seldom hear witnesses, but for the most part decide the causes on oath. No one may take an appeal from their verdict. Nevertheless when a case is grave they carry it to the honorable council.

Scheurl stops to eulogize this practice as a very salutary one.[39] It is important to notice that this was a purely secular court, and in no sense a consistory; and furthermore that it came together not as there was business to despatch, but in appointed and regular sessions. This fact shows that the body which initiated the sumptuary regulations applied them itself in the person of five of its members; and that the court which had cognizance of infractions of them was never closed, as it was in some cities, solely from lack of interest in their enforcement.

Merely to name over the instrumentalities of the Nürnberg government is to realize in some measure what a multitude and a variety of duties the council had to discharge. As we have seen, it performed the most of them in person. It had come to possess, and it wielded with its own hand, powers sufficient to meet the multifarious needs of a mediaeval free city,—legislative, judicial, executive, political. In thinking of these powers it is difficult not to let one's conceptions be colored by the nature of the modern municipal government and to conceive of the mediaeval city council in terms of the city council of today. In reality it was a very different thing. It is true that the council of Nürnberg had the same range of local duties to cover as its modern namesake. It was responsible for policing the streets and for good order. It made building regulations,[40] and had a special officer to look after them (the "bau-

[39] Chroniken, Nürnberg, vol. v, pp. 796–797.

[40] J. Baader, Nürnberger Polizeiordnungen aus dem XIII bis XV Jahrhundert, p. 285 ff. This is Volume LXIII of the Bibliothek des Litterarischen Vereins in Stuttgart.

meister"). It made provisions for keeping the streets clean,—after its own mediaeval notion of cleanliness.[41] It issued ordinances that looked to the prevention and extinction of fires.[42] It levied taxes and administered the finances. It looked after the poor.[43] But beyond these and the like domestic duties the modern parallel halts, and in two directions a wide field of activities opens, which today is occupied by superior authorities, or is barred by our political principles to any governmental intrusion.

First of all the Nürnberg council had the trades to regulate; and it felt called upon to control a multitude of economic relations which are now left to the automatic adjustment of private interest and honor. Through its agent, the constable (pfänder), it saw to it that bread, meat, and other necessaries were brought to market in sufficient quantities to feed the city, and sold at a just price.[44] When famine prices set in, it baked bread.[45] It watched narrowly the craftsmen and small traders, and brought them to book when it caught the tradesmen buying or selling in violation of the laws which it laid down from time to time for business,[46] or the craftsmen turning out work that was fraudulent or scamped.[47] One has only to glance at a collection of its ordinances,[48] and note the complex of regulations that falls under such heads as Handelspolizei, Gewerbspolizei, Victualenpolizei, to appreciate to what degree law-making in the economic sphere engaged the attention and energies of the council, and to realize what familiarity with the busy economic hive of the city was required—familiarity to be had only by close contact and incessant attention—in order to make these laws and give them effect. The council further had a considerable meas-

[41] Ibid., p. 275 ff.
[42] Ibid., p. 294 ff.
[43] See Chroniken, Nürnberg, vol. iv, pp. 378–379, where in the Jahrbuch for 1486, Deichsler the chronicler tells of his own appointment as "bettelherr," and the measures he took in office.
[44] Chroniken, Nürnberg, vol. v, p. 799.
[45] See Jahrbücher, passim, in Chroniken, Nürnberg, vols. iv, v.
[46] For examples, see Baader, p. 122 ff., and p. 191 ff.
[47] Chroniken, Nürnberg, vol. v, p. 799.
[48] Such, for instance, as that of Baader, cited above.

ure of responsibility for the ecclesiastical bodies within the walls. Even before the Reformation it appointed the provosts of the city parishes.[49] It deputed a councilman to have oversight of the relations of the municipality with each of the local religious institutions.[50] After the Reformation the council appointed the clergy, fixed their stipends and paid them, prescribed the ritual, and, in short, was bishop of Nürnberg.[51]

On the other hand an entirely different class of duties fell upon the same men by virtue of the fact that the city was in itself a state. The ring of masonry which was the shelter of their independence in a land of turmoil and lawless enmities itself imposed upon the community a care and an expense, and was a visible indication of the posture of defense in which the rulers of the city were perpetually obliged to stand. To command respect in the foreign relations into which the city was drawn by its far-flung commercial enterprises, and to give it a weight in the empire commensurate with its wealth and interests, the council had to prepare a military force and keep it in readiness. These offices were but preparatory to the far more difficult one of steering the city, a powerful free political factor, in the treacherous and changeful waters of imperial politics. The councilors had to be much more than village statesmen to measure up to the task. The council made its very first appearance in the act of joining the league of Rhine cities in 1256.[52] As another instance of its foreign activities, a delegation from its number was to be found conferring with representatives of other cities at Speyer in the spring of 1523, how best to thwart the plan of the estates to lay a tax on trade; and Scheurl, the ratsconsulent, was despatched as the plenipotentiary of the council, along with the deputies of Augsburg, Metz, and Strassburg, to interview the emperor in Spain and bring him around to their

[49] Chroniken, Nürnberg, vol. v, p. 781; Jahrbücher, Tucher'sche Fortsetzung, 1477.
[50] Chroniken, Nürnberg, vol. v, p. 800. Scheurl's letter to Staupitz.
[51] Rösel, pp. 460–461.
[52] Chroniken, Nürnberg, vol. i, p. xviii.

way of thinking.[53] Delegates of their number sat in the imperial diets.[54] The council waged war, entered into leagues and alliances, negotiated treaties with other powers. It was one of the appointed functions of the senior burgomaster to "receive foreign legates and messengers."[55]

This important place in imperial politics was not of a sort to let the minds of the councilors stagnate in local concerns. They were continually called upon to exercise judgment in affairs that looked beyond the city walls, and to shape the policies of a little state by considerations that were of moment to the whole empire, often to all Europe. The point that strikes us as curious and interesting is that these same men, without feeling that they were doing anything exceptional, could turn in the natural course of business "to deliberate how the extravagance [in dressing] children during Holy Week might be prevented;"[56] or to despatch a letter to the Bishop of Bamberg to say that in compliance with his request they had ordered the cobblers, "on pain of a definite penalty, henceforth to make no more peaks on the shoes."[57]

It has possibly seemed to take us afield to describe here the council and its multifarious activities; and yet the description is entirely germane to our study. The fact that such was the character of the council and such the extensive compass of its duties adds greatly to the significance of the paternal laws. They would have little or no interest if issued by some parochial body. It is the fact that a busy, capable, and important public authority like the Nürnberg council should for centuries feel it a grave duty to turn daily from interests of state to look into the wardrobe and the personal account-book of the citizen, to see to it that he did not indulge in vanity or extravagance or improprieties,—

[53] Rösel, pp. 444–445.

[54] Their deputation to the Diet of Worms in 1521 consisted of Kaspar Nützel, Leonard Groland, and Lazarus Spengler (ibid., p. 436).

[55] Chroniken, Nürnberg, vol. v, p. 790.

[56] Rats-Manual, 1499, April, quoted in editor's note, no. 5, Chroniken, Nürnberg, vol. v, p. 607.

[57] Briefbuch, no. 23, fol. 259, quoted in Chroniken, Nürnberg, vol. iv, p. 197, note 1.

it is this that makes the paternal regulation peculiarly significant as reflecting a theory of government and of life that is strange to our experience. One has to be always reminding oneself that it was not some consistory, some board of clergymen, with consciences professionally tender to the shortcomings of others, that made these regulations; but a body of men in the thick of affairs, whose daily business was of an importance and a breadth to school them in sagacity and to cultivate in them the broadest practical intelligence. The sumptuary laws were not the expression of sectaries or radicals or of men in an eddy, but of representative public minds.

CHAPTER II

Marriage Festivities

One of the major passages of life in which the citizen encountered the paternal action of the council was his marriage. Weddings are much the same in all ages; and the exchange of gifts, the feasting, wine, and music, the festive attire, and the lavish hand, expected as befitting the joyousness and the freedom of the occasion, offered a temptation almost impossible to resist; hence the city fathers were engaged from an early time in seeking to curb what they felt to be extravagance in these matters. In Nürnberg, legislation on the subject of weddings was the most complete of the varieties of sumptuary law previous to the Reformation. A review of it will serve to exhibit the nature of the sumptuary ordinances in general, at the same time that it tells its own story of the course of regulation in one important field.

The earliest regulations of weddings that have come down to us are little more than miscellaneous fragments. There is nothing by which to determine their dates except within very wide limits; and it is almost impossible to know anything of the order in which they appeared. Indeed the form in which they survive makes it difficult to reach any conclusions whatever as to the conditions of their making, unless it is this: that, although they appear on the records in sequence as if articles of one ordinance, they are plainly the products of a diversity of circumstances, and were made at different times.[1] We shall see that their piecemeal character is in itself of some significance. It sets them in interesting contrast with the comprehensive ordinance from

[1] The manner in which Dr. Siebenkees, in his Materialen zur Nürnbergischen Geschichte, vol. i, pp. 395–402, edits a large group of early wedding regulations is misleading. He calls them the "älteste," and dates them "ums Jahr 1340." This date is assigned without explanation, and upon scrutiny seems to be open to criticism. There is nothing on the face of the regulations to support the opinion that they originated

the close of the Middle Ages, the Hochzeits-büchlein of 1485, which we shall take as a sample of later wedding regulation. The absence of dates makes the order of discussion a matter of little consequence, but the haphazard and apparently occasional nature of the early laws would not be exhibited so clearly if they were to be arranged for description under topics. I have therefore taken them as they came in the records.[2] The detail which might be tedious in describing other kinds of law is lent a saving interest by its disclosure, in glimpses, of the social life of that old time. The picture is misty and obscure; to many of its meanings we have lost the key; but it presents to the imagination a hint of the forms in which some of the most intimate and lively of human experiences clothed themselves for the man and the woman who lived in a mediaeval town.

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at any one time, or within a few years. They are a miscellaneous series of articles, not classified, and sometimes contradictory in their prescriptions. They would seem to represent an accretion of provisions put in force at various times and thrown together for convenience of reference in the statute book. A number of the same regulations are printed by Baader (Nürnberger Polizeiordnungen) among ordinances of the "XIII and XIV centuries"; and he leaves the reader to infer that they ranged in date over a long period of time. Baader found them in a codex which was begun in the thirteenth century and continued in the fourteenth. The earlier entries, forming the body of the volume, extended no further than 1330. Additions, however, in the form of amendments, or of fresh enactments, were made which date from 1325 to 1350. These, Baader tells us in his preface (p. 2), he has indicated by putting them in parentheses. "Those ordinances," he says, "or amendments which, to judge by the writing, might come from the time between 1325 and 1350 I have enclosed in round brackets." "The most of those which are not enclosed in round brackets belong to the latter half of the thirteenth century" (ibid., p. 3). Now only one of the articles dated by Siebenkees "ums Jahr 1340" is bracketed by Baader. The remainder, according to Baader's notation, may have arisen at any time during the last half of the thirteenth century or the first quarter of the fourteenth. It is not even necessary to suppose that they were entered continuously on the pages of the original statute-book. Baader says of the provisions generally of this codex that "nowhere is a systematic order observed" (p. 2). "This," he says, "can only be established by the several indications scattered through the whole volume."

The Materialen of Dr. Siebenkees is in four volumes. Volumes i and ii and volumes iii and iv are paged continuously; but in spite of possible confusion, references to the separate volumes have been maintained.

[2] Certain exceptions will be necessary as noted.

One of these early regulations, like many of those which were to follow, was concerned with the attendance at the wedding. It limited the number of guests to twelve, six men and six women. A party of this same number might attend the bridal party to the church. If more were present, each was liable to a fine of ten pounds haller,[3] and

[3] A note on coinage, to elucidate the terms that occur in the text, is likely to muddle still more a confused and confusing subject, yet a word or two of the most general sort may be of help. The theoretical basis of currency was a pound of silver. Twenty solidi (schillinge) made a pound; 12 denarii (pfennige) made a solidus. These proportions hold in the currency of England today; and for a long time they obtained in the reckoning of Germany, amid infinite fluctuations of value. The denarius or pfennig was for a great while the commonest coin. The pound, and for the most part the schilling, were simply coins of account; that is, not actual but imaginary coins, used in reckoning values. In the eleventh century the mark began to take its place beside the pound. A Cologne mark contained 12 schillinge and 144 pfennige. The mark, in general, must be understood as a measure of weight, out of which at different times various numbers of pennies were struck. At the same time the pound remained constant; that is, it always consisted of the same number of pennies.

The denarius or pfennig circulated in Germany in various disguises of form and name. Half-pfennige, or even smaller fractions of the pfennig, were called Heller, after Halle, which was the "numismatic capital" of southern and western Germany. These are the "haller" of the text. They were adaptable little coins, and were used as a subdivision of the Florentine, and later of the Rhenish gulden.

The heller and the penny and the "Pfund pfennige," which were first measures by weight (pound of pennies) and gradually became standards of value, or "coin of account," all steadily depreciated, and it is extremely difficult to ascertain their value at any given time and place. For instance, in the fourteenth century it took 960, a century later 1200, pfennige to make up the value of a mark of silver.

Since the time of Charlemagne the silver standard had prevailed in Europe, but with the spread of trade in the age of the crusades, and as a result of the depreciation of the silver media, gold coins came to be demanded. In 1252 Florence coined its Goldgulden or Florin; in 1280 Venice its ducat; and these won their way through Europe by their purity and their constancy of value. From 1325 onwards gulden began to be minted in Germany. From the time of the Rhenish Münzverein of 1386, the German goldgulden were called Rhenish gulden in contradistinction to the silver gulden of Cologne, a coin of account. The German gulden suffered debasement, despite efforts to prevent it. Its ratio to foreign silver coins remained fairly constant, however, because of the high value of gold in the fifteenth century, due to its scarcity. The equivalent of the gulden in pfennige or heller varied as a result both of its own fluctuations and of theirs. See Handwörterbuch der Staatswissenschaften, vol. vi, pp. 839–877, s.v. Münzwesen (Mittelalterliches); Encyclopedia Britannica, 11th edition, vol. xix, p. 897, s.v. Numismatics; Engel and Serrure, Traité de Numismatique du Moyen Age, vol. ii, p. 524, and passim.

the host to the same penalty.[4] A second regulation was aimed at the extravagance of promiscuous interchange of gifts. All presents to friends in advance of the wedding[5] were forbidden, except in the case of mother and father on both sides and bride and bridegroom.

The remaining phrases of this provision afford a glimpse of a method which the council was using at this time to catch persons who were breaking sumptuary laws. Any one who learned that gifts were being passed, contrary to the law, was enjoined, whether he was under oath or not—that is, even if not a sworn officer of the city—to inform on the transgressors to the frager.[6] The specification that "no one on that account shall bear enmity" was probably intended to give the informer an immunity bath against the odium which he was apt to incur by tattling.[7]

Having bath-parties—that is, going to the public baths in companies for a good time—was forbidden by another of these early laws, except to the bride with two friends, and the groom with two of his friends. If more than these went, a pound haller would be exacted of each, and five pounds of the person who was providing the entertainment.[8]

[4] Siebenkees, vol. ii, p. 396; Baader, p. 62.

[5] This is the meaning of "santunge, die man vor ze den hochzeiten tet." Santunge is old high German for Sendung (Schade, Altdeutsches Wörterbuch, s.v. santunga).

[6] The title of the two executive burgomasters of the month. See above, p. 17.

[7] Siebenkees, vol. ii, p. 397; Baader, p. 59. The fine for breaking the law regarding prenuptial gifts was five pounds haller. This fine is not large compared with those assessed for similar offenses. One might argue from the moderate fine that the offense was not extraordinary, surely not such as to require resort to unusual inquisition; and therefore that private informing was contemplated as one of the regular methods of trapping offenders. The specific mention and endorsement may have been given it in this law because it had fallen into disrepute, and needed a coat of legal whitewash.

In Siebenkees's text this provision is dated 1352, "festo sei Egidei." Some uncertainty is cast on this dating by the fact that Baader includes the article among the first, which are presumably the earliest, of the provisions which he prints, and that he does not enclose it in round brackets, by which we are to infer that it originated at some time before 1325.

[8] Siebenkees, vol. ii, p. 397. This section bears a trace of separate enactment in its beginning: "My lords and burghers of the council have decreed, etc.," instead of plunging straight into the matter with the usual "item."

On the night on which the bridegroom took the bride to himself no one was to sit down to a feast with them except immediate relatives, "fathers, mothers, fathers- and mothers-in-law, brothers and sisters, brothers- and sisters-in-law." Also on the morning afterwards a becoming (erleichen, ehrlich) meal might be provided, but no servants, nurses, or maids were to take part in either occasion. If these rules of the council were violated, the giver of the breakfast incurred a penalty of ten pounds haller, and every guest who came in spite of the law one pound. Out-of-town guests were as usual excepted.[9]

Another regulation forbade giving or sending anything to musicians who were not residents of the city. The "varnde man," as he was styled, was an important functionary in the mediaeval wedding, and to the last he figured in the ordinances. He led off the procession to the church with his tunes. He gave the measures to the wedding dances. His fiddling or piping was heard on the streets in the serenades rendered before the houses of the wedding party. By the ordinance before us the council forbade people to encourage out-of-town players, probably in order to save the city from being overrun with strollers. Violations were to be visited with a fine of five pounds haller per minstrel.[10]

A further section with regard to bath-parties appears. It was at the same time less severe and more attentive to details than the provision cited above.[11] It allowed the bride to take four companions to the bath with her, instead of two. But they were not to dance, before or after.[12]

[9] Siebenkees, vol. ii, pp. 397–398; Baader, p. 61. This provision also starts off with a formula of its own: "Our lords, the Schultheiss and the burghers in common of the council." Baader's text has besides: "-mit willen und wort der genannten der stadt Nürnberg." This formula, including the name of the schultheiss in the title of the legislative power, indicates the very early origin of the law (see above, p. 16). The inclusion of the genannten, the large council, is also of interest as indicating its participation in this kind of law-giving.

[10] Siebenkees, vol. ii, pp. 398–399.

[11] Page 35.

[12] "Rayen," reihen. Lexicographers think this was a special sort of dance in which the dancers joined hands (Grimm, Deutsches Wörterbuch, s.v. reihen). "Tanzen" is also used later in the provision: "rayet oder tantzte."

The guests at these bath-parties, men or women, were not to be asked home afterwards or to celebrate the party with feasting, drinking, or dancing. If these limitations were transgressed, the person responsible for the entertainment was subject to a fine of ten pounds haller, and one pound was exacted for each guest present in excess of the number permitted.[13] If a lady wished to give a party or a bath-party in honor of a wedding, she was subject to the same limitations. She might not entertain more than four women with the bride without risking a mulct of five pounds haller.[14] If any father wished to have his daughter conducted from church to his home after the ceremony ("Swer sein tohter haim ze haus füren will"), not more than six women were to be invited to walk with her.[15]

We have already met with a restriction on giving presents before the wedding season.[16] Another section related to gifts at the marriage. It was a prohibition. The council forbade giving or sending presents at a wedding or a baptism[17]—jewelry, money, or anything else. Both giver and recipient exposed themselves to a fine of five pounds. If it was a woman who offended, her husband was held responsible for the penalty.[18]

These regulations were framed to prevent involuntary expense, as well as wilful extravagance. Two articles regarding servants-in-waiting seem to be intended to keep down attendance at weddings. No woman might take with her more than one maid, unless she had with her a daughter who was her host's friend. She was liable for a fine of sixty haller for each additional maid.[19] The other article was more severe, and prohibited taking maids and men-servants to weddings.[20] In one of these early regulations an endeavor to maintain social distinctions may be

[13] Siebenkees, vol. ii, pp. 399–400; Baader, p. 62.
[14] Siebenkees, vol. ii, p. 400; Baader, p. 62.
[15] Siebenkees, vol. ii, p. 400.
[16] See above, p. 35.
[17] In the text is here inserted in brackets, as if an amendment, "nor to a monk or nun before or after."
[18] Siebenkees, vol. ii, p. 401.
[19] Ibid., vol. ii, pp. 401–402; Baader, p. 60.
[20] Baader, p. 60.

traced. It forbade serving-maids to take part in the "raien" or "tantz"[21] of the burgher ladies.[22]

Another enactment in regard to musicians amplified the one described above. It extended the law to the number of them that might be employed, and forbade giving a fee to more than six players at a wedding, or "senden varnde man und frawen mit einander;" finally, it forbade patronizing minstrels from out of town.[23]

There are a couple of provisions with regard to wedding presents. It will be recalled that gifts were wholly forbidden by a section that we have already encountered.[24] It would be of interest to know whether that or these were earlier, but there is no clue to the date. First, father-in-law and mother-in-law were forbidden to give their son-in-law a silver girdle. By the terms of an ordinance which is to be reviewed presently, a silver girdle was the gift which the bridegroom was permitted to receive on the bridal morning. Second, persons intending to make a gift were not to present the bride, in the matter of linen clothing, with more than a jacket ("rockelein") and a "mursnitz." Chemises one might give her to his heart's content.[25]

One section, which may be placed with reasonable safety after those on the same subject reviewed above,[26] is to the effect that, first, no one was to have an "open" wedding. This probably meant a celebration at which any one was free to drop in and satisfy his neighborly curiosity and his appetite. Further, it was made unlawful to feast or dance on the day of the wedding, in the morning or the evening. This prohibition was probably intended only for persons not of the family, for an exception was made of out-of-

[21] See above, note 12.

[22] Siebenkees, vol. ii, pp. 401–402; Baader, p. 60.

[23] Baader, pp. 59–60. Whether put in effect earlier or later, this provision shows no signs of correlation with that cited above, p. 36, and serves to illustrate the piecemeal character of this early legislation.

[24] See above, p. 37.

[25] Baader, p. 60. Other sections printed by Baader in this group relate to the dowry. Two are clothing regulations, and will be treated later.

[26] It is enclosed by Baader in round brackets, and is thus indicated to have arisen, in his opinion, somewhere between 1325 and 1350.

town guests, which would mean nothing unless a celebration of some sort went on. A party might be held, and friends invited to join it, a fortnight after the wedding. If at the time of the wedding anything to eat was given to any one but the household servants, the host risked the infliction of the comparatively heavy penalty of one hundred pounds haller, and each of the unlawful eaters a fine of ten pounds.[27]

In one of the documentary collections is printed a series of wedding regulations which are less disjointed than those we have been considering, and have more the appearance of a homogeneous ordinance.[28] There are no points of similarity that link them with the miscellaneous provisions described above. Either they treat of new matters, or of the old in a new way. The only coincidence is in the prohibition of eating and drinking at bath-parties. They relate entirely to parties and gifts.

At the outset a flat prohibition was laid by these regulations on serving anything to eat at a wedding, in the house or out of it. Further, a sort of "closed season" was

[27] Siebenkees, vol. ii, pp. 395–396; Baader, p. 62.

[28] There are on the surface of the articles that make it up certain evidences that they were issued as a single law: (1) That of the title, quoted by Siebenkees from the manuscript: "Von Hochzeiten, alz der Rate Schepfen und die genannten gelobt haben." (2) Each of the sections after the first refers to the preceding for the amount of the fine, in the terms, "Under the aforesaid penalty." (3) In the final section, relating to application, the person who wished to have a wedding was instructed to come and read the "above-written law."

The fact that the fines and values named in this ordinance were assessed in gulden, while those of the regulations reviewed above were expressed in pounds haller, is possibly evidence that it was of later origin. The gulden came into use as a common measure of value long after the pound, which had been the usual silver coin of account from the time of Charlemagne (see above, note 3). I have not been able to discover when gulden began to circulate as familiar currency in Nürnberg, but it was probably not until after the German goldgulden were minted; that is, about the middle of the fourteenth century (see Handwörterbuch der Staatswissenschaft, vol. vi, pp. 845–846, s.v. Münzwesen). It is possible, of course, that this ordinance is a sporadic instance of the use of the gulden to measure fines, one which might have occurred at any time during the period of the regulations noted above; but the chances of this are less in proportion to the range of years over which those extended. An example of the use of gulden would be very likely to crop out among them in a long period, if gulden and pounds haller were used indifferently. But not a single example occurs among them. If this criterion is worth anything, the ordinance above belongs to another period, probably a later one.

decreed, to extend two months before and two months after the wedding, in which it was forbidden even to send anything to eat out of the house, in the shape of dainties, fish, or game, whether raw or cooked. Certain exceptions were made, however, so that it was possible to provide entertainment for the bride's or bridegroom's father and mother, for guests who came in from the country with bride or groom, and for musicians. When it came to assessing the penalty, the proportions that held in the other regulations were reversed, and the host was required to pay one gulden, and the eaters each ten, for transgression.[29] If any one wished to have a party with maidens present, he was to give them nothing but fruit to eat and wine to drink; the young ladies were not to stay all night for the wedding; and not more than six of them were to be present.

The authorities seem to have been troubled by the excess of festal celebration that took place, not merely in the nuptial season proper, but afterwards. It had perhaps become the custom and socially obligatory to follow the wedding with a round of parties which imposed a great deal of expense. This law allowed persons who had betrothed their children or given them in marriage, and their friends, to have but a single party during the half year after the wedding, and to invite to this ten persons, not more.[30] The law further provided that "not geld" (probably fee or tip) might not be bestowed or received. Exception was made in favor of the household servants. To these one might give moderately. In the way of refreshments, no "dresene" [31] or confections might be served without incurring a penalty.[32]

In the part of the ordinance that relates to gifts one may trace the beginnings of the amplified provisions of

[29] Siebenkees, vol. iii, pp. 371–372.

[30] Siebenkees, vol. iii, p. 372. Compare with article noted on p. 39, where permission was given to have a party a fortnight after the wedding.

[31] The meaning of the word seems to be lost. It is probably the "trysanet," spiced drink, of the Hochzeits-büchlein. See below, p. 57.

[32] Siebenkees, vol. iii, p. 373. These last two articles are the first appearance of regulations that were carried into great detail in the Hochzeits-büchlein, promulgated a century later.

the later law; or, let us rather say, here one may see reflected the same social customs as there. The ordinance starts from a base level of absolute prohibition. At betrothals and weddings (and note here that the betrothal is for the first time brought under supervision) no gifts might be exchanged. But exceptions were made. When one took a wife, or gave his son in marriage, he might bestow upon the bride a brooch ("heftel") worth not more than ten gulden, and a girdle weighing not over three marks. The bridegroom, on the other hand, might be presented with a three-gulden jewel,—nothing more handsome. The morning after the marriage the bride might receive two silver bowls, of five marks weight; and the bridegroom, in his turn, a silver girdle of four marks, "with fülle, borders and all." The limitations on the weight of the bride's girdle and on the value of her brooch are repeated as if for emphasis.[33]

A most interesting feature of this ordinance is the series of provisions for its enforcement. The person who expected to have a wedding in his house had, in order to refresh his mind in regard to the requirements, to go to the rathaus and read the laws as written, and give his word of honor ("sein trew geben") to a burgomaster that he and his wife and all who acted for him would observe them. Failing to do this, he was liable to the heavy fine of one hundred gulden.[34] All upon whom the hand of the council was laid in official relations were bound by oath to obedience. "Schepfen, Rate und die genannten,"[35] and after them the head-officials [hawptlewte] and their subalterns [untertan], all must take the oath that in connection with weddings and baptisms, and to persons who were to take religious vows, they would give nothing in jewels, money, or the like, except as the law permitted. The final section seems to

[33] Siebenkees, vol. iii, pp. 373–374.

[34] The words of the text run: "der muste geben hundert gulden in an die stat, zu der vorgeschriben puzz, die vor bey den gesetzen steet." It is not clear whether this means a lump sum of 100 gulden in addition to the penalties, or instead of the penalty assessed in each case the greater penalty of 100 gulden.

[35] That is, the members of the greater and smaller councils.

have reference to other regulations besides those of the ordinance in connection with which it here appears. It runs: "And with regard to the above-written mandate concerning christenings and weddings and wine and bread all Rate, Schepfen and all genannten have given their word that they will keep the same, and each of their wives shall also give her word that she too will keep them; and those who are not named, they also shall keep the above-written mandate under the penalty which is set therein."[36]

Such, as we have reviewed them, were the points at which one who was married in Nürnberg during the thirteenth and fourteenth centuries was likely to feel the restraints of the law. These will support few generalizations as to the tendencies of sumptuary regulation during the period over which they extend. Seeking lines of development, one is baffled by the absence of dates. As has already been noted in reviewing them, the evidences of their order of enactment are few and treacherous, and will not safely support inferences as to their evolution. One is confined to noting a few characteristics. These will be reinforced and will gain in interest as we go on to examine later sumptuary legislation.

(1) The very fragmentary character of the early laws, which makes them so hard to treat, is significant. In lack of detail and of comprehensiveness they are in contrast with later enactments. Instead of canvassing thoroughly in one law all the events and usages likely to give offense during the nuptial season, and directing how each should be or should not be carried out, they singled out for prohibition or restriction certain practices which called forth disapproval, perhaps as innovations, perhaps as old observances that had run to excess. There is apparently no correlation among the provisions. Until we come to the gulden-ordinance (I have chosen to call the last ordinance reviewed above by this name for convenience of reference) the legislation seems haphazard; and the form it took and surface indications suggest that it increased piece by piece as abuses

[36] Siebenkees, vol. iii, p. 375.

called it forth, or as their persistence seemed to require repetition or modification of the law.

(2) These early regulations are in conspicuous contrast with those of the late fifteenth century and after, in directness and simplicity of statement. None of them has a preamble. They entirely lack the elaborate self-conscious explanations that accompany the later ordinances: the declarations of the motives of the council; the references to excesses and abuses that had provoked new legislation or seemed to call for a sharpening of the old; the frequent invocation of moral and religious sanctions. They restricted or prohibited in bare, matter-of-fact statements, and assigned no grounds or reasons. In this respect, of course, the sumptuary legislation of the time was not peculiar. The same directness shows itself in contemporary law-making in other spheres; and in this, too, as time went on, there were increasing complications and more frequent references to conditions and reasons.[37]

(3) The motives which, in the absence of explanatory phrases, may be argued from the nature of the regulations themselves were comparatively simple. The council might have had in mind "protection of the home industry" when it forbade the burghers to patronize any but resident musicians, though its main object was probably the simple one of preventing the city from being infested with strolling singers and players. In one of the regulations—that which forbade serving-maids to dance in the dances of the burgher ladies—there may be a trace of the motive which was to become so prominent later: the desire of the council to preserve intact the lines of social stratification. But in the remaining regulations the aim appears to have been the fundamental one of keeping the expenditures of the burghers and their indulgences within limits which the observant city fathers considered necessary to the good order and the welfare of life. Perhaps these limits were suggested by old usage, which, as departures from it occurred with the change of times and the increase of wealth, seemed to the

[37] See Baader, passim, and contrast the laws of the thirteenth and the fourteenth century with those of the fifteenth.

council to call for definition and formal statement in the laws as the metes and bounds of propriety; but this idea, in the absence of commentary, can be only a surmise. On their face these early articles are paternal regulations of a clear type. The festal practices which were restrained by them were put in legal hobbles not as a measure of police regulation in the modern sense, not because they threatened public peace and order, but because to the fathers of the council they did not seem good for the burghers whose lives they had in charge and whom they felt a responsibility to restrain from excess.

(4) If the gulden-ordinance may safely be given a later date than the other ordinances, certain differences from them which it displays may be taken as foreshadowing some tendencies of development. The gulden-ordinance covered with somewhat closer particularity the two subjects of which it treated—wedding parties and gifts. The fact is not so marked in the section relating to parties as in that regarding gifts. In one of the regulations prior to this one, a party at the house of the wedding two weeks afterwards had been permitted; in another a family party on the night of the wedding, and a moderate feast the next morning.[38] In one article bath-parties had been limited in the number of guests to two men and the groom, and two women and the bride; in another to four women with the bride, with a prohibition of eating and dancing afterwards.[39] This had been the extent of the regulation of parties. The provisions of the gulden-ordinance partly supplemented these and partly crossed them, and were a little more specific. They forbade serving anything to eat at a wedding, in the house or out of it, and they fixed a period, extending from two months before to two months after the wedding, in which it was unlawful to send anything to eat out of the house, in the shape of dainties, fish, or game. Friends were permitted to have but one party in honor of the wedding during the half year after it occurred, and to this they might invite ten guests. Regulation of refresh-

[38] See above, p. 36.
[39] See above, p. 35 and pp. 36–37.

ments that mentions the names of the dishes appears for the first time: it was forbidden to serve dresene or confections; and if a party at which maidens were present was held the night previous to the wedding, the guests were to be refreshed with nothing more than fruits and wine.[40]

A greater particularity of regulation is not so hard to trace in the paragraphs that deal with gifts. The law on this point as it stood previous to the gulden-ordinance laid a flat prohibition on giving or sending presents at weddings or christenings—"jewelry, money or anything else," in one article;[41] in a couple of others the council laid its hand on fathers- and mothers-in-law desirous of giving their sons-in-law silver girdles, and forbade presenting to the bride more in the way of linen clothing than a jacket and a mursnitz, while allowing the giving of chemises ad libitum.[42] The gulden-ordinance likewise started out with prohibiting at a sweep all exchange of gifts at betrothals and weddings, but it proceeded to make exceptions much more liberal and specific than those of former laws. It allowed the father-in-law or the bridegroom to present the bride with a brooch, the price of which it set at ten gulden, and a girdle which might weigh three marks. It privileged the bridegroom to receive a jewel worth three gulden. And on the morning after the pair had been united, the lady might without risk of the law be the recipient of two silver bowls, of five marks weight, and the groom of a silver girdle of four marks.[43]

The gulden-ordinance differs only a shade from the detached regulations which, on the assumption we are making, preceded it; but the differences which it does present are in the direction, first, of a better coordination of the articles; that is, of comprehensive regulation of a number of points in a single ordinance, instead of occasional and more or less haphazard restrictions; second, of greater particularity; third, in the part dealing with gifts at least, of less drastic, though perhaps more watchful, regulation.

[40] See above, p. 40.
[41] See above, p. 37.
[42] See above, p. 38.
[43] See above, p. 41.

CHAPTER III

The Hochzeits-büchlein of 1485

In the Hochzeits-büchlein of 1485[1] we are to see the developments of a more advanced stage of sumptuary legislation. From the completeness of the ordinance, and from the fact that several of the previous provisions of which we have record are to be found imbedded in it, the Wedding-manual would seem to be a codification, perhaps with amendments, rather than an entirely fresh enactment. Such is more likely to be the case since at this particular time overhauling the law was the order of the day at Nürnberg. Just in the year before the council, with the help of jurists, had finished subjecting the whole body of the civil law and legal procedure of the city to what was called a "Reformation," and had codified it.[2]

Whatever the circumstances under which it originated, the Wedding-manual of 1485 is in striking contrast with the regulations of earlier date in the matter of completeness. It is a series of articles, arranged by chapters, which, instead of merely selecting certain abuses for correction, visited with restriction apparently every form of expenditure, every sort of festivity, that could arise in connection with a wedding. From the celebration at the time of the engagement to the tips and the doles of wine lawful to give to the servants and attendants, nothing, it would seem, was exempted from supervision. The ordinance apparently was intended to serve as a complete manual of the law with respect to weddings, revised and brought up to date.

[1] The Hochzeits-büchlein, literally the "Wedding-manual," of 1485, is printed in Baader, pp. 71–73, and in Siebenkees, vol. ii, pp. 449–485. The texts are somewhat differently arranged, but are substantially the same. I have referred only to Siebenkees in the following chapter.

[2] D. Waldmann, "Nürnberg Rechts-'Reformation' von 1484," in Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. xviii (1908), pp. 1–98.

There is other evidence that this was its purpose in the fact that it remained the staple and basis of legislation on the subject as late as 1557, perhaps longer. Subsequent enactments, as we shall see, were incorporated in it, and served to brace it at weak points or to repeal provisions with which improper liberties had been taken. It "was renewed, bettered and changed the 7 Feb. 1526," according to the title which it bears in Siebenkees's text. It seems still to have been in effect and subject to another revision in 1557.[3] In an entry in the "Aeltermanual"—the journal of the seven elders—on December 13, 1599, the lords of the council detailed for the purpose were instructed, in the course of making a stricter application of the new "hoffarts-ordnung," to "proceed with the wedding ordinance and cause certain ladies of honorable rank [ehrbar] to see a copy of the same."[4] Whether this is the Hochzeits-büchlein of 1485 still in operation or not, the passage at least indicates that after this publication the law with regard to weddings continued to stand in the form of a single comprehensive ordinance, and had not relapsed into the straggling regulations which seem to have been the rule before the promulgation of the Wedding-manual of 1485.

A much greater variety of matters was brought under regulation in the Wedding-manual of 1485 than in previous laws; but this fact cannot be taken as due entirely to a stricter paternal attentiveness of the council to details of personal conduct. Another cause must be taken into account, in the case of this as of all the sumptuary legislation. The interval between this ordinance and those described in the previous chapter was a period in which wealth had been increasing in Nürnberg at an unprecedented pace. The city had shared with Augsburg, Ulm, Regensburg, Frankfort, and Strassburg, the famous southern circle of towns that stood on highways leading across the Alps to Italy, the profits of the commerce with Genoa,

[3] Siebenkees, vol. ii, p. 460, where the editor refers to a clause as "inserted in the revision of 1557."

[4] In Mitteilungen, vol. vii (1888), p. 274.

Venice, and Milan, and through these ports with the Orient; and in the fifteenth century they were at the summit of their prosperity.[5]

Nürnberg had risen very rapidly in commercial importance by reason of its location. It was at one of the cross-roads of Europe. It stood between the two great streams that floated the bulk of German commerce, the Rhine and the Danube; and it was also on the route from north to south, transmitting the traffic between the Mediterranean and the Baltic. In the fourteenth century it had already developed substantial trade connections with the Rhine valley and the Netherlands on the one side and with Bohemia, Hungary, and Poland on the other. It was dealing in the spices of the Orient which came up from Venice, and distributing to the Slavic borders and to Italy the linen and cloths of Flanders and the furs of the North. But it was in the fifteenth century that the commerce of Nürnberg rose to its climax, and the wealth in which it issued accumulated in great personal fortunes. It was then that the merchant princes built the houses which, "with their spacious courts encircled with columned galleries, and with their richly panelled chambers and their ornate oriels and turrets," caused Aeneas Sylvius, visiting the city about the middle of the century, to exclaim that "the kings of Scotland would consider themselves fortunate if they could live like a simple citizen of Nürnberg."[6] The councilors, who were themselves the leading merchants and had a great stake in the matter of commerce, were able to secure advantageous terms of intercourse with the principal cities and powers of the empire. A lively exchange developed with the Hansa cities of the North. Old relations with the Rhine and the Low Countries were cultivated vigorously and multiplied. Nürnberg had its permanent depots, under the superintendence of members of the families of Ebner, Tucher, and Scheurl, in Lyons and Paris; and the enterprise of its merchants had planted commercial houses

[5] K. G. Lamprecht, Deutsche Geschichte, vol. v, part 1, p. 62.
[6] Rösel, p. 299.

in far-off Lisbon, at the portal of the great trade which was to open with the yet undiscovered West.[7]

Furthermore the group of southern cities to which Nürnberg belonged, in contrast with the purely commercial Hansa cities of the North, began in the fifteenth century to be centers of industry as well as marts. As early as this period their manufactures had reached a phase of development in which the distinction between day-wages and piece-wages was familiar, and the division of labor had gone on to a considerable degree. It was a time when the merchants, as we have seen, were amassing great fortunes; but not only they were benefiting by the multiplication of wealth. If we are to believe Lamprecht, after the turn of the fifteenth century the artisan had been increasingly able to put aside a surplus above his working capital, and became increasingly better off; a fact witnessed by the great numbers of small dealers, trading on their own capital, which appeared early in the fifteenth century.[8]

Men of all classes, it would seem, were better off. They were coming into possession of means to satisfy the elastic range of appetites that stretches beyond the demands of necessity, in meeting which demands all their energies had formerly been absorbed, and we are not surprised to hear that they adventured freely in their new pleasures. As the century wore on, a departure was noted in many quarters from the simplicity and frugality of the old times. What seemed to the conservative reckless luxury and extravagance broke out in the life of the cities. The years just previous to the Reformation were stigmatized by such humanistic critics of manners as Wimpheling, Erasmus, Sebastian Brandt, and Geiler von Kaiserberg as the most luxurious and self-indulgent epoch that had occurred in German history.[9] Whatever we may say of the power of the change to corrupt, which was the aspect of it that concerned our

[7] Ibid., pp. 290–303.

[8] Lamprecht, vol. v, part 1, pp. 68–72.

[9] See Janssen, vol. ii, pp. 62–67, for pertinent quotations from the critics and satirists of the prevailing luxury.

informers, it was a change certain to involve a departure from the style of living of more frugal times, and to introduce a life of multiplied tastes, wants, and enjoyments. One turns from the earlier regulations to the Wedding-manual of 1485 to see at once this greater complexity of life reflected in the law. The numbers present at the parties, even as permitted by the law, were much larger; the gifts that might be given were more costly and numerous; and there were mention and regulation of ways of celebrating the nuptial season, the appearance of which in the statute cannot, in view of the change of the times, be charged up entirely to more diligent paternalism on the part of the council.

In the preamble of the Wedding-manual of 1485 the council declared that its object in framing the statute was to reach with the wedding laws the lower ranks of the population. It had passed laws and set penalties to restrain extravagance at betrothals and weddings before, but these had been "operative only against the well-to-do."[10] "The common man" had been exempted in them; the result was that "manifold injury and mischief" had come to him "in the interruption of his work with processions to church, feasts, gifts, donations and other display." To avoid this injury and secure "a just uniformity among their subjects," the council enacted the provisions of the ordinance, to be observed without distinction.[11]

It is very interesting to find that up until this late date only the upper classes, perhaps only the "ratsfähige Geschlechter," the families eligible to the council, had been subject to the wedding regulations. The reason why the "common man" had been left unregulated may well be that he had not had the means to offend. On the eve of the Reformation it was the merchants who figured in the eyes of the humanist-preachers as the chief sinners against the old simplicity. It was the soft raiment, the luxurious

[10] "Statthaftig," in mhd. "wohlhabend"; in some parts, "ratsfähig."

[11] Siebenkees, vol. ii, pp. 449–450.

tables, and the sumptuous living of the merchant class that drew their shafts of sarcasm and rebuke.[12] It was inevitable that the lower classes should imitate the bourgeoisie as soon as they had the means. It seems to have taken a good while for the shower of wealth to filter down to the lower strata of society; or else the taste for the new enjoyments that were put within reach was slow to awaken among the artisans; for Wimpheling could write in the last days of the fifteenth century that "the least affected by the growing spirit of luxury are the working class and the peasants, who continue to live in the simple style of their fathers."[13]

But the ferment spread at last; and early in the new century the moralists and the civil authorities began to deplore with increasing frequency the obliteration of social distinctions in dress and manners, the affectation by the lower classes of clothes and usages proper to their superiors; and we shall find that the sumptuary laws paid increasing attention to maintaining the lines of classification. Just when the infection of luxury began to manifest itself among the artisan class in different cities would be hard to determine; but it was probably in view of the early symptoms of it in Nürnberg that in 1485 the wedding regulations were extended to embrace "the common man." The council had become aware of a change, and had realized that the artisan, for the first time financially in a position to do so, was overstepping the limits of a due moderation, and would henceforth require the same curbing as his wealthier fellow-citizen. It is important to notice that the change was as yet apparently in its incipient stages; the council saw fit to bind the artisan with the same restraints, and not yet, as it would later, to discriminate between him and his social superiors, binding him with the stricter limitations.

For convenience of analysis we may break the Wedding-manual into three parts: (1) the regulations relating to the betrothal, and the events and observances that occurred

[12] See quotations in Janssen, cited above, note 9.

[13] Janssen, vol. ii, p. 62, quoted from the close of "De arte impressoria."

before the wedding; (2) the prescriptions relating to the wedding proper, and to the parties, dances, gifts, employment of helpers and musicians, and so on, that attended and followed it; (3) miscellaneous.

In reviewing each of these rough divisions our interest will be occupied in observing, first, the treatment of matters that are not handled in earlier statutes, and the possible reasons why they are now taken up; secondly, the reappearance of the old provisions, and the tendency, if any is perceptible, of the modifications in them. Certain sections of the manual represent changes made after it was put into effect. These will be reserved for consideration in the discussion of the ordinance in its relations with the Reformation, where they become especially significant.[14]

The public announcement of the betrothal, the "lautmerung," as it was called, was almost as important an event as the wedding, and a variety of festal practices had gathered about it which are first revealed in the terms of this ordinance of 1485. Upper limits were set upon the number of guests to be admitted at a series of parties accompanying the celebration, and even the kinds of refreshment to be served were specified. A formal ceremony of some kind seems to have been observed first. The law required that this should take place at home or at the rathaus, and forbade its being performed in a monastery. It might be witnessed by a company of men and women, which the law limited exactly to thirty-two, sixteen for the bride-to-be, sixteen for the man. When this rite was over, the groom might gather a band of his friends, the number of which was fixed by the law at seventeen, and go to wish the bride happiness, "zw der preut gen und Ir glücks wünschen." The statute declared with singular liberality that any one who fell in with the party on the way without an invitation was not punishable. The bride was permitted to show her appreciation of these attentions by regaling her visitors with native or Rhenish wine, or other wine of the same grade—with this and nothing else. The council would

[14] See below, Chapter IV.

seem to have been careful to provide against the possible dulness of a party all of men by its permission to the bride to invite a couple of girl friends (or, if she should be a widow, two matrons) to meet her betrothed and his comrades.[15]

The particularity of the law is evident in the completeness of the picture it furnishes. After the "glückwünschen" of the men, the bride-to-be and her two friends might be visited for further congratulation by women to the number of twenty-four—half of them on the part of the bridegroom, half on the part of the bride. Those who came on the groom's behalf might bring gifts to the bride, provided these observed the limits of the articles on gifts. The company of women visitors, like the men, were to be refreshed with nothing but inexpensive wine.[16] Still the round of entertainments recognized by the law was incomplete. On the evening of the announcement the bride-to-be might have her betrothed and two friends of his to dine, and with them two women friends of hers, to pair off, it is to be presumed, with the extra men. The menu was to include nothing more than what was permissible at the wedding dinner; and the law intruded this further restriction on this little dinner party—that the women guests were not to stay all night. The law seems liberal in all its provisions, at least when compared with the older regulations of parties;[17] and its pressure was further relaxed by the clause which declared that brothers and sisters of the betrothed couple, with their husbands and wives, were not to be counted in the number of guests. The penalty was moderate—five gulden for breaking any article.[18]

In the regulation of serenading on the night of the betrothal-announcement we come upon the first provision avowedly made to reduce to the normal a new situation. In its foreword the council complained of "a new unnecessary extravagance" that had arisen. Fellows were

[15] Siebenkees vol. ii, p. 451.
[16] Siebenkees, vol. ii, p. 452.
[17] See above, pp. 36–40.
[18] Siebenkees, vol. ii, pp. 452–453.

in the habit of going about the streets serenading their friends with the "city-pipers," in honor of the betrothal and the bride, and costly things to eat and drink were passed out to them. The council ordered this refreshing of musicians stopped. The serenading was allowed to go on under certain conditions. The person who was arranging it might "bestow a moderate tip but not more than a Rhenish gulden."[19] As for refreshments, he might give the musicians and the persons invited to the serenade fruit, cheese, and bread to eat, to be passed around once and not oftener; also native or Rhenish or other wine of the same quality to drink, in discreet measure, and nothing else.[20]

Gifts were presented at the lautmerung as well as at the marriage, and restrictions upon them similar to those of the gulden-ordinance are imposed by the Hochzeits-büchlein. In the old prescriptions the gifts permitted to be given at the betrothal had been simple and modest: a brooch worth not more than ten gulden, and a girdle weighing not over three marks for the bride, and a three-gulden jewel for the groom.[21] According to the Wedding-manual, they were to be a silver brooch, and a chain for the bride—a chain instead of a girdle perhaps because of a change of fashion. The values permitted had been scaled up somewhat. The brooch might be worth from fifteen to twenty-five Rhenish gulden, the chain fifteen gulden.[22] Besides these things the law allowed the bride to receive from the hand of her betrothed an engagement ring, "the maiden-ring, as one calls it"; but even in this matter of sentiment the council interposed, laying down the condition that the ring was not to be worth over ten gulden. So, again, when they went to the church, the bridal pair might exchange wedding rings; but these, with the stones, might not, with-

[19] See above, Chapter II, note 3.
[20] Siebenkees, vol. ii, pp. 453–455.
[21] See above, p. 41.
[22] The gulden had depreciated, and the whole difference in value, therefore, cannot be taken to measure a permission to use costlier jewelry.

out risk of public penalty, cost more than from ten to fifteen Rhenish gulden.[23]

The provision of the older laws that on the morning after the bridegroom had taken the bride to himself the bride might receive from him or his friends two silver bowls of five marks weight,[24] was altered only by the qualifier that "other jewels gilded or not" of the same worth might be substituted for these. Her gift to him of a jewel was not mentioned, probably because it was no longer customary. Other customs are reflected, however, in the paragraph which forbade her or her friends to make presents of any kind of shirt or garland to the friends of the groom, to the bridal-escorts, the inviters, the servants—to any one except the groom himself. Him she might present with a shirt, and a bath-suit, and, according to a clause apparently thrown in later, a bonnet of prescribed value. Also within the privilege of the law she might bestow upon the bridal-escorts and the dance-bidders a cheap garland apiece, "without ribbons and without other costliness." The fine if she broke these articles was five gulden, while that for infraction of the other regulations of gifts was twenty gulden.[25]

There is a clause with regard to the manner of inviting to the dance interesting only as adding a detail to the picture of old manners which shows so distinctly through this law. The "tanzlader," the inviters, were each to have not more than three horses, and the "hegelein,"[26] the fool, only one, as they went about giving the invitations. A fine of three gulden was to be inflicted for each additional horse.[27]

[23] According to a provision which appears only in Baader, p. 73, and which may have been of earlier or later date, the engagement ring was to cost only eight gulden; and the bridegroom was to give his fiancée nothing in addition to this and the brooch and the gold chain, till he led her to the church; then, according to the old custom and tradition, the wedding-ring, customary for the couple to give the one to the other in front of the church, was exchanged.

[24] See above, p. 41.

[25] Siebenkees, vol. ii, pp. 455–458.

[26] The municipal fool was called "hegelein," "hängelein," from the shields with which his official garments were hung.

[27] Siebenkees, vol. ii, pp. 458–459.

The provision with regard to tipping was more particular than the old sweeping prohibition of it except "in moderation" to servants in the house.[28] It prescribed exactly the amounts lawful to bestow. The bride, and any one acting in her behalf, might not give to any one who did the bridegroom a service in connection with the betrothal more than fifteen pfennige. When the bride and the groom were given a dinner for the first time in honor of their engagement, they were not to bestow more than fifteen pfennige as a tip. But this was a special concession. Other persons at such a banquet, or at any other, must observe the custom of the city, and give as a fee not more than two pfennige.[29]

Looking back over this first group of regulations, one can find little to signify either a greater strictness or a greater leniency of supervision. More points were brought under regulation, to be sure; but when we remember the complication of life and its enjoyments that must have taken place since the earlier legislation, we cannot be certain that the greater particularity meant a more inquisitorial attitude of the city fathers. Perhaps when all discounts have been made, we may take this part of the ordinance as somewhat more liberal than the earlier laws. It was certainly so in letter, if not in spirit; and it was decidedly more comprehensive and systematic.

When we come to the wedding itself, again the variety of events was greater, and the particularity of regulation was such that we obtain a detailed portrayal of what took place. The procession to the church was permitted to be a much larger affair than formerly. The spare dozen of the old time were increased to forty-eight—half, as before, on the part of the bride, and half on the part of the groom; and the procession might be swelled by any out-of-town persons who had come especially for the wedding.[30]

The feasts in connection with the wedding were subjected to elaborate supervision and restriction. First of all the attempt was made to repress a practice that had newly

[28] See above, p. 40.
[29] Siebenkees, vol. ii, p. 459.
[30] Siebenkees, vol. ii, p. 460.

arisen. It seems that it had become a custom for the bridegroom to gather his comrades in a stag-party at "the cook's" ("kochen"), or a tavern. The council, without remark except to say that the practice was an innovation, ordered it abandoned, under a penalty of five gulden.[31] The provision of the older law which forbade inviting any one to the wedding feasts except immediate relatives and out-of-town guests was repeated.[32] It was softened by the qualifying clause, that in the absence of father or mother, or both, other persons might be invited to take their places. The fine for making the feasts anything but family affairs was comparatively heavy—twenty gulden.[33]

The council dealt in particulars and used the language of the caterer when it undertook to regulate the dishes that might be served. It specifically ruled out partridge, hazel-hen, pheasant, "norhannen," grouse, peacock, capon, either boiled or roasted, venison, heron, fish, and wedding herbs. A roast capon might be served on a side table, without danger of fine; and if there was any one present who could not eat meat on the day of the wedding, a dish or two of fish might be especially prepared. The penalty one risked in offering these unlawful delicacies was twenty gulden.[34]

The two items of the older regulations with regard to giving confections and notgelt[35] turn up in this ordinance, united but little modified. Neither spiced wine nor serenade money was to be bestowed at the wedding, except upon the house servants a gulden or less.[36] The prohibition in the old law of sending out of the house anything to eat or drink was reiterated. Perhaps the quarter in which it had been most violated is pointed out by the specification of the organ as a place at which one was to serve nothing to eat and bestow no fee. An exception was made of the warder at the door of the parish church into which the

[31] Siebenkees, vol. ii, pp. 460–461.
[32] See above, p. 36.
[33] Siebenkees, vol. ii, pp. 461–462.
[34] Siebenkees, vol. ii, p. 462.
[35] See above, p. 40.
[36] Siebenkees, vol. ii, p. 462.

wedding passed; one might give him a measure of native wine. The whole provision was probably intended to save the bridal party the cost and the annoyance of having to give tips and doles of food and wine to all the doorkeepers, sextons, janitors, and so on, who would put in a claim of service and make a draft in their own favor on the good-will of the season. The council gave the bridal party a legal refuge in the case of the city servants when it prohibited tipping them except when they did a definite service, and then only to an amount which it prescribed. When there were two of them or more, the fee was not to exceed one gulden; when there was but one, nine haller was the limit.[37]

The ordinance skipped from one thing to another somewhat at random. From its excursion into the regulation of tips it returned to the question of refreshments. The menu was visited with the official blue pencil; the drinks were regulated by affirmative prescription. The wines were to be Franconian, Rhenish, or others of the same grade, and only such. The fine was the high one,—twenty gulden.[38] There was even exact provision as to "what one may give the dance-bidders to eat and drink"; namely, to them and their attendants at a breakfast one or two boiled chickens, and with these wine of the permitted quality.[39] If in any respect this ordinance shows decided advance in particularity, it is in these prescriptions with regard to eating and drinking.

The guests at the wedding feasts were limited, as we have seen, to the family and out-of-town people. After the feast, however, one might invite in to dance whomever one wished. But the council laid it down as a condition that these guests at the after-dinner party were to be refreshed with nothing but fruit and confection, and wine of the permitted sort.

The simple provisions regarding musicians in the old statutes, to the effect that only such as were resident in the

[37] Siebenkees, vol. ii, pp. 463–464.
[38] Ibid., pp. 464–465.
[39] Ibid., p. 466.

city should be employed, and not more than six of these, appear in the Wedding-manual considerably amplified. By its terms the only musicians or funmakers one might employ were either those who came from the country with bride or bridegroom, or else those wearing the escutcheon of the city, together with the fool. This fool and the musicians who wore the city coat-of-arms seem to have been regular servants of the municipality, and were kept on hand for state occasions, and for the use of bridal parties, with the other wedding paraphernalia described below—like the livery and the colored waiters of a modern catering establishment. Should a prince happen to be in town on the wedding day, the law permitted giving his minstrels refreshments if they visited the wedding. Provision was made for the person who did not desire, or was not able, to hire the minstrels that wore the city emblazonry; he was left free to have in their stead one, two, or three others.[40]

On the wedding day a treat or "schenck" was permissible. Again the greater size of the wedding parties is apparent. Thirty-two men might be invited, besides strangers in town for the wedding. The law strictly prescribed the refreshments: fruit, cheese, and bread, and simple wines to drink—native Franconian, Rhenish, or others of the same quality. If the host had more on his menu than these, he exposed himself to a fine of ten gulden.[41] If he wished to hold a dance in connection with his wedding, and a schenck with it, he was not free to choose the scene, but was required to hold it at the rathaus, in chambers especially set apart for the purpose. The object of this arrangement was probably to make certain of having the festivity where it could be freely visited and observed by the city officials. At the banquet no silver bowls or drinking vessels might be used, or seat-covers, tablecloths, or napkins, except those "which the council has set apart for the purpose, and given orders to the steward to use." The refreshments were limited to those enumer-

[40] Siebenkees, vol. ii, pp. 455–456.
[41] Siebenkees, vol. ii, pp. 466–467.

ated in connection with the schenck held on the wedding day. Not more than two measures ("virteil") of wine might be given into the hands of the steward. If one did not comply with these terms, he was subject to a fine of ten gulden.[42]

In a provision of the older laws it was forbidden to have a wedding party or feast during the half year after the wedding except on a single occasion.[43] The prohibition was repeated in the ordinance of 1485, slightly qualified and rendered somewhat more liberal, perhaps by way of allowing what the attempt had been made in vain to prevent. It was specified that the one party permitted must be held the day after the wedding, and held in the house where the wedding took place. But the strict lines drawn upon the hospitality of the house by the main provision were loosened considerably in the sequel. For one or two mornings a party of twelve might be entertained at breakfast, and in the evening, at a supper, these same persons or others, to the number of seven, besides bride and bridegroom. And when the bridal pair had set up housekeeping for themselves, they might give a "wedding-party," and invite seven friends. The penalty for violating the conditions imposed in this permission to entertain was relatively high,—fifty gulden. A heavy fine was threatened probably because the practices at which the provision was levelled were hard to break up.[44] The restraints imposed by the article as a whole were evidently intended to save the parents and the young couple from the tax of having to keep open house during the bridal season and afterwards; and on the other hand to prevent the rich, who could afford to do it, from setting a pace in lavish entertainment which others could not follow without bankrupting themselves at the outset of their wedded career.

It will be noticed that the parties of the wedding season were regulated with greater watchfulness than before, although the more specific limits imposed might be less

[42] Ibid., pp. 467–468.
[43] See above, p. 40.
[44] Siebenkees, vol. ii, pp. 468–469.

exacting. For instance, the council extended its control to the parties that might occur in the interval between betrothal and wedding, which in the old regulations received no attention. A friend might entertain bride and groom but once during this period; he must do it at his own house; he might invite not more than six guests, and, to keep the law, he could regale them with nothing but fruit, cheese, bread, and simple wines. The same six persons, or six others, he was allowed to have for the "nachtmall"; but this permission was granted only on condition that he should observe strictly the limitations respecting guests and viands, and only if he was an immediate relative of the bridal couple. If his hospitality stepped over this chalk-line drawn by the council, he was liable to a public fine of three gulden.[45]

There remains for consideration what I have arbitrarily chosen to call a third division of the Wedding-manual, the portion made up of provisions that can be classified only as odds and ends. Two of them, with regard to gifts, were manifestly intended to bolster up the law in the face of evasions. An easy way to dodge the regulation concerning gifts would be to postpone giving until after the wedding day. This subterfuge was forestalled by a provision that neither party was to give to the other any jewel, money, or money's worth, except as expressly allowed; and no one was to make the bridal couple a present in the two months following their betrothal or marriage. Violation in the first instance was punishable by a fine of twenty gulden; in the other by forfeiture of the value of the gift and five pounds in new haller besides.[46]

One section is dated 1436, and its appearance is significant of the heterogeneous character of the whole ordinance and the impossibility of determining when any of its undated provisions originated. This one is definitely marked as having been proclaimed "1436 A.D. 10 Dezember, Sunday." Even the old preamble, long obsolete, was

[45] Siebenkees, vol. ii, pp. 470–471.
[46] Siebenkees, vol. ii, pp. 470–471.

retained as it had been read out from the chancel that long-past Sunday morning, and was incorporated in the Manual of 1485. It runs to the effect that a previous law with regard to costuming at weddings had failed of its purpose; the council therefore decreed that neither bride nor bridegroom, nor any one on their account, at their expense or at his own, was to dress in the bridegroom's color. None but a servant or a boy might be dressed in his color. The person who disobeyed would be punished by a fine of ten gulden.[47]

The old provisions as to bath-parties disappear, and their place is taken by a simple one that forbade "treating" to a bath, or paying another's bath-fee, or having refreshments after the bath. One cannot argue from this a relenting toward bath-parties. They were probably no longer the fashionable amusement they once had been, or perhaps they had fallen into the disrepute which everywhere came to attach to the public baths as harbors of license. The fact that it was the household servants of bride and groom of whom exception was made in this provision indicates the class of people who used them.[48] It would seem to be no longer necessary to forbid the burghers to frequent them in celebration of their weddings.

One other variety of party was brought under regulation, the "ayrkuchen," evidently a traditional wedding observance.[49] It was a party for women. The law did not allow over ten to be invited, on the part of bride and of groom, in addition to their sisters. The refreshments were restricted to "eierkuchen"—flat cakes or larded cake—and the usual wines, Franconian, Rhenish, or others of the same grade.

An interesting provision was inserted in favor of the bride who came to Nürnberg from the country or from another city. She was not to be subjected to the sumptuary regulations of her new home for the first three months of her residence in Nürnberg. During this time she might

[47] Siebenkees, vol. ii, pp. 471–472.
[48] Ibid., p. 473.
[49] "Ayrkuchen" is plainly seen to be "eierkuchen."

wear what she would. It was probably supposed by the city fathers that three months would give her time enough to wear out the clothes which she brought with her, or at least to wear them enough to make it less of a hardship for her to give them up or to adapt them to the terms of the law.[50]

Among these miscellaneous provisions there appears one of a different type, different in its occasion and in complexion. It did not propose, like the majority of the prescriptions of this ordinance, to set permanent standards of conduct, but attacked a specific abuse. The attack, moreover, was on grounds of propriety. It seems that it had become the practice of the ladies of the city, the married as well as the gay and single, to go serenading on the streets by night, upon the occasion of a betrothal. The council brought down upon this innovation a heavy hand of disapproval, because, as it declared in the preamble, such behavior did not become "maiden and matronly modesty." The council proceeded to cut off social encouragement by forbidding any one to invite the serenaders to eat or drink; and it forbade these to partake of any refreshment—a prohibition hardly necessary if the main clause was obeyed and the serenading suspended. The motive of this interference with the merrymaking of the burgher women may have been in part a sense of police duty, or the shock imparted by a new practice to the consistent feeling of the council that what had always been was proper; but the regulation was based on grounds of moral propriety, and to this extent is quite in the manner of Geneva.[51]

The remainder of these scattering provisions were devoted, so to speak, to stopping small leaks. For instance, it was provided that the restrictions of the numbers that might be present at the festivities were not to be eluded by having relatives issue the invitations. Drinks were no longer to be served in front of the houses after the procession to church; the bride must be blessed only at one

[50] Siebenkees, vol. ii, p. 476.
[51] Siebenkees, vol. ii, p. 477.

end of the house; the bridegroom was to thank the persons who went home with him not more than once, namely, the evening after the dance (probably because it was expected that his thank-you should be accompanied by something more substantial); bride or bridegroom were not to ask or appoint any man to escort ladies at the wedding, except sisters and out-of-town guests.[52] Finally there was an injunction to the constables and their deputies and the "rügern"[53] to have diligent supervision, and to bring persons who transgressed to justice without sparing—a formal clause which might attach to any law, and which is disappointing in failing to shed light on the administration of the sumptuary regulations.[54]

Looking back over its provisions, it is apparent at once that the Hochzeits-büchlein of 1485 was distinctly fuller and more complex than were the earlier enactments. It embraced a greater variety of details, and treated them with a thoroughness in which the old laws were lacking. It would be hard to demonstrate that it was at bottom different from them in spirit. As was said before, the multiplication of details cannot be taken as conclusively proving that sumptuary legislation was being more vigorously pressed. Times had changed; the enjoyments and expenditures to be regulated had been diversified; and there must always be the question whether the particulars of conduct visited with restriction are found in the law in greater variety and number because the council had made the meshes of its drag-net finer, or whether on account of renewed activity there were more people to be caught. One may safely say, however, that the policy of governing from the city hall private expenditure and manners is shown to have been still vigorously in operation, and it had apparently been kept abreast of the times. The very form in which these regulations were published—a büchlein, with preface, ostensibly intended to cover every form of

[52] Siebenkees, vol. ii, pp. 477–478.

[53] Probably here means simply informers, although it may refer to the "rügsherrn." See above, p. 26.

[54] Siebenkees, vol. ii, p. 478.

expenditure likely to arise in connection with a wedding—when it is set over against the simple and random prescriptions of the earlier time, indicates that the regulative policy had gained in definiteness and consciousness of purpose, to the point of being distinctly specialized as a branch of municipal law-making.

As regards the temper of the ordinance, none of the provisions, as we have seen, marks it as distinctly more strict than the older laws. None of them, on the other hand, shows any increase of liberality that cannot be charged to the compulsion of changing usage, to which the law had had to yield. In the Wedding-manual the city fathers at many points descended further into particulars than in their old prescriptions. They defined exceptions more frequently and generously. They displayed the wisdom of experience in seeking to shut up certain loop-holes against escape and evasions, and discount must be made for the effect of a maturer legal experience and development. The features of the statute which have just been noted are nevertheless to be regarded as evidence that the city fathers were more alert in their interferences with conduct, at weddings at least; that their supervision, if not harsher, was in plan certainly more thoroughgoing. It may be impossible to determine whether the standards of the council had been stiffened or liberalized; it is clear that they were applying to the conduct of the burghers a moral spirit-level, sensitive not merely to extravagance and over-lavish expenditure, but to improprieties of behavior as well—such a criterion as it would not surprise us to find in the hands of one of the reformers.

CHAPTER IV

Wedding Regulations and the Reformation

Consideration of the provisions scattered through the Wedding-manual that were evidently added after 1485, the date of its first publication, has been postponed because their main interest is lent by the occurrence of the Reformation. One of the most interesting questions about the paternal regulative policy touches the effect upon it of the Protestant Reformation. The answer should shed light upon the real quality of the Protestant movement, as well as illustrate the developments of paternalism. It is generally supposed that the Reformation quickened state supervision of manners. Most of the instances of intensive regulation that pass as typical have been taken from Protestant communities. The whole policy has become familiarly associated with Geneva and the Puritans; and it is a popular notion that it was peculiar to authorities highly charged with Protestant spirit.

Another impression, much more respectable, obtains; namely, that up to the Reformation the civil authorities laid hands on the citizen in the realm of conduct chiefly when his behavior threatened good order, and left all more intimate discipline to the church, as custodian of morals; but that when the Reformation came, and robbed the ecclesiastical authority of much of its awe, the secular magistrates felt obligated to step into its shoes and maintain moral discipline. In this rôle they proceeded to enmesh the private life of the citizen in restraints of law that looked to his moral welfare. The Reformation, according to this view, was a point of departure in paternal regulation. Not merely did it sensitize the moral consciousness of those who made law, but it cast upon them a burden of responsibility for the behavior of the citizen, his expenditures, his

dress, his indulgence in luxuries, his chastity, to which they responded with an elaborate body of ordinances of a new character.

It is true that in some places, as in certain of the Swiss cities, the Reformation gave the regulative policy fresh impetus. Existing statutes were given keener edge. The councils watched for trespassers with renewed interest, and prosecuted them more energetically; but even in these cities laws just as inquisitorial in principle had long been operative. For some centuries the authorities who after the Reformation took the citizen more strictly in hand had felt it part of their function and duty to set him, by statute, standards of propriety and of decent restraint; and they had undertaken, with more or less show of purpose, to hold him to them by fear of court and fine. The Reformation stimulated a sense of duty that had been from of old one of their springs of action. It set them forward with new keenness upon lines of policy which they had accepted and pursued for generations, following in some cases, as at Geneva, some zealous leader who gave them energy and persistency.

The Nürnberg Hochzeits-büchlein of 1485 was overhauled in 1526, the year after the council committed itself to Protestantism; and it contains further amendments dated as late as 1557. It will accordingly serve to exhibit whatever effect the Reformation may have had upon the sumptuary policy of the Nürnberg city fathers in respect to weddings. Evidence which will be discussed later indicates that the statute was not remodeled in 1526 in such a way as to obliterate the form it had when first issued, but it was simply revamped with amendments. It is to these amendments that we must look for the imprint of the Reformation.

Some of the changes can be assigned to a specific date. Elaborate regulation of the wages to be paid musicians of various sorts was made in the ordinance; the fees of a new variety of entertainers were fixed in a provision added on the Sunday after St. Andrew's Day, 1509. If one wished

the music of the bell-ringer, with his wife and men, at the wedding or at one of the parties, one must pay him and his troupe half a gulden a day, besides their keep, not more. If the wedding and the eierkuchen party[1] were held on the same day, and he therefore had to do double duty, he was to receive a gulden; if on successive days, a half gulden on each occasion.[2]

Further regulation of the same kind was added in April, 1511. It had been provided that the bidder to the wedding might receive on the wedding day altogether one gulden. The amendment allowed the like sum to the "schwennter" for his services—a trifling alteration, which shows, however, with what trivial points the council was concerning itself.[3]

In the provision regarding the "statpfeiffer" in its first form, the wage to be paid them for playing at night was set at one gulden, and for this sum they were expected to make music at eight different stands. If they were ordered to play at other places besides, they were to receive for each performance one gulden. This provision was modified later by an inscription in the margin declaring the pipers "to be bound to play only in front of the houses of the bride and of both of her maids; and before more than these three houses they shall not play previous to the wedding or afterwards, under penalty of five gulden." Finally, on December 23, 1522, a further amendment was written in, which relaxed the grip of the former. It provided that in future, "music should be played before the houses of the parents of bride and groom, and of the bridesmaids."[4]

In the revision of 1557 the prohibition in regard to the giving of a public stag-party[5] by the groom was qualified in its terms so as to cover all places where it might be celebrated, and in particular certain public resorts—"weder bey denn wirten auff meiner herrn trinckstube, Im Schiesgraben."[6]

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[1] See above, p. 62.
[2] Siebenkees, vol. ii, pp. 474–475.
[3] Ibid., p. 475.
[4] Siebenkees, vol. ii, pp. 475–476.
[5] See above, p. 57.
[6] Siebenkees, vol. ii, p. 460.

Such are the amendments to which a date can be affixed. There are a number of others that may have been added at any time during the period in which the statute was operative. Nothing about them gives a clue to their date. It is entirely possible that they were written in at the revision of 1526, and represent the mind of the city fathers under the inspiration of their new Protestantism. Some of these undated amendments softened the terms of the law. One was inserted in the section regarding gifts, and permitted the bridegroom to bestow on his bride a "maiden-ring" worth ten gulden.[7] In another the bride was forbidden to give garlands except to bridegroom, dance-bidders, bridal escorts, musicians, and out-of-town guests.[8] To all of these except the bridegroom she was already restrained from giving by the earlier provision.[9]

One clause, apparently also an amendment, was presumably designed to repair the net of the law at a point where frequent evasion had revealed a flaw. It was attached to the section in which were described the gifts that might be exchanged on the morning of the wedding. It forbade bride and groom to borrow the articles which had been named as legitimate presents, or, in order to avoid the penalty of the law, to borrow from one another things costlier than the law permitted, and to retain them. One can see through these terms the clever practice aimed at. High-priced presents were given, and when the officers or some "catty" neighbor spied them, it was easy to answer embarrassing questions by saying that the forbidden objects were simply borrowed. The council was trying to put a stop to this subterfuge by making borrowing also an offense.[10]

Another amendment rendered the original provision more explicit and less easy to evade. It fixed definitely the cost of the bride's gifts to the groom, which were required at first simply to be inexpensive.[11] Under its terms the

[7] Siebenkees, vol. ii, p. 455.
[8] Ibid., p. 472.
[9] See above, p. 53.
[10] Siebenkees, vol. ii, p. 456.
[11] See above, p. 53.

bathsuit which she might give him must cost not over five gulden, the shirt not over ten; and furthermore the latter was not to be worked with gold or silver. The amendment took a liberal turn at the end. An additional gift was allowed—which the original provision is modified to cover—a headgear ("hawben"), to cost not more than ten gulden.[12]

Certain of these amendments that are not dated tightened the bands of restraint imposed by the ordinance in its first form. It may be recalled that in the original provision regarding serenades it was permitted to pass out light refreshments and a discreet measure of certain not too costly wines to the thirsty musicians and invited guests. But the practice came to seem excessive to the city council, and by an amendment "the extravagance with the wine, which is served the city-pipers at serenades," was ordered abolished, under penalty of five gulden.[13] In another amendment the council repealed its previous permission that at weddings and other festivities a measure of wine (a viertail), or a less quantity, might be served to those who came in on account of the wedding. This change was made on the ground that the custom had led many people into notable extravagance. Thereafter no wine at all was to be dispensed, on pain of a fine of ten pounds.[14] It will be noticed that in neither of these instances were moral grounds advanced for the closer restriction, but simply the expense in this form of good cheer.

On the same ground—the burden of superfluous expense imposed on the entertainer—another amendment was aimed at a practice that had arisen and perhaps was growing socially obligatory, of inviting people in after the lawful feasts to dance and have refreshments. The amendment had a little preamble of its own, in which its reasons were set forth. "Although already definite and well-adapted laws have gone forth and been proclaimed under the authority of the honorable council, for the avoidance of needless and superfluous cost in betrothal-announcements,

[12] Siebenkees, vol. ii, pp. 457–458.
[13] Siebenkees, vol. ii, p. 455.
[14] Ibid., pp. 478–479.

weddings, etc. . . . nevertheless a special innovation has recently arisen besides"; namely, of inviting, on the day or evening of the wedding-betrothal, many women and maidens, in addition to the persons allowed, to eat and dance. This was "not only an expense but much trouble and over-tax." The council ordered the practice discontinued and the law obeyed, but not without a reservation. If bride and bridegroom had brothers and sisters or nieces and nephews, they might invite these in to dance after the feast on the evening of the betrothal announcement, but the privilege was extended to none of the other wedding-feasts or parties. The amendment was nailed fast with a penalty of ten gulden.

The paragraph that follows in the text of the statute throws some light on the structure of the ordinance, besides stiffening the terms of the law. "If any other or additional persons," it runs, "besides those who are permitted and allowed to be invited according to the tenor of the Hochzeits-büchlein and the law just read" (the reference evidently being to the preceding section as an addition to the Hochzeits-büchlein subsequent to its first publication), if any such superfluous persons came bidden or unbidden to any of the parties or celebrations connected with the betrothal, they should each pay a fine of three gulden, which should be "exacted without sparing of each and all."[15]

The last of this congeries of sections that permit of being identified as amendments is one which was not a specific addition to the requirements of the law, but a kind of enforcing clause, perhaps added at some moment when the council resolved to screw down the ordinance with a new vigor. "And since," runs its foreword of explanation, "and since in the Hochzeits-büchlein it is declared in specific laws, who and what persons bridegroom and bride may invite home after the betrothal-announcement and before the wedding," the council commanded that no other persons should come, invited or not invited, to feast or dance, except as those laws allowed. Whoever invited

[15] Baader, p. 75.

others, or whoever attended uninvited, contrary to the statute, should pay the fine which the law imposed.[16]

Such are the provisions that can be distinguished as amendments to the Hochzeits-büchlein. Ranging in date from 1485 to 1557, they cover, with ample margins, the period of the Reformation. We are looking for marks of the Reformation, and may discard at once the amendments which by their own confession antedate it; namely, those of 1509, 1511, and 1522.[17] This pruning leaves a limited number that might have been added under the reforming impulse. It is by no means an inevitable conclusion that these undated additions were actually all written into the ordinance at one time, and under a Protestant inspiration. In fact the probabilities are against such a conclusion. It is easily possible that some of them were inserted before 1525. There is nothing in their terms or in their temper to show that they were not. But one must admit, in the absence of some positive testimony to the contrary, that they all may possibly have been drafted after the conversion of the council, and may reflect its frame of mind under Protestant influences.

It is apparent from rehearsing these amendments that taken altogether they did not radically alter the statute. They show hardly more than a tinkering with it in minor particulars. One stopped a loophole. Another was more definite than the original about the value of gifts and was therefore harder to elude; but it was softened at the end by permission of an extra present. Several articles set the screws a little closer,—three meeting an extravagance that had unexpectedly arisen and extending the law to cover it;[18] another extending the penalties of the provisions regarding the number of guests to the guests as well as the hosts (a device in use for centuries);[19] finally, one which has a somewhat more positive look, declaring that the rules and penalties as to guests would be strictly enforced. These

[16] Ibid., p. 75.
[17] See above, pp. 67–68.
[18] See above, pp. 69–70.
[19] See above, pp. 35, 36, 39, etc.

articles represent scarcely greater alterations of the law than the amendments dated 1509, 1511, and 1522. If we did not know from other sources that a Reformation had occurred, certainly we should not detect it here. It is hardly to be imagined that the citizen who was about to marry felt that he was suddenly straitened in his prospects by such amendments, and would now have to do with a council that had suffered a change of heart, and would frown with a new puritanical disfavor upon his pleasures. A more vigorous execution of the laws on hochzeits-luxus may have followed the conversion of the council in 1525; but a change of policy, if it occurred, exhibited itself but faintly in the terms of the law. The fact has already been noted that the sharpening of the law that may have taken place as its result did not proceed upon moral grounds. Simply the extravagance of the customs forbidden was cited as condemning them; and no new motives were professed, or needed to be called in, to account for the changes made. In fine, if we knew nothing about the Reformation, we might very well take this patching of the wedding code as a mild response to the exhortations of the orthodox diet of the empire, meeting in 1524. Convened at Nürnberg, that Catholic body of notables had complained loudly of the new extravagance breaking out everywhere, and it had declared that "with regard to burghers, artisans, and peasants, new sumptuary dress laws must be made," and extraordinary measures taken to enforce them.[20] If the amendments to the Wedding-manual were made under the influence of the Lutheran movement, they were in character such as might have been formed in the spirit of this utterance, and under the conditions of the old régime.

But my assumption with regard to the evidence is open to the question whether possibly the whole ordinance, as well as these undated amendments, was not a product of the converted council. It was entitled the "Nürnberg Hochzeitsbüchlein of the year 1485, which was renewed, bettered, and changed the 7 Feb. 1526."[21] This title lends

[20] Expressions of the diet quoted in Janssen, vol. iv, pp. 145–146.
[21] Siebenkees, vol. ii, p. 449.

color to the suggestion that we have the statute in a form in which it issued from a thorough revision in 1526. If such is the case, one is confronted with the possibility that the draft of 1485, perhaps much less puritanical in its terms, was swallowed up in this revision; and if so, of course the opportunity which the Hochzeits-büchlein seemed to offer for comparison of the law just before the Reformation and just afterwards, is lost. To put the question in another form, we are called upon to consider whether we have before us the ordinance as it was framed in 1485, with the revisions of 1526 in the form of amendments; or whether this is the ordinance as it was published in 1526, after the council had turned Protestant.

There is certain internal evidence to show that we have the ordinance substantially as it was framed in 1485, with the revisions of 1526 in the form of amendments. First, a number of the amendments bore dates earlier than 1526.[22] The fact that these survived intact in 1526 indicates that no attempt was made in the revision of that year to draft a law uniformly new, or to consolidate the provisions already on the books, and the amendments that had gathered, in a fresh and compact statute. It would not be surprising, then, if whatever changes the council saw fit to make in 1526 should be found likewise tacked on in the shape of amendments.

It is true that it is extremely hard to distinguish the provisions of the ordinance that might have been amendments. Those recounted above were manifestly such, but many provisions may also be which superficially do not show it. The possibility that this is true is raised to probability by an accidental revelation in the terms of one provision, which otherwise would pass unquestioned as a piece of the original law. It is in the section on forbidden meats.[23] Partridge, hazel-hen, and other game fowl were forbidden, as were capon and fish. The law went on, however, to permit serving a roast capon on a side table, and

[22] See above, pp. 67–68.
[23] See above, p. 57.

further to grant that if there should be any one present who could not eat meat on the day of the wedding, a dish or two of fish might be especially prepared for his benefit. Now an exception in favor of those who might have scruples about eating meat on set days would mean nothing unless issued after the Reformation. This clause, although not dated, was certainly added after 1485, and there may be others like it which cannot be distinguished.

The considerations of structure noted above support with a fair degree of probability the assumption that the main provisions belonged to the ordinance of 1485, except where there is evidence, perhaps in the preamble, of enactment to meet some particular emergency.[24] On the other hand the amendments, when not otherwise labelled, were possibly the work of the reformed council in 1526, and if so, make up probably the sum total of its work in changing this variety of sumptuary law.

But let us suppose that the ordinance has indeed come down to us as published in 1526, with the features of the ordinance of 1485 indistinguishably plastered over by the alterations of that year. This alternative does not force us, in the lack of a comparative standard, to say that the law shows no effect of the Reformation on the local sumptuary policy. First of all, we have a comparative standard of a sort in the articles imbedded in the statute with specific dates earlier than the Reformation—one of them from the year 1436, others from 1509, 1511, and 1522. They seem to be of about the same severity as the surrounding provisions, which do not strike one as having been uttered in a temper decidedly more rigorous. It must be admitted, however, that these few dated sections are scarcely sufficient criteria. They are samples which are not large enough to show the pattern. If then we give up all nearby standards as impossible to establish with sufficient definiteness, we may still make good use of the distant enactments

[24] For examples, see above, pages 56, 57, 63. The date of these occasional provisions is usually problematic. They are a common feature of sumptuary laws, and not peculiar to the Reformation period.

of previous centuries.[25] When one compares this whole ordinance with them, as is done above in detail,[26] one sees that the Hochzeits-büchlein was only more elaborate, and not more stringent; that, if different at all, it was more liberal than these.

If therefore we must take the Hochzeits-büchlein in the form in which we have studied it as representing the mind of the council under the influences of 1526, and must say that we cannot know whether or not it was a sharpening of the laws on the subject in force just previous to that time, it may still be seen that it represented no wide departure from the curve which the policy had been describing for centuries. This fact, though falling short of all that we should like to know, is after all the significant point. Whatever its effects in the long run, the Reformation did not immediately change the direction of this species of sumptuary legislation, but gave whatever acceleration it may have imparted, along lines projected from the past.

It is impossible to reach a fully intelligent understanding of the effects of the conversion of the council of Nürnberg on its sumptuary policy, without inquiring into the conditions of the Lutheran movement there, and the nature of that conversion. A study that wanders somewhat from our main line is involved, but it justifies itself in the light which it sheds on the motives of the council in adopting Protestantism, and consequently on the spirit that was to be expected to animate it in its acts of reform.[27]

The soil in Nürnberg was prepared for a friendly reception of Luther's teachings by the personal popularity of Johann Staupitz, the vicar-general of the Augustinian Order. Staupitz had been heard by overflowing crowds at the time of his visitations in 1512 and 1516, and a number of prominent men of the town, attracted to his person, formed a club, held meetings at pleasure in the refectory of the

[25] See above, Chapter II.
[26] See above, Chapter III.
[27] I have followed the narrative, without always making use of the inferences, of Rösel, in his Alt-Nürnberg, pp. 424–461. Rösel approves the Reformation, and may be trusted, in doubtful passages, to set forth fairly all that is creditable to the Protestant side.

convent of the Augustinians, and called themselves the Sodalitas Staupitziana. Among them were the men who later pressed the Reformation most vigorously in Nürnberg: Jerome Ebner, Kaspar Nützel, Lazarus Spengler, Dr. Christoff Scheurl, who was the council's legal adviser, Jerome Holzschuher, Andrew and Martin Tucher, Jacob Welser, and the provost of St. Sebald's parish, George Behaim,—all sons of the old ruling families of the city; these, besides such famous men as Albrecht Dürer and Willibald Pirkheimer. The attitude and the sympathies of such men were apt to have a considerable influence, at least in setting the fashion of thought. The feeling of the Staupitz club toward Luther just before the Diet of Worms is reflected in pamphlets published at the time by two of its members. One was a "Schutzschrift für der Lehre Luthers," by Lazarus Spengler, clerk of the council,[28] a controversial tract in which he seriously attempted to demonstrate the accord of Luther's teachings with Scripture and reason. The other was the noted satire, published anonymously under the title "Eccius Dedolatus" (Eck planed down), the work of Willibald Pirkheimer. The result was that Eck had the names of Spengler and Pirkheimer thrown into the bull which was directed against Luther; and the two Nürnbergers got off only by the intercession of the council with the Duke of Bavaria and the Bishop of Bamberg, and by seeking absolution from Eck. That the standing of Spengler in the community was not damaged by his championship of Luther is indicated by the fact that he was one of the three deputies of Nürnberg at the Diet of Worms.

The test of the Edict of Worms showed that the council was orthodox, but not eager in its orthodoxy. It delayed

[28] He seems to have been one of its dominant personalities. Lazarus Spengler, "nominally only a scribe or a clerk, was in reality the author and director of all the decisions of the council" (Camerarius, Life of Melancthon, quoted in Janssen, vol. iv, p. 62). Speaking of Spengler and Osiander, Pirkheimer says: "A conceited scrivener without any sense of propriety and a presumptuous priest . . . are forsooth to rule despotically over such a worthy town as Nürnberg, and to alter and reform everything according to their wisdom; whatever they want must be right, and must be done" (quoted in Janssen, pp. 62–63).

the publication of the decree until October. Its long hesitation seems to have been due to uncertainty as to what effect an attempt to enforce the edict might have, and may therefore be taken to measure roughly a pro-Lutheran sentiment gathering head among the populace. When at last the councilmen determined to act, they spoke decisively, and declared their intention to enforce the edict to the letter.

In 1521 an element was injected into the local situation which, it seems not unlikely, prevented the Reformation in Nürnberg from taking the course to be expected amid so many favoring circumstances. Nürnberg was made the seat of the new experiment in imperial administration. The Reichsregiment and the Reichskammergericht were installed in a chamber of the rathaus, where they were separated only by partitions from the deliberations of the council. This proximity was certain to have its effect. The new régime might be weak in influence, but it would nowhere be more impressive than in the town in whose midst its members resided—particularly when their presence was a favor and privilege which the burghers, if only with an eye to business, did not desire to lose. Whatever the reason, while the imperial authorities remained the council gave no questionable grounds for complaint respecting its orthodoxy or its loyalty to the emperor's policy in religious matters.

In 1523 division of opinion over religion had gone so far as to lead to discord and ruptures in the monasteries. Among the Dominican brothers one Gallus Korn, a son of Nürnberg, began to use the conventual pulpit to inveigh against monasticism. When the prior threatened him with the dungeon, he took refuge with the Augustinians, where a radical spirit seems to have been present from the first. A Carthusian, Franz Kolb, found the same asylum under like circumstances. The council refused to interfere in these cases, not necessarily because it looked indulgently on the Protestant malcontents,[29] but very likely because it

[29] As Rösel implies.

regarded these quarrels as outside of its jurisdiction; for as soon as the monastic squabbling took a political turn, and a Barefoot friar, one Kettenbach, began to ventilate his Lutheranism in animadversions upon the emperor, the pope, and Henry VIII of England, the council promptly laid its hand on him, and stopped the sale of his writings. Its coolness toward violent breaks with the established order was further exhibited when it banished from the city four monks who had escaped from the Carmelite cloister.

There was apparently a strong anti-Romanist ferment at work among the populace. One may not feel justified in taking the demonstrations of the noisy and vulgar—the "katzenmusiken" heard on the streets in the evening, the window-breaking, the ribald catches sung before the nunneries—as tokens of a universal popular sentiment in favor of Protestantism.[30] There is other and safer evidence that such a sentiment was growing, in the many pamphlets that began to be passed around, despite rescripts from the council and the vigilance of the police; and further in the quarrelsome discussions which are described as continually going on in taverns and at the baths. In 1523 Hans Sach's "Wittenberger Nachtigall" was produced, and became immensely popular.

The evidences of heresy at last grew so obnoxious to the papal nuntio and the imperial viceroy that each entered complaint with the council. The vicegerent summoned the city fathers to him on the 11th of December, and took them to task for the trade in Luther's books that was being pushed, in contempt of the edict. The result of the conference was the issuance of a sharp reprimand to the book-dealers. Presently the legate appeared to demand the arrest of the fugitive monks, and of the four preachers of the city, who apparently had for some time been teaching Luther's doctrines. A sample of the high pitch of their sermons is furnished the day after the legate's complaint, when they freely attacked the pope as willing to subvert

[30] Rösel makes much of these expressions.

the teaching of Christ with lies, and admonished the people not to put up with this misleading instruction.

One can gauge the height to which popular antipathy toward the Roman clergy had run in 1523 by the circumstances of the legate Campeggio's entry into the city on his commission to the diet. Instead of approaching with calvacade and pomp of ceremonial, upon the advice of princes who met him beyond the suburbs he came in as a private citizen, in order to attract as little attention as possible, and went to his lodgings without even visiting the churches. His presence seems only to have excited the preachers to rasher utterances. Osiander cried to his hearers: "And though the pope should add to his three crowns yet a fourth, he would not turn me aside one inch." Thomas Murner, coming to the diet from the Bishop of Strassburg to lodge complaint against the Strassburg council, was hooted and dogged through the streets by gamins bawling, "Murrnarr," "Katzenkopf." Even the Bishop of Bamberg, the ecclesiastical superior of Nürnberg, was attacked with mockery and satirical songs.

At several points the old ecclesiastical régime was visibly crumbling into decay, and the intention of the council to stay and restore it was plainly growing weaker. At first there appeared little breaches like negligence of the lenten fasts, which the council sought at once to correct by forbidding the burghers to eat meat on fast-days and the butchers to sell it. A lesion of a much more serious character had appeared during the previous year when the congregations of the churches had petitioned the provosts to administer the Eucharist in both elements. Although we have not the means to know with what unanimity the populace were taking critical steps of reform for themselves, it is clear that they were moving in that direction. The provosts referred the matter to the council; but no one in authority seemed to relish assuming responsibility. The council referred to the Bishop of Bamberg, and he to the ecumenical council expected to be called; but the Augustinians refused to depend upon such an uncertainty, and

the prior went on to administer the Supper in both kinds to his monks and to a number of the burghers. In Holy Week of 1524 no fewer than three thousand persons partook of the communion at his convent under the Lutheran form.

His bold initiative removed the lingering scruples of the provosts in the two great parishes of St. Sebald and St. Laurence. They stopped at nothing now, but changed the mass, abolished confession, Latin hymn-singing, and masses and anniversaries for the dead, set feast days, and had the gospel and the epistle read in the German tongue. The council did what it could to recall them from these headlong measures of reform, but had to confess, in a letter of self-exculpation to the Archduke Ferdinand and the Bishop of Bamberg, that it was unfortunate but true that the magistrates could not proceed against the innovations without provoking a storm which they dared not face.

Events now approached their crisis. Probably stirred to action by the sequel of the Regensburg convention, the Bishop of Bamberg at last made up his mind to deal summarily with the insubordinate provosts of Nürnberg. They answered his citation, but took high ground and refused to accept his judgment on the plea that he was an interested party to the action. When they appealed to the expected council, to which previously he himself had referred them, he excommunicated them, but neither the Nürnberg council nor his own deputy in the city would assist in giving effect to the ban.

The council had evidently been pursuing a policy of expediency. Whatever may have been the religious convictions of its members, it had been looking out first for the public interests of Nürnberg, and had steered a middle course, growing more and more difficult, between the Protestant sympathies of the people and the orthodoxy expected of it by those with whom it had to do in its imperial relations. When the Reichsregiment had finally proved itself a phantom, neither to be wooed nor to be feared, and when the cities had united at Speyer and Ulm in 1524

openly to deprecate persecution of "the good teachings of Luther," the chief reasons for holding out against popular sentiment and personal inclination were removed.

At the same time the inducements at home for the council to turn Lutheran were strengthening, and its cupidity began to marshal it in the way of its Protestant inclinations. The factions, wordy and violent, which had shattered the ancient quiet of the cloisters, offered a tempting excuse to the council to step in as arbiter, and with a good show of equity to lay a hand upon the rich monastic properties for the benefit of the city. In December, 1524, the Augustinians discarded their cowls, and deeded over their convent to the council. Whether or not their action bred in the city fathers a bad suggestion, it is easy to believe that it sharpened an appetite which asserted itself plainly in their dealings shortly afterwards with the Carthusians. A faction of the Carthusians, headed by Prior Blasius Steckel, purposed to follow the example of the Augustinians; whereupon Brother Martin and the remainder of the friars stood up in opposition. The council was loath to see such good purposes fall to the ground. It packed off Brother Martin into exile, as a disturber of the peace, then essayed to bring his recalcitrant comrades to terms by making them listen to the sermons of reformed preachers. Having overcome the hesitancy that attends the first step, the council went on to deny to the Barefoot monks and the Dominicans the exercise of the cure of souls in the two nunneries.

In March, 1525, after going through the formality of hearing a public discussion of the religious question, the council committed itself to the work of introducing the Reformation. Its policy was directed by the two losunger then at the head of the administration, Jerome Ebner and Kaspar Nützel. They were vigorously seconded by the clerk of the council, Lazarus Spengler, of "schutzschrift" fame; and by Osiander, the hot-headed, radical young preacher of the parish of St. Laurence. The council now made laws embodying the reforms which the ecclesiastics had undertaken at their own peril. It permitted the eating

of meat on fast-days; it abolished the whole series of "popish holidays," and put the monasteries under regulations conformable to Lutheran teachings.

It was not long before it laid hands on the monastic properties. Even Protestant writers admit that the motives of the council were not unmixed,[31] and that it probably looked upon the monastic houses with a more indignant and zealous eye because it coveted the wealth which these contained. As the summer of 1525 wore on, one after another of the convents was coaxed or pressed to the point of surrender: the Carmelites in May, after their prior had been removed by banishment; the Carthusians in July as the result of long and painful negotiations; in the same month the wealthy Schottenkloster. The Barefoot friars and the Dominicans contested stoutly the dissolution of their retreats; and the council had to content itself with instituting a siege. It took an inventory of the property; forbade the monks the cure of souls; and refused to permit the admission of new members. The Dominicans held out until they were reduced to five; the Barefoot monks until, a half century later, the last of them was removed by the hand of death.

The fate of the nunneries forms a long and interesting story, but for our purposes one needless to follow. The council adopted the same policy as in the case of the monasteries. The resistance of the sisters was much more stubborn, and provoked the reformers to acts of force which have been hard for their apologists to defend, and which go far to justify such animadversions as Janssen's.[32] The nuns clung to their convents to the end. It is significant of the attitude of the council in its reforms that it did not confiscate these outright, but suffered the sisters to retain the use of them as long as they refused to give them over. The house at Engelthal fell to the city in 1565, while the prioress, Anna Tucher, and one sister were still living. The cloister at Pillenreuth and the Clara-Convent in the

[31] Rösel, p. 455.
[32] Vol. iv, pp. 64–84.

city passed into the hands of the fathers of the council only when in 1591 the sole survivor in each died. The Dominican nunnery of St. Katherine, whose inmates obtained favor because of their activity as copyists, survived until in the year 1596 the solitary candle of the last sister flickered out.

The council had extended its jurisdiction to cover reform of the church with no authorization but the acquiescence of the burghers. It constituted itself bishop of Nürnberg, and felt no need of forming a consistory to suggest or second its policies. A tenth of the property sequestered was devoted to the support of the church; a portion was invested in charitable institutions; the rest was turned into the city treasury. The costly instruments of worship were melted into money, or inventoried and taken into safekeeping. The monks were given the choice of entering the parish service, or, with the nuns, of receiving a pension, on condition that they married. All ecclesiastics in the new church were put on a salary, but they lost their immunity from taxation, and all had to qualify regularly as citizens.

Such was the Reformation in Nürnberg. It passed through its initial stage without uproar. Manifestly it was a popular movement. From 1522 onward Lutheran sympathies were thriving apace among the mass of the populace, and they spread until by 1524 it would seem that only the monasteries were left as distinct islets of fidelity to the old belief. The council lagged behind public feeling, at least in its avowed policy, and steered a course of prudence. The cardinal alterations in the forms of worship in the city churches were accomplished without its consent. When at last the council committed itself to the Reformation, it would seem to have made up its mind as the result of a balancing of advantages, rather than from a change of heart. However vigorous in its reforms when once committed to Protestantism, it had not been the pioneer, nor had it set the pace. Perhaps in part explaining this was the fact that there was no big, emphatic minority in Nürnberg to contest the advances of Protestantism and force

consolidation of its friends. The council could therefore well afford to bide its time, and reap all the advantages of an orthodox front, in the certainty of what the event would be.

This apparent calculation, and the large part which ulterior motives seem to have played, scarcely prepare one to expect a thoroughgoing moral zealotry in reform. Not that much violence to private beliefs was not likely to be done, and a new attention and interest turned upon moral questions as a result of the stirring of the waters of religion; but even in the dealings with the convents, where the incitements were sharpest, with all the disgraceful cajolery and vexation[33] there is absence of extreme fanaticism, of pressure to the point of blood, so to speak; and the rights of the religious orders in their coveted property were treated, if all things are taken into account, with a considerable degree of restraint. A certain leniency in the sumptuary policy which this character of the Reformation in Nürnberg may help to explain is illustrated by the amendment to the Hochzeits-büchlein noted above, in which even the scruples of Catholics about eating meat on certain days were respected, although one of the acts of reform had been to refuse public recognition to the set days of the church. Perhaps we may find in the presence of mixed motives, and in the qualified intolerance of the council, one reason why the Reformation produced no abrupt accentuation in the policy of controlling manners, certainly at least as far as that policy is reflected in the Wedding-manual and its amendments.

[33] Janssen, vol. iv, pp. 64–84; Rösel, pp. 456–460.

CHAPTER V

The Reformation and Moral Legislation

One of the modern historians of Nürnberg, when he has described the Reformation, points to the sumptuary laws for proof that the conscience of the city fathers was quickened by Protestantism.[1] They instituted a housecleaning of community morals at the impulse of "the stricter views regarding public life which came to prevail through the teaching of Luther." Their other reforming activities, such as their dissolution of wealthy convents, might have had a mixed motive; but the historian cites as indubitably wholesome fruits of the local Reformation the attempts to rectify morals in the city, in particular the limitations and prohibitions laid upon "gambling, with cards and dice, and at bowls"; the interdiction of ribald singing in the streets; the institution of a close watch over the vice of tippling; the restriction of carnival abuses; the sharper lines drawn upon the excessive luxury indulged in at weddings; the subjection of marriage relations to severer public scrutiny and discipline. It has already been shown that the sumptuary wedding laws fail to support this contention. The sumptuary wedding code, drafted a generation before, was revised just after the conversion of the council; but it was not given a severer tone than previously; in fact, as we have seen, it bears no marks of the reforming wave that can be identified except doubtfully and by aid of external evidence. Unfortunately nothing is said in the narrative just cited to prevent one from receiving the impression that the public discipline of manners described—the repression of gambling, boisterous singing, drinking, carnival revelry, extravagance at weddings—was a new departure in the city; or that, if it had been on the statute books before, it

[1] Rösel, p. 461.

now received an emphasis only to be accounted for by the inoculation of the council with Lutheran ideas.

The recommendations of the orthodox imperial diet of 1524[2] suffice to indicate that in fact no stricter views on public moral policy were pronounced by Luther than by men whom he did not inspire, and that as distinct a sharpening of sumptuary legislation might well have occurred at Nürnberg in 1526, in obedience to Catholic authorities, had Luther never preached. The extant Nürnberg ordinances of earlier date show that the council had long felt it to be its duty to restrain manners in just such particulars as have been ascribed to an access of Protestant zeal. The authorities sought to control gambling and tippling in laws that date from the fourteenth century. Laws which evinced a still more tender regard for uprightness and decorum in personal conduct made their appearance repeatedly for two centuries before the Reformation; and these had by no means ceased to be passed or been allowed to grow obsolete in the period that preceded Luther's outbreak. Enactments that renewed these laws when they were slipping into neglect; amendments which signified the alertness of the council, and an intention to keep the policy of restriction abreast of new abuses bred of new conditions, are at hand in plenty, dating from the latter years of the fifteenth century and the opening years of the sixteenth. Many of these, as will appear, have a moral cast and in explanatory passages contain professions of motive which, after such a view as that cited above, would cause us, in the absence of an express date, to stamp them as products of the Reformation. The spirit of the Reformation may indeed have excited the city fathers of Nürnberg to apply the sumptuary laws with a new energy; but examination of earlier enactments shows that it did not lead them to make radical departures in the character of the laws.

Tippling is cited as one of the matters of conduct "taken under strict supervision" as a result of the Reformation.[3]

[2] See above, p. 73.
[3] Rösel, p. 461.

But the council had for many generations been taking measures that contemplated restricting the liberties of the citizen in his cups. In the fourteenth century it gave notice that the person who should furnish drink in his house or before his door after the curfew would be subject to a fine of one pound haller, and the person who imbibed the drink to one of sixty haller. If it was a tavern or a public bar, the tapster was liable to a fine of sixty pfennige.[4] This law was repeated in the fifteenth century with heavier penalties. The penalty upon the host was raised to five pounds of new haller, and the fine of the person found drinking after the curfew to two pounds.[5] Later the law was renewed, with its net mended to catch certain offenders who pled, when arraigned, that they had been dining at the inn.[6] Another ordinance forbade any one to have a drinking saloon without the permission of the council.[7]

These measures do not look strange to us because we still keep the sale and consumption of liquor under close municipal supervision; and indeed it would be hard to show that the laws cited above were not merely police regulations, enacted in the interest of public order and safety. In the fifteenth century appeared laws in regard to drinking which may be classified less doubtfully as paternal legislation. In one of them the city fathers ordered drinking places of all sorts to close their doors on specified holy days; namely, Christmas Day, Easter, Whitsunday, "Oberstag," Corpus Christi Day, Ascension Day, "on all the days of our dear Lady," on the days of the Twelve Apostles, and during Passion Week. The council here again may have had the peace of the city foremost in mind, for on the days of the church in the Middle Ages the working people had their liberty, and idleness was apt to end in drunkenness and excess. But the prohibition extended to the homes of private citizens, and any one, man or woman, who gave another to drink, or allowed games to be played for money,

[4] Baader, pp. 63–64.
[5] Ibid., p. 254.
[6] Ibid., pp. 254–255.
[7] Ibid., p. 115.

in his house at Christmas, Easter, or Whitsuntide, was liable to a fine of five pounds.[8]

Just at the close of the fifteenth century, and in the generation of the Reformation outbreak, the council had been provoked to enact a law against treating, whose basis of paternal and moral purpose is manifest. The council had been informed, it declared in the preamble, and could see for itself, that "punishable, disorderly treating" had "broken out in the city," a practice from which proceeded "much sinfulness and blasphemy, also strife, anger, injury, and murder"; therefore, "to the praise of Almighty God, also to prevent and abolish this abuse, with which much frivolity" was connected, the council, in pointed terms, forbade it.[9] This profession of motives, with its puritanical twang, makes it difficult to regard as a new thing at the time of the Reformation, or as peculiarly the expression of the Protestant impulse, any attempt, by supervision of drinking, "to stamp upon the public mind a more serious character."

"Gambling with cards, dice and bowls was partly prohibited, partly limited"; such was another of the reforms which the Nürnberg council has been represented as introducing, to put in effect "the stricter views of public life, which came to prevail through the teaching of Luther."[10] Again a glance back over the regulations of gambling which the council had been enacting from the time of the earliest of its decrees that survive, shows that actually this was no innovation, and might have occurred without the Reformation. From the beginnings of the fourteenth century, perhaps from a date even behind this, comes a law which limited to sixty haller the stakes a burgher might set upon his game, on pain of the winner's forfeiting to the city the excess, together with a fine of five pounds upon him and the loser alike. Any third person who backed a wager in excess of sixty haller risked the same penalty. The law was to cover all "'hande spil,' bowling, disk-throwing, dice

[8] Baader, p. 255.
[9] Baader, p. 115. The year of this ordinance was 1496.
[10] Rösel, p. 461.

and other games," with the exception of running. A person caught playing, whether winner or loser, and unable to pay the fine, was required to leave the city until he could pay it.[11]

In the latter half of the fourteenth century, ordinances with the same general provisions, but with heightened penalties, and with much more careful safeguarding of the limitation upon stakes, appeared on the law-books.[12] The council did not stop short of total suppression, when it saw fit, in this early time. In the fourteenth century it summarily ordered all gambling places in the city rooted out, and armed the constables with authority to confiscate their property, and put whomever they caught breaking the law in the stocks, at the discretion of the council. Again it flatly prohibited "weltzeln"—probably a game played with balls—under penalty of forfeiting the winnings, and sixty haller; and, in default of the haller, of sitting in the stocks at the pleasure of the council.[13] The keeper's punishment was to sit in the stocks for eight days, and be banished a year from the city.[14]

In a series of restrictions and prohibitions which appeared at the time of the Wedding-manual, in 1485, the city fathers sought to regulate gambling with still greater particularity. The intention of the law seems to have been to drive the practice into the light. In general a fine of five pounds haller was suspended over any one, man or woman, who engaged in a game for money. The host in whose house the playing was going on was liable to a mulct of two pounds, "if at the time he is serving his liquors with his sign out, and his saloon open," but to one five times as great "if he is not serving liquors at the time in the aforesaid manner, and has not his bar at the time open to the public."[15] In order to ferret out playing in secret where a censor could not get

[11] Baader, p. 63.
[12] Ibid., pp. 63–65.
[13] Baader, p. 65.
[14] Ibid., p. 65. A final clause of this ordinance forbade pitching pennies. "Also it is decreed that no one shall with haller or pfennige shoot in a ring," under the same penalty.
[15] Ibid., p. 87.

at it to see that the law was observed, the council decreed that when any one heard of such illicit gaming, he should report it; and the proprietor of the establishment in which it was going on should be haled before the council and bound by oath to disclose and designate who had been playing at his house during a stated period previous, say a quarter year. These persons informed upon should then be summoned and likewise be bound to name any one who they knew had played. The law was drastic not only in its publicity clauses. When any one lent money to a friend to play and he lost, the ordinance authorized the lender to demand the sum of the winner, and if necessary to bring suit for it. The winner did not acquire legal title to his ill gotten gain even in default of suit. If the parties interested failed to enter suit within a quarter of a year, then the burgomaster might claim it. He was to deliver half of it as a fine to the city, and, it is to be presumed, might keep the rest for his pains. Certain games played for limited stakes were exempted from the frown of the law: "cards, draughts, bowling, for a pfennig," or for drinks, or for a small purse, "chess, running, and shooting."[16]

This law seems not to have worked effectively, at least not enough to suit the conscience of the council. Later, but still before the Reformation, the members revised and sharpened it. In the preamble they referred to the former enactments regarding the matter. These were in force, and they had "repeatedly punished transgressors of the same." But they saw them still violated in contempt of the consequences, and much excessive gambling practised, especially certain "suspicious playing for lucre at cards and dice, into which and the like transactions it befits the council to look and protect their community from damage and mischief." The former laws, they ordained, should remain in force. But no one hereafter might play "schanntzen, passen, faren," or the like, with dice; or at cards the game called "puckenmendlens," or any sort of costly game for gulden, in any form whatever. Offenders exposed

[16] Baader, pp. 87–88.

themselves at each offense to a fine of ten gulden, and one half of the winnings.[17]

In its deliberations of July 18, 1503, the council decided to prohibit "card-playing and dice upon the 'Schutt und hallerwiesen,'" but to suffer playing at bowls and shooting; this, however, not "on feast-days before singing and preaching, or on work-days."[18] These last pieces of law-giving are especially significant as indicating that the city fathers did not need the prick of a reforming impulse to waken them to the harmfulness of gambling in the city. Before the Reformation they had the matter on their consciences; and these cases in which they tightened the restraints of the law show that they were likely at any time, of their own accord, and with only the stimulus of the menace offered to public peace and morals, to draw the rein upon excess.

One might point to the old regulations of the carnival revelries, restriction of which again has been cited as a manifestation of the reforming spirit, to show that these festivities too had long been watchfully restrained by the council.[19] But our object is something beyond tilting against the errors of one writer. It is rather, by the test of their legal pronouncements, to measure the extent to which the fathers of the council felt a responsibility for the moral welfare of the burghers, and for personal conduct and a scale of living which appeared from the city hall as proper and decent. Perhaps this sense of duty was intensified, certainly it was not engendered, by the Reformation, with the injection of the Protestant spirit. The laws already cited in correction of the statements of a previous writer serve our broader purpose. There are others arising in the pre-Reformation period which support it still more pointedly.

Take, for instance, the laws with regard to dancing.

[17] Baader, pp. 88–89.

[18] Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. viii, p. 244.

[19] See the elaborate regulation of mumming and masquerades on Fastnacht and at other times, dating from the fifteenth century, in Baader, pp. 92–94.

Here was a matter which the council would regulate only in view of its moral incidents. The earliest rule may have been prompted by mixed considerations. It forbade artisans, apprentices, and menial servants to go about the streets dancing, accompanied by fiddlers and pipers, except on the three days before Ash Wednesday, the day of the great gild carnival. If the offender could not pay a pound haller, he must cool his heels for an hour in the pillory.[20] This prohibition dated from the fourteenth century. Another, of the same time, was more inquisitorial, and had a moral tinge. The city fathers forbade any one to dance after seven o'clock in the evening, unless he got express permission from them. They would fine the person in whose house the dancing occurred twenty pounds, and each of the dancers two gulden. They threatened to inflict corresponding fines of half these amounts upon men or women who danced "longer than between the two meals," and did not stop when they heard vespers sounded.[21]

In its deliberations on the 18th of July, 1503, while the Nürnberg Reformation was still a quarter of a century away, the council among its other business of the day concluded to put a stop to "the dancing which takes place on Sunday and other holy-days upon the streets," and directed that an ordinance to this effect should be proclaimed on the next Sunday.[22]

A specimen of dance regulation, interesting for the motives professed in it, as well as for the curious picture disclosed, comes to us from the fifteenth century. It runs:

> Since it has definitely come to the knowledge of the honorable council, that many unwonted shameful immodest and novel dances are daily encouraged and practiced, which is not only a sin and without doubt displeasing to Almighty God, but also may produce much dishonorable light-mindedness and scandal besides, among men and women, the same to prevent, our lords of the council earnestly and strictly command, that henceforth no player or minstrel shall pipe, play or cause any but the customary dances which have come down from of old;

[20] Siebenkees, vol. ii, pp. 676–677.

[21] Ibid., p. 677.

[22] Mitteilungen, Nürnberg, vol. viii, p. 244. The minute continues: ". . . also to add to the proclamation that no one shall shoot the knobs off the towers."

also no one whoever it be, woman or man, shall dance the same, and in dancing shall not take by the neck or embrace one another.[23]

Let us set beside this ordinance one of the same kind from the late sixteenth century, when the Reformation had had ample time to work in the blood of the council. For the sake of a complete comparison I quote freely also from this one, which like the other opens with an elaborate announcement of motives.

Inasmuch as it has not only been definitely made known to the Honorable Council but also is manifest to the eye and in plain sight of day in what measure at weddings and other dances here an altogether unseemly and immodest abuse prevails, in that women and maidens are excessively whirled and swung around by those who dance with them, wherefrom no small mischief and scandal proceeds, with the result that it is not improperly displeasing to all modest, honor-loving persons to behold it; Therefore the Honorable Council recognizing themselves responsible by virtue of their bearing office to plant and to further whatever is conducive to modesty and honor, but on the contrary to prevent and extirpate all that is opposed to this,—they our Lords have resolved no longer to look upon this unbecoming abuse,

but herewith command "that everyone, of whatsoever rank, at all dances which shall be held . . . in the gardens and other places about the city" and suburbs, "in and outside the houses, shall wholly refrain from all immodest dancing, besides all swingings round and whirlings, likewise from dancing in breeches and jacket only, without any garment put on over them." The penalty was two gulden. If the accused made light of the matter, the council might lay the fine on thicker at discretion.[24]

In comparing these two parallel ordinances it is hard to find in the second any differences to be attributed to the Reformation. To all appearances they are two expressions of a continuous policy. In the ordinance of the fifteenth century the city fathers used fewer words, but they ran their probe in as deep as in that of the sixteenth. In the sixteenth century law they attacked an abuse with which they did not deal in the other, the dancing that appeared to the council to be in dishabille; but they proceeded upon the same grounds—the immodesty of the dances, the scandal

[23] Baader, pp. 91–92.
[24] Siebenkees, vol. i, pp. 172–174.

they were likely to breed; and their tone was no more puritanical. The sense of obligation was the same in both cases. "Recognizing themselves," they say, "by virtue of their bearing office responsible to plant and to further whatever is conducive to modesty and honor, but on the contrary to prevent and extirpate all that is opposed to this," they were prompted to make these laws, and, in fact, to utter all the sumptuary and paternal laws of the period. It is an excellent conscious expression of the relation in which they believed they stood to the community, a relation which in fact had underlain the paternal legislation from the beginning of the story. At least in this expression of its basis, the policy had not suffered any change that is traceable to the Reformation.

The regulations of profanity furnish another interesting test of the attitude of the council toward the moral state of the citizens. In an ordinance apparently from the early part of the fourteenth century the council decreed, "In order to increase all blessedness and to the praise of God, that all loose usage with words shall be done away with, and especially they ordain that no one henceforth shall swear by God's corpse, His head, His heart, His blood, nor by his other members, nor by other creatures, [in connection with] which God is named in dishonor, nor with the new oaths, which now are many in the world." To get at the offenders, they charged the officers and magistrates of the city by virtue of their oaths of office to censure any swearing that came to their ears; other persons by the oath which they took in connection with the taxes were also authorized to act as censors of profanity. These might hold the person caught in his blasphemy for six haller, half of which they must make over to the council as a fine, the other half to go to the informer. Any one who resisted the constable made himself liable to banishment for eight days; and if he made light of the punishment it assumed terrifying proportions, and from a trifling fine mounted into a liability to have his eyes gouged out, his ears lopped off, or other

heavier punishments, not, however, without due process of law.[25]

The guilty party felt in his flesh the punishment for blasphemy also under the terms of an ordinance of the next century. "To the praise of Almighty God our lords of the council decree and command that no one shall swear wickedly or grievously, as by God, or our dear Lady, or the like, or use any unseemly blasphemy." The council would set the offender in the stocks, or have him whipped through the city; and if the profanity was serious enough, might at its discretion inflict capital punishment according to the form of the offense.[26]

Such tenderness of the ears to blasphemy and such sense of duty to suppress it would not be surprising in a Puritan town-meeting of the eighteenth century or in the consistory of Geneva. As a matter of fact the expressions quoted are taken from the lips of a group of men entirely secular, busy with administering the multifold affairs, domestic and foreign, of a great commercial city, in a day when the forces that eventually brought Luther and Protestantism to light had as yet not rippled the surface of mediaeval life.

[25] Baader, p. 68.
[26] Ibid., p. 114.

CHAPTER VI

The Regulation of Christenings

Given the theory that control of personal extravagance is a duty of government, the need of regulating weddings and clothes explains itself. To understand the occasion for ordinances regarding christenings one must have contemporary usages in mind. At the birth of a baby the mother was visited for congratulation by companies of women, whom she was expected to provide with refreshments. These visits were made while she was still confined to bed, and before the baptism; and the burden and expense of the social duties laid upon her provoked the interference of the council. If the distinction between these parties at the bed of the mother and the events of the baptism proper be kept in view, the social observances with which the arrival of a baby was celebrated in the Middle Ages explain themselves with sufficient clearness in the terms of the ordinances regulating them.[1]

The regulations of baptisms which the council of Nürnberg enacted in the fourteenth century were, like the early wedding regulations, direct and simple rules. By one, a party of more than twelve women at the bed of the mother was forbidden; and friends were to do no dancing in honor of the baby until the mother had taken it to church for

[1] One is aided by contemporary art in visualizing the event that required the most regulation, the party which the women of the neighborhood held around the bed of the mother. Dürer's picture of St. Anne in the "Life of Mary" series may be taken as representing a typical party of its kind in the Nürnberg of the artist's day. St. Anne lies in her high canopied bed; and about a dozen neighborly women are in the room, chatting and enjoying the refreshments, or ministering to the saint. At the opposite side of the bed two of them are serving her with a beverage. The artist has sketched a stout woman sitting in the foreground, with head thrown back and face buried up to the eyes in a pitcher. The baby, over in a corner, and apparently attracting little interest, is about to have its bath.

christening. The parents were held responsible for the keeping of these rules, under a penalty of ten pounds; and each person who broke them by taking part in the forbidden festivities was liable to be fined one gulden. Again only twelve women were allowed to be invited to the baptism. If more attended, without invitation, each was exposed to a fine of a gulden. Furthermore the council signified its displeasure with drinking parties at the time of the baptism by attaching a penalty of three gulden to attendance at them.

Overdressing the baby was another extravagance incident to christenings which led the council to interfere. It ordered that no one should "carry a child to the church in a baptismal garment of silk, or in a dress that has been bordered or sewed with silk, gold, silver or pearls." It was found needful also to set limits to the number of godfathers, probably in view of the involuntary taxation in the shape of gifts which standing as godfather involved. An enactment of the fourteenth century made it an offense subject to a fine of five pounds for any one to have more than one godfather for his child.[2] In the next century the council fixed the maximum of the gift which the godfather might bestow at thirty-two pfennige.[3]

Ordinances of the fifteenth century again fixed at twelve the number of women who might be invited to a christening.[4] It was a women's event; the only men who were permitted to attend were the father and the godfather.[5] One article allowed neighborly women to visit the mother on condition that they gave to neither children nor nurses, on one day, more than four pfennige.

Also of the fifteenth century was an ordinance that regulated closely the entertaining which was expected to accompany a birth. This law was designed, the preamble states, "to abolish and avoid unnecessary and superfluous expense." Holding any sort of party in connection with

[2] Siebenkees, vol. i, pp. 47–48.
[3] Baader, p. 70.
[4] Ibid., p. 69.
[5] Ibid., p. 70.

the birth of a baby or its baptism, or during the two months that followed, was forbidden. The entertainer risked a fine of five pounds, and every one who had anything to do with the party a fine of two pounds; but the prohibition was not unconditional, and certain guarded exceptions were allowed. For instance, one might serve the women who came home with the baby from the christening—and also their maids—with sweet cakes and some inexpensive wine. The mother might also on one occasion invite in after dinner her female relatives, provided she gave them nothing more and nothing else to eat or drink than "in moderation one dish of unforbidden food," and besides this, small cakes, raw fruit, cheese and bread, and ordinary wine. If any friends dropped in during the time that the mother was confined to her bed, she might serve them with the same light refreshments. If she added anything, she risked a fine.[6]

An ordinance which was promulgated in the latter half of the following century repeated these provisions almost word for word. The Reformation left no visible traces on the sumptuary regulation of christenings. The law of the fifteenth century, fitted with a new preamble, answered the requirements of the council in the sixteenth, after that body had become Protestant. In the foreword as altered the city fathers complained that their "several honorable, sensible and good ordinances," enacted "to avoid extravagance and mischief," had been "in manifold ways overlooked and transgressed, wherefrom harm and ruin have come and issued."[7] The rules limiting the men who might be present at the baptism to father and godfather, and fixing at a small sum the gift which visitors might bestow on children or the nurse, were also repeated. A new clause was added which looked to effective enforcement of the statute. Midwives were enjoined to warn mothers in child-bed of the terms of the laws affecting baptism, visiting, and entertainment. If they failed to do this, and assisted

[6] Baader, pp. 70–71.
[7] Siebenkees, vol. i, p. 176.

in violations or were privy to them without protest, they should be held accountable equally with the mother, and be punished by infliction of the appropriate penalties.[8]

The christening laws disclose a new range of points in daily life at which the citizen of Nürnberg felt the paternal hand of the council. The motive prominent in the wedding regulations, an apparent sense of a duty both to make possible and to enforce regularity in the citizen's domestic economy, recurs in these, and an attention to intimate and petty details indicates careful supervision. The failure of the Reformation to leave any mark on the christening ordinances confirms the observations made in the foregoing chapters as to the influence of the Protestant movement upon sumptuary policy.

[8] Siebenkees, vol. i, p. 176.

CHAPTER VII

The Regulation of Funerals

The authority which controlled the ceremonies attending a man's entry into the world followed him in his departure, and laid paternal restraint on demonstrations of grief over his death, as well as on the monuments by which it was sought to perpetuate his memory. The rites of the church for the dead offered a temptation to rivalry of display which must have inevitably led to extravagance, and to the setting of standards that imposed a severe involuntary tax upon persons who were not well off. As early as the thirteenth and fourteenth centuries the Nürnberg council was making such rules as this: "It is forbidden that any one expend on a corpse more than twenty-five pounds of wax"; and this: "One shall also not make more than twelve candles; that each candle have not over two pounds of wax"; and again, that no one should place candles on the grave except on the set funeral anniversaries, the "siebente," the "dreizigste," and the "jahrzeit"; and that one should not have singing at the grave except when one laid the corpse away.[1]

The law interposed further by regulating the burgher even in the masses which he might have said for his deceased. On the memorial days he might lawfully offer one mass or sacrifice in the convents, and not more than two in the two parish churches, St. Sebald's and St. Laurence's. If any one wished to offer more for his dead,[2] he was now not restricted in the sum of money to be expended, but required by this early law to make it not less than a groschen or a schilling haller.[3] By other articles one was directed to give

[1] Baader, p. 67.
[2] "Swer Dar uber mer opphern oder messe frümen will."
[3] Siebenkees, vol. i, pp. 203–204.

the priest in person but a schilling or less for the anointing oil; and it was prohibited to offer sacrifice or a requiem mass in the convents at more than one altar.[4]

The paternal interference of the council with the last rites of the dead had an additional motive in a burial ordinance which dates from the fifteenth century. This motive was set forth in a preamble, in which complaint was raised of "the great assemblings of men" that had become customary at the mourning for a dead person, "whereby comes much waste of time in their trades and occupations to the persons repairing to such gatherings." In the desire to prevent this interruption of business the council forbade the attendance of any one but the immediate male relatives and the household servants of the dead.[5] Likewise on the funeral anniversaries only the men and women who were closely related to the deceased might take part in the memorial observances. The secret of the crowds which the council found it necessary to limit is revealed in another section in which the council forbade inviting friends to eat, or their eating without invitation, at the mourning.[6]

It was the fear of extravagance again which led the council to regulate in the same ordinance the ceremonial incidents of death. "Our lords of the council have considered and observed the notable extravagance, pride and superfluity, which are yet unbecoming to the same, which are practiced and take place to no good use in the burial of deceased persons," in the "seelwein," the tapers, the nuns employed to offer prayers; and they accordingly laid down several rules, as that there might not be more than two of the "seelschwestern" with each corpse; that these were to receive for wages, meat, and drink not over twelve pfennige, and on the memorial days, eight pfennige; that they were not to sit by the graves between the burial and the siebente, the first day of memorial rites; and furthermore, if any one asked, paid, or permitted the seelschwester to sit by

[4] Ibid., p. 205.
[5] Baader, pp. 109–110.
[6] Ibid., pp. 109–111.

the grave between the siebente and the dreizigste, he should forfeit to the city one pound haller for each day.[7]

A considerable portion of this fifteenth century ordinance was devoted to regulating the pall. First, the pall was forbidden to be spread except in the week between the interment and the close of the siebente, and again on the dreizigste. Use of it at other times exposed the person responsible to a fine of a pound haller a day. Furthermore, no one was allowed to have a pall of his own; but any one might hire those of the parish, according to his rank. The terms on which the palls might be hired were fixed in the law. If a person used a first-class pall,[8] and would have it spread at all the occasions when it was permissible, he must pay the church four pounds for it; if he employed it only at the burial, sixty pfennige. The corresponding charges for a middle-class pall were sixty pfennige and thirty pfennige; for the third-class, twenty pfennige and ten pfennige. "In all this are excepted the palls which are presented and designed beforehand for the corpse 'um gottes willen'; also those which the craft gilds have for themselves." Even the hire of the woman who laid out the dead was stipulated in the ordinance. This "ausrichterin der todten" was to have not more than thirty pfennige for her services at the funeral, ten pfennige at the siebente and dreizigste, and otherwise through the year for her trouble sixty pfennige.[9]

Memorials for the dead offered a field in which there were many inducements to costly display; and in the fifteenth century, elaborate regulations "von den Leichschilder, Grabsteinen, und Gemälden" were issued. The council in one ordinance forbade erecting or hanging up a memorial shield or tablet costing over three gulden, taking this action, it declared in the preamble, "for particular and important reasons thereto moving it, and before all, for the suppression of vanity, extravagance and waste." If a

[7] Baader, p. 111.

[8] "Vorder leychtuch." The others were the "mittelleychtuch" and the "geringsten leychtücher."

[9] Baader, pp. 111–112.

more costly tablet was already in place, it was to be at once removed, and a fine of ten gulden paid to the city; and the workman who fashioned the tablet, or put it up, was subject to the same penalty. Another regulation, which seems to be a revision of the foregoing, was more particular. The council gave its reasons in a diffuse preamble. "Inasmuch as hitherto manifold superfluity in the matter of hanging memorial shields of great size and costliness in the churches" had been practised, the honorable council, to the praise of God, and for the common good, "in consideration of the vanity of such waste, also in anxiety as to the falling of such shields, obstruction of the light, and other reasons," forbade any one to set up in a church or convent of the city a shield for the dead greater in size and weight than was ordered and prescribed by the council, and fixed in the measurements given to the churchmasters at St. Laurence's and St. Sebald's. The law then proceeded to declare that the arms of the dead were to be painted on ordinary planed wood, and not carved or in relief, and with a plain inscription, that might meet the approval of the council and the warden of the church.[10]

The burial ordinances widen our view of the intimate field in which the choices of the individual were limited by the paternalism of the government. They show again that the council sought both to curb the extravagant leadings of the citizen's own desires, and on the other hand to protect him against extravagance into which he might be thrust because his neighborhood expected it of him. He was afforded a legal refuge from the petty tyranny of social usage and criticism. As in the other sumptuary legislation, the careful supervision of the magistrates descended into minutiae. A fresh aspect of paternalism is visible in the law by which attendance at funerals was limited because of the interruption occasioned to business. Here the council stood forth as not merely the guardian of personal economies, but as taskmaster of the city, evidently acting under a sense of responsibility for personal procedure when this

[10] Baader, pp. 113–114.

was such as to interfere with a man's productiveness as a unit in the industrial community. The same conception of duty is traceable in the preamble of the Wedding-manual of 1485, where the council declared that it felt obliged to extend the wedding regulations to the "common man" because of the injury that resulted from "the interruption of his work with processions to church, etc."[11] The motive, however, that evidently ruled in the burial ordinances, as in the other sumptuary laws of this period, was opposition to extravagance and to excessive display, as wasteful manifestions of unworthy pride. A respect for class distinctions was present, though not strongly pressed, in the rules with reference to the use of the funeral pall.

[11] See above, p. 50.

CHAPTER VIII

The Regulation of Clothing

Apparel was everywhere a prominent subject of sumptuary regulation, and the council of Nürnberg did not fail to extend its surveillance to clothing and adornment of the person. Ordinances which govern in great detail the dress of the citizens appear from early times. Men and women, in literal truth, were regulated from the part in their hair to the soles of their shoes. The reason for this prominence of clothing in the sumptuary laws is obvious. If the authorities were seeking extravagance, they were sure to find it in dress. The tempting chance for display offered by the necessity of wearing clothes has always been too much for frail humanity; hence the rare and expensive fabrics, the costly finery, the fantastic cuts and colors, the changes of fashion, involving needless expense and unsettling the customary, were matters which almost continually exercised these early city fathers, to whom these things appeared to threaten that moral balance and decent composure of life which they felt called upon to maintain.

The clothing ordinances seem curious to us now. It strikes us as odd, because it is a thing outside of our experience, that a sovereign government should pass in the natural course of its business from making treaties, raising an army, or regulating trade to the grave matter of prescribing the pattern of coats and breeches, the length of trains, the quality of silk or velvet, the cost of trinkets, which the men and women of its jurisdiction might put on. At present railways may be debatable as a subject of governmental regulation, but not clothes. This very look of oddity, this quaintness of the ordinances, throws into more striking relief the theory of government of which they

were manifestations, and which we are seeking to understand.

A Nürnberg clothing ordinance, probably from the later years of the fourteenth century,[1] was comparatively simple. It covered with broad provisions certain styles, certain varieties of apparel and ornament, certain stuffs, which men and women might not wear, or only within given limits of value. The object of keeping things as they had been seemed to be foremost. The Nürnbergers, the mercantile element at least, were beginning, even in the fourteenth century, to realize, in the possession of more to spend on luxuries, the profits of the expanding commerce of the city. Changes that seemed dangerous were evidently taking place in dress and ornament. The influence of the free intercourse with Italy is reflected in the ban laid on "Roman jackets," "silver Italian knives," and "silver cloth from Venice." The city was beginning to look out on the world, and was giving signs of departure from primitive German simplicity and plainness.

In this early ordinance young and old were forbidden to wear specified ornaments which were evidently regarded as extravagant or dandified, and which included silver girdles worth more than a half a mark; silver bags; silver knives from Italy, perhaps disapproved of as a foreign affectation; fine pearls; slashed shoes, or slashed coats—coats "slashed under and on the sleeves";[2] or any sort of paternoster worth more than twelve haller. The anxious conservatism of the city fathers is displayed in the further provision that the wearer of the paternoster "shall not hang them over the backside; he shall wear it in front at one side, as has been done from of old."[3]

The council turned its attention to certain fashions that seemed to require curbing, whether for their cost or simply

[1] Schultz, who makes use of this ordinance in his Deutsches Leben, dates it by a reference to slashed sleeves, which he thinks sufficient indication that "the statute has in view the fashions prevailing about 1400" (Deutsches Leben im XIV und XV Jahrhundert, vol. i, p. 304).

[2] "In order that the undergarments of brighter color or precious material might show" (Schultz, vol. i, p. 304, note).

[3] Baader, p. 66.

their freakishness is not declared. Men and women alike were to refrain from wearing any sort of clasps or rings or buttons on their sleeves higher than the elbow, on pain of forfeiting one pound haller a day. Burgher ladies, married, unmarried, or widowed, must not put on a veil or a headdress that had in it more than a certain quantity of material, and were not to wear it in such a way "that the ends in front lie upon the head." If they wished to put on an extra veil or headtire on account of sickness or cold, they might do it provided they put it on over "twerch," and must not pile two or more one upon the other.[4]

The remainder of the law, as far as it applied to women, attacked the use of expensive goods in dress and personal adornment. Women were classified in the terms of the ordinance as "married women, maidens, and widows." Matrons and widows were forbidden to wear any "reisen"[5] except of a cheap grade, which was white or red, "as they have done from of old." The husband was held responsible for the payment of the fine of five pounds haller; or, if he was dead, the widow was liable, or the person "whose bread she eats." All women—matrons, widows, or maidens—were prohibited from wearing any garment of silk, or Roman jackets, or garments trimmed with "zendal" (a light silken fabric) or with gold or silver, or bordered with these last; and they might have only two garments wholly of fur.[6] They must smother their longings for ermine, fur coats, and coats of "spalt," or pay a fine of ten pounds haller; and on pain of the same penalty they must abjure the vanity of ear ornaments "which are made with beaten gold, or with silver, with fine pearls or precious stones."[7]

The council dismissed the men with the broadest restrictions in two brief paragraphs. Its regulation of them would seem to be in the interest of propriety. If men had passed fifty years they must stop wearing red buckram,

[4] Baader, p. 66.
[5] Schultz calls "die Reise" "a kind of Haube," that is, headdress (vol. i, p. 304). Baader explains it as a "kind of woven stuff" (p. 66, note).
[6] Baader, p. 66.
[7] Ibid., p. 67.

perhaps because this was not becoming to advancing age. Furthermore "no burgher, young or old, shall wear his hair parted; they shall wear the hair in tufts as it has been worn from of old." Offense against either of these prohibitions invited a fine of five pounds haller. Finally no burgher, young or old, was thereafter to "wear any silver cloth from Venice."[8]

A clothing ordinance which has come to us from the next century, probably from its last quarter, is more elaborate, and in this difference repeats the curious history of the wedding laws.[9] As was pointed out with reference to them, more complex regulations were to be expected in the fifteenth century, even though the execution of them might not be more vigorous, because time and the great growth of wealth in Nürnberg could not have failed to multiply the points at which regulation seemed needful. The ordinance was headed with a preamble in which the council professed a sense of the grave and solemn bearings of the matter on which it was legislating, and maintained a religious tone quite in keeping with the solemnities of the pulpit from which the document was read. The city fathers rested their action upon the broadest grounds of morality and of religious faith as well.

> Since, as in various ways is manifest, the Almighty God from the beginning not only upon earth, but also in heaven and in paradise has hated crime, pride and presumption and heavily punished them, has exalted and rewarded obedience, humility, modesty and honorable good morals, also [because] from pride and disobedience have risen and flowed to many an empire principality and commonwealth [commonen] great injury detriment and loss, as lies evident to the eye in many places, therefore to the praise of Almighty God, in the interest of the common weal, and to the honor of this honorable city of Nürnberg, also to the end, that God with his favor may be pleased so much more graciously to guard, to protect . . . and keep us and the city in blessed praiseworthy discipline, as we appear humbly with honorable morals before his divine majesty, therefore have we burgomasters and council of the city of Nürnberg, for the avoidance and suppression of pride, folly and superfluous expenditure,

prepared the ordinances which follow.[10]

[8] Ibid., p. 67.
[9] See above, Chapters II and III.
[10] Baader, p. 95.

When all allowance has been made for stereotyped formulae, such a preamble is still significant of the fact that when the fathers undertook to set bounds to personal indulgence and expenditure, they felt that they were doing something beyond keeping good order. Evidently they assumed that they were meeting a responsibility to preserve among the citizens a scale of living and a manner of life that accorded with standards of morality and was approved by the sanctions of religion.

It is possible to cite an interesting illustration of the relationship in which the council stood to the church as the disciplinarian of manners. Nürnberg was not an episcopal seat. It belonged to a see whose bishop resided at Bamberg. The chronicler notes that in the year 1453 "the long peaks on the shoes began; the vanity came from Schwabia."[11] This invasion of his dominion did not escape the eye of the Bishop of Bamberg. His way of meeting it was to write a letter to the city fathers of Nürnberg and ask them to take measures to check it. On July 17 the council replied that in obedience to his request it had given orders to the cobblers "on pain of a definite penalty henceforth to make no more peaks on the shoes."[12] How often the suggestion of sumptuary regulations came from ecclesiastical sources there is no way of ascertaining, but this instance shows how close the sphere assumed by the council was to that of the church; how without a difference appearing in the resultant law the council might act as the arm of the church or in its secular capacity. The regulation of shoes in the fifteenth century ordinance appeared in the last clause of the statute, and it revealed the same method of reaching the long peaks as that adopted at the bishop's petition. No man or woman, it ordained, should wear any sort of shoe longer, in proportion to the size of the foot, than the standard which was given to the cobblers for the purpose and was also to be found with the city master of measures (marckmayster). The penalty to be inflicted on

[11] Chroniken, Nürnberg, vol. iv, p. 197.
[12] Quoted in footnote, in ibid., p. 197, from Nürnberger Briefbuch, Nr. 23, Bl. 259.

the purchaser was three gulden; and it would appear from the quotation above that a separate penalty was exacted of the cobblers.[13]

As in the earlier clothing ordinance first described, there are in the fifteenth century statute a number of blanket provisions ruling certain materials out of a legitimate wardrobe. Things forbidden to women were cloth of gold or of silver, velvet, satin, or other silk material, as dressgoods or trimming; sable or martin fur, as material or lining; coats of camel's hair; garments of "scharlach" and "scharlatin";[14] linings of taffeta or other silk in their mantles; and pearls, which, however, young maidens might wear if they followed a prescribed manner. Men were forbidden to wear cloth of gold or of silver, velvet, and scarlet; ermine, sable, and weasel fur; gold lace, and pearls. These materials were evidently condemned on the ground of their high cost.[15]

There were other materials which might be worn only in specified measure, or up to a given value. Thus women might wear the silks and the precious cloths, otherwise prohibited, as a border on the collar and sleeves of their cloaks and coats, but not a jot wider than the standard measure given to the tailors, and never so as to use more than a half an ell of goods.[16] Again, women might not have borders of fur on their garments any broader than the measure given the furriers for this purpose, and they were not to have them at all around the bottom of their coats and undergarments.[17] Exception to the prohibition of taffeta and silks as lining for mantles was made of "zendal, schylher, or taffant"; but these were to be worn in such moderation as not to cost, on any one mantle, over five Rhenish gulden.[18] A woman might have her cloak lined

[13] Baader, p. 109.
[14] Scharlach was "a costly material,—dyed red, brown, blue,—originating with its name in the Orient" (Schade, Altdeutsches Wörterbuch, s.v. Scharlach).
[15] Baader, pp. 96–105.
[16] Baader, p. 96.
[17] Ibid., pp. 96–97.
[18] Ibid., p. 99.

with fur, provided it did not as a result, with all appurtenances, buttons, covering, clasps, and the rest, cost over eighteen gulden; or she might have it lined with buckram or the like, if it did not exceed in cost ten gulden.[19] The council felt the need of putting restrictions on the men too, in the matter of extravagant trimmings. No male person in the city was to have a bordering of "velvet, satin, damask, or other silk" on coat, breeches, cloak, or mantle, that contained over a half an ell of goods; and no man was to have any border of silk around the bottom of his garment.[20]

Again, certain sorts and styles of apparel were permissible only within given limits of value. Thus "taphart-hembden" (wide garments caught in the middle with a girdle), with making and all appurtenances, must not cost more than six gulden; "halshembden"[21] must not exceed two gulden in value; head-dress ("hauben"), two gulden.[22] Veils were not permissible that contained over six folds, or with all attachments cost more than six gulden. A "stewchlein"[23] worth a Rhenish gulden or less might be worn.[24] Again, a maiden might wear pearl fringes, tiaras, and fillets, but they must be of such value as not to make her whole headtire cost more than forty gulden.[25] Furthermore the women seemed to the city fathers to have gone to an extreme with gold and gilded chains. They would have thereafter to content themselves with one chain; and this, with all pendants, was not to exceed in value fifteen Rhenish gulden.[26] The paternoster again figured in this ordinance as a feature of apparel where costliness, for display, exceeded the appropriate limit. The council forbade women to wear rosaries of a value exceeding

[19] Ibid., pp. 99–100.
[20] Baader, p. 107.
[21] "Guimps" I suppose we should call them; they began at the neck and extended over the breast, where they were fastened to the corsage. See Grimm, Deutsches Wörterbuch, s.v. Halshemdt.
[22] Baader, p. 97.
[23] The stewchlein was a substitute for the veil, but had sleeves with pouches into which to stick the hands.
[24] Baader, p. 98.
[25] Ibid., p. 101.
[26] Baader, p. 102.

twenty gulden.[27] The men too were not allowed to select their wardrobe without respect to prices. They could not wear breeches or caps which cost them more than one orts-gulden to have made.[28] And they must cease wearing fancy shirts and breast-cloths. Their shirts, with all of the borders, embroideries, and trimmings, and with the cost of making, must not be worth more than six pounds; their breast-cloths not more than three pounds.[29]

The object of such regulations as these was manifestly to check extravagance; and this motive is frequently professed in the secondary preambles with which many of the sections are headed. Restraint was put on wearing pearls in the hair, in order to bridle a "notable extravagance" in this matter which had "broken out and is practiced among certain honorable maidens."[30] In regulating the wearing of gold and gilt chains the council declared that it was seeking "to avoid and repress such useless and uncalled-for costliness."[31] When it ordered the men to wear their clothing closed in front, in order to remove the temptation to have a costly fur lining to show at the openings, and then allowed them only a turned-over fur collar, it declared that it was moved to this because "notable extravagance" had arisen among the men of all classes, "namely in the use of marten and other expensive fur-stuffs on cloaks, breeches, coats and mantles; also expensive sable, marten and [other] fur hats and headgear, all which more befit manifest pride than necessity." It was "to meet such extravagance, also to avoid needless and excessive expenditure," that the council drew this line.[32] Again, it regulated the wearing of fancy shirts and ornamented breast-cloths because "considerable extravagance has broken out," despite former laws on the matter enacted "to avoid unnecessary expense," and the shirts and breast-cloths were

[27] Ibid., p. 103.
[28] Ibid., p. 105.
[29] Ibid., pp. 105–106.
[30] Baader, p. 101.
[31] Ibid., p. 102.
[32] Ibid., p. 104.

made over costly with broidery and borders, "and other needless and senseless contrivances."[33]

Such was the predominant motive apparent on the face of the ordinance: to curb personal extravagance and incidentally to keep in check the moral disorder of pride (Hoffart). Another motive, distinctly moral, also asserted itself. It did not appear at all in the fourteenth century ordinance, but had in this a prominent place, and came to light in the prohibition of certain cuts and styles of dress because they were immodest, or because they violated decency and threatened good morals.

For instance the council forbade women to wear garments cut too low in the neck. "Too low," in the eyes of the city fathers, was anything exceeding one finger's breadth below the throat. In the back the collar might lawfully be a half quarter-ell lower. Furthermore women must not wear their coats and other garments standing open at the girdle, but have them clasped with catches, or else wholly closed. If they had garments which they could not alter to conform with the law, they might wear them only if they wore underneath a breast-cloth and a closed collar. Reproof of extravagance again came uppermost in the proviso that breast-cloth and collar together, and all trimmings and facings on them, must not cost more than the trifle of half a gulden.[34]

The object of ethical discipline reappears distinctly in the provisions forbidding the men certain patterns stigmatized as indecent. It seems that the outer garments of men, which at first reached to the ground, had been growing steadily shorter since the change of styles that went over Europe in the fourteenth century, and had seemed to the conservative at each new abbreviation to offer an outrage to propriety. From this ordinance it is evident that in Nürnberg coat and mantle alike were rapidly dwindling to a jacket; and the city fathers had been reduced to despair of being able to retain more than a mere rag of decency, so

[33] Ibid., p. 105.
[34] Baader, pp. 97–98.

to speak. They confessed their inability to enforce the statute which they had made requiring that garments reach at least as far as the arm extended downward. They had not prevailed against the tide. Such long garments as the law approved had become old-fashioned, "nach gemeynem welltlauff dieser zeyt," and they had perforce to give in. But there was one requirement on which they took a last stand: Coats and mantles had, for decency's sake, to extend two finger breadths over the fly and the man's shame. And the mantle, short or long, must "not be cut out too deeply, or be left open, in order that everyone's shame may be covered, and he may not be found unchaste therewith."[35]

Again the offense against morals was the evident motive of the provision with regard to the flies of the breeches. The fashion, not confined to Nürnberg, was such as to direct attention to these. The color was often one in conspicuous contrast to that of the breeches, and the flap was "stuffed and artificially enlarged."[36] The council pronounced the fashion "unchaste and shameful," and declared

[35] Baader, p. 105. This provision is printed by Baader as an article of the clothing ordinance; but it seems to have been uttered separately, probably at a different date, and in the same breath with ordinances regulating flagrant immorality. See Siebenkees, vol. iv, pp. 602–604. The enactment regarding unchastity and that regarding clothes are apparently covered by the inscription at the close: "Decretum in Concilio feria quinta vigilia Nativitatis Marie virginis in gloriose. Anno ec. lxxx. Proclamatum de pretorio, dominica post Nativitatem Marie virginis Anno domini ec. lxxx." It may throw some light on the character of the article on short clothes to give the substance of the morals ordinance with which it was linked. This runs: "Since the honorable council has been definitely and credibly informed that day and night, within and without the city, and especially at Gostenhof, also on all sides in and before the forest," many and various sins, especially of unchastity, are committed without restraint or shame, tempting the vengeance of God, and likely to bring injury to good people, the council forbids "any woman of the town or other woman" to commit unchastity with a man within a radius of a half a mile of the city, "except in the ground upon the 'Judenpühel,' and besides upon the green and meadows between the 'Wilbolzprunnen' and the 'Staynen Prucken,' which has always been called here the 'plerrer,' there alone and nowhere else, outside the city—this the council will suffer for the prevention of greater evil," with the proviso that such practices shall be carried on so as not to be seen from the gardens and garden-houses near the city.

[36] Schultz, vol. ii, p. 332; also Tafel XXXI.

that the practice of wearing the fly "at dances and on other occasions shamelessly bare and uncovered in the presence of honorable women and maidens" was "not only against God, but contrary to decency and manly breeding." They ordained that henceforth every man in the city "shall wear the fly of his breeches not bare, uncovered, open, or visible, but shall have all of his garments made, and shall wear them in such a manner that his shame and the fly of his breeches may be well covered and not seen bare." [37]

Class distinctions, to maintain which was to become later a principal object of the clothing laws in Nürnberg, did not figure at all in the fourteenth century ordinance described above. In the ordinance of the fifteenth century which we are considering, traces of a regard for social rank appear. For instance, when the blanket prohibition was laid upon wearing precious materials, like cloth of gold, certain exceptions were made in favor of "honorable" women and maidens, as that these might have borders of silk on the collars and sleeves of their coats; the "honorable" matrons, droops of velvet on their sleeves.[38] Again, the preamble of one of the sections regarding men's clothes runs: "And since a notable extravagance has arisen among the men, not only the honorable, but the common man, etc."[39] It was noted with regard to the wedding laws that they were extended for the first time in 1485 to the "common man," and that they probably had not taken cognizance of him earlier because he had not had the means to offend.[40] That social classifications appear so faintly in this clothing ordinance is possibly due to the same cause—the absence as yet of a wealth among the lower ranks that would tempt them to trespass. The likelihood of this is at least sufficiently strong to make unnecessary the inference that social distinctions did not exist and were not sharply marked. It will be noticed that no prohibitions were laid upon the "common" man or woman, except implicitly in

[37] Baader, p. 105.
[38] Baader, p. 96.
[39] Ibid., p. 104.
[40] See above, pp. 50–51.

the special permission to "honorable" women to wear silk borders. It was not yet felt necessary to hold the lower classes in their place by denying them apparel allowed to the ranks above. One need not therefore infer that at this time the artisans and shopkeepers and their wives were wearing at pleasure and with the sufferance of the council the same clothes and the same finery as the great merchants and the members of the aristocratic old families. It is much more natural to suppose that the men and women on the lower levels were still wearing the dress regarded as proper to them because they could afford no others; and that the objection of the council to an obliteration of class lines in costume remained as yet latent only because there was nothing conspicuous to call it into play.

There is one provision in which respect of class distinctly emerges, but in it we do not find the bisection of the community into "honorable" and "common," but lines which cut across. "Henceforth no male person," it runs, "citizen or denizen of this city, except doctors [of the law] and knights, shall wear in any part of his garb any strings, borders or lace, which are made wholly or in part of gold." Here one has a foretaste of the elaborate provisions of a later time designed to mark off the social orders by the badge of dress.[41]

Hostility to the new as such and disapprobation of styles because they broke with the familiar past predominated among the motives expressed or implied in the terms of the statute of the fourteenth century which was reviewed above.[42] Undoubtedly this conservatism mingled with the motives which we have found in the ordinance of the fifteenth century now under consideration, but nowhere in the body of the statute does it show itself definitely enough to be identified, until the end. In a curious omnibus clause it is finally proclaimed emphatically. The city fathers put themselves on record, so to say, as opposed to novelty. Having enumerated all of the extravagances, all

[41] Baader, p. 205.
[42] See below pp. 126 ff.

of the innovations of extravagant tendency, which they could think of, they spread this provision to catch any new ones that might happen to arise unforeseen. The section reads as if tacked on when the insufficiency of the law in the face of unanticipated emergencies of fashion had already become manifest. It is entitled: "Von neuigkeyt und sonndern schnytten inn cleydungen, geschmucke und schuhen." "Although an honorable council," runs the preamble, "has adopted now various and manifold laws for the suppression of pride, nevertheless in spite of these the council has considered and remarked . . . that novel foreign customs have arisen, been adopted and practiced, none of which have been provided against in their laws aforesaid." The council therefore forbade that "any male or female person, inhabitant of this city, shall adopt, practice, or use any sort of peculiar cut or innovation in clothing, trimming, ornaments, or other material, or decoration of the body, in any manner. Then he on whom such innovation, foreign custom or peculiarity . . . is found, [if] he being arraigned . . . therefor, the council or the Five Lords 'am hader' shall recognize it as an innovation or peculiarity," he shall pay the city a penalty of three gulden for each article.[43]

It would seem that this clothing ordinance, like the Wedding-manual of 1485, was not issued en bloc, but represents an accretion of provisions enacted at different times to meet new conditions as they arose. There is no proof of this belief on the face of the document or in its terms, but there are certain indications of it. There is, for example, the appearance in the midst of it of a provision known to have been framed and proclaimed in connection with a law of a different kind.[44] The discovery of this foreign clause raises a suspicion of alien nativity against its neighbors. The clause against innovations was evidently a later amendment. One provision, with regard to making gifts of brooches, refers to the Wedding-manual of 1485, and must

[43] Baader, pp. 108–109.
[44] See above, note 36.

therefore be of later origin than the provision with regard to short clothes, which appeared in 1480. Again, the ordinance from point to point seemed to take a fresh start. It opened with an inclusive preamble. But several sections had separate preambles, complete in themselves, as if they had originated separately, as we know that one of them did, and had afterwards been added to the main ordinance.

These, however, are slender threads of evidence, and the one important conclusion that might be derived from them—namely, that the ordinance was flexible and constantly molded to new conditions—is sufficiently supported by the express terms of the regulations themselves. For example, the section with regard to "women's robes" declared that, a former law on the point having failed, and in view of evasions to which the women had resorted, it was intended that this regulation should be milder and so secure obedience.[45] Again, the section respecting pearls was declared to be necessary to take the place of a former ordinance held in contempt because its penalties were too slight.[46] The council further declared that in enacting the provision regarding fillets it was moved by the "notable extravagance that has broken out."[47] Likewise the section limiting the display of gold chains was enacted in view of the "extravagance that has broken out among women in the matter."[48] The "abuse and disorder that has arisen" called out a provision against having the face covered on the street.[49] Examples might be multiplied. They demonstrate that a great many of the provisions of the ordinance were occasional enactments. They represent the application by the council of its views of good form in dress to new conditions which they did not foresee, or to a stubbornness of forbidden practices upon which they had not reckoned.

These repeated prefatory remarks, in the form of second-

[45] Baader, p. 99.
[46] Ibid., p. 100.
[47] Ibid., p. 101.
[48] Ibid., p. 102.
[49] Ibid., p. 103.

ary preambles, make this ordinance peculiarly rich in explanatory matter, a condition which enables one to gain some information on the important question whether the council was pressing its restrictive policy with vigor, or letting its laws take care of themselves, in the period from which these enactments date. The provision with regard to wearing pearls obviously represented a sharpening of the law. It was specifically stated in the preamble that a previous ordinance had, "because of the slightness of the penalty, come to be held in contempt by many persons both of the male and female sex." Where the city fathers had before countenanced pearls worn in fillets and hairbands, they now laid an absolute ban upon the appearance of pearls, clustered or single, anywhere on the person, and raised the fine from three gulden to ten.[50]

In the article "von frowen schawben," on the other hand, the city fathers, admitting the failure of a previous law to prevent numerous evasions, and evidently having decided that to get the law obeyed at all they must make it less drastic, declared their intention to "give to this statute a moderate and tolerable air." Accordingly they permitted women to wear fur-lined robes, if their hearts were set upon them, but they might not have them lined with any of the varieties of fur forbidden to be worn,[51] and the value of the garment, with all of its appurtenances, lining, covering, buttons, clasps, and so on, must not be more than eighteen gulden.[52]

Again, as we have already seen, the council bowed to the storm in the clause regarding short clothes, frankly recognizing that fashion had been too much for the law, and conceding "that henceforth clothes may be worn shorter

[50] Baader, pp. 100–101. The single exception made was in the case of maidens, who might wear pearls on their heads up to the value of forty gulden.

[51] See above, p. 111.

[52] Baader, pp. 99–100. The abortive statute which this was to supersede is probably to be found in the paragraph that follows in the text of the law. In this it was forbidden to women and maidens to wear a cloak worth more than ten gulden. The substitute is much more liberal, permitting a value almost double this.

than as before decreed and above indicated." They agreed to insist only upon a requirement of decency.[53]

In another instance the council showed its interest in the enforcement of the sumptuary prescriptions by making a change that was designed, according to an explanatory preamble, to stop a leak that had developed. A previous ordinance had forbidden men to wear plaited shirts and breast-cloths, but they had proceeded to wear unplaited ones just "as costly or more costly than the plaited, with embroidery, borders, and other needless and senseless contrivances." To cover this development the council broadened its law to forbid the wearing of shirts worth, with all ornamentation, over six pounds, and breast-cloths, whether plaited or not, worth more than three.[54]

In all of these cases the city fathers acknowledged the failure of previous laws, but their action varied. At one point they made the law more stringent, or more exact; in other cases they softened the requirements in such a way as to acknowledge, in part at least, the victories of fashion. Their aim, of course, was to get their laws enforced. When possible they made them stricter; but where usage appeared too strong, they lowered the tension of the statute to a point where it seemed enforceable. It is not necessary to suppose that their only incentive in thus watching the success of their decrees was the interest of the legislator in seeing authority maintained; it is evident that a civic paternal anxiety also figured largely in their motives.[55]

A certain vigor in the regulative policy is indicated by these modifications and explanations. The council had the restraint of luxury in dress enough at heart not to let its decrees sleep in the statute-books, irrespective of new outbreaks or of violations that seemed to require some

[53] Baader, p. 105.

[54] Baader, pp. 105–106.

[55] We have seen that it is at least not improbable that a number of articles of the ordinance were amendments, and were added at various times; and in that case, each might well have a different pitch, according to the temper of the council at the moment regarding luxury. Unfortunately these articles lack dates, and the other evidence which would enable one to work out the problems presented seems not to be attainable.

change in the law. The final test of the vigor of the policy, of course, is to be found in its enforcement in the courts, but in the law itself there are problems which would only arise from a more or less active attempt to put it into effect. The value of the law as a document is primarily to reveal the standards sought to be applied and the principles of conduct thought so desirable that they are entrusted to the police power of the city. Among these ideals of the council we have identified a moderate and definitely limited scale of expenditure in dress, a regard for decency in clothing, and a close adherence in style to the past.

Two other interesting features appear in this clothing ordinance with regard to its enforcement. First, not only the wearers, but the makers of unlawful garments were held responsible for them. The borders of velvet or silk which ladies were permitted to wear about their collars and sleeves were to be of exactly the width of the measure given to the tailors for the purpose. Borders of fur were to be no wider than the standard given to the furriers, and also placed in the chancery.[56] Shoes were not to be worn which were any longer, in proportion to the foot, than the standard given to the cobblers—also to be found with the city master of measures.[57] In the case of the cobblers we know that a fine was exacted of them if they made shoes except by this standard.[58] The person caught wearing pointed shoes was bound by the statute to name the cobbler who had made the forbidden peaks. Such a method of applying a sumptuary law attacked abuse at the source, and was a good stroke of policy; for, if successful, it robbed the fashion of the great advantage it had over the law when once it was entrenched in leather, or fur, or velvet.

It was perhaps the insufficiency of a reprimand and a fine to break the attachment for a garment already possessed that led the council to give itself leave in some instances to confiscate the goods. The language in one of the articles would seem to indicate that it was generally expected that

[56] Baader, pp. 96–97.
[57] Ibid., p. 109.
[58] See above, pp. 110–111.

the offender should alter his garment to conform with the law,[59] but in others confiscation was expressly threatened. If a woman wore a fur-lined cloak other than as allowed, "an honorable council may in addition to the aforesaid penalty take away such cloaks as transgress the ordinance."[60] Again, if a maiden decked herself with more than forty gulden worth of pearls, the council would take them in possession, besides the ten-gulden fine.[61] Furthermore, if the council caught a woman wearing at a dance or a wedding a brooch worth over eighteen gulden, it might in addition to the mulct take the brooch.[62] So with all gold chains exceeding fifteen gulden in value.[63] In every case the council was to make compensation for the garment or finery taken, but this was to be measured, not by the actual value of the articles, but by the value which they should have had under the terms of the law. Thus the council bound itself to pay only forty gulden for the pearls worn unlawfully by maidens, whatever their value, or only fifteen gulden for a chain worth more than that. The difference between these sums and the value of the trinket was in the nature of an elastic fine, which the offender increased by the measure of his offense.

The terms of the provisions regarding confiscation would seem to indicate that the council itself undertook the enforcement of the clothing ordinance. They run: "An honorable council may take, in addition to the aforesaid fine, etc." Such a phrase, however, may be taken to cover the action of the council through its agents. In a clause of the regulation of pointed shoes a slender hint escapes as to the court in which the sumptuary cases were heard in Nürnberg. According to this clause it was either the council itself or the "fünf herrn am hader." "Also each person arraigned [for wearing unlawful shoes] shall be

[59] Baader, p. 97. "If a woman has a garment which she cannot conveniently alter to conform with the law," she may wear it with a guimp, etc.
[60] Baader, p. 100.
[61] Ibid., p. 101.
[62] Ibid., p. 102.
[63] Ibid., p. 102.

bound to name the cobbler who made such forbidden points, at the discretion of the council or the 'fünf herrn am hader.'"[64] This presumably was the tribunal which was known officially as the "fünf herrn."[65] Of its jurisdiction Scheurl in his letter to Staupitz speaks with disappointing vagueness, saying that it tried slander cases and punished those who disobeyed the laws. Its procedure was summary and rapid. It did not accept written plaints, or allow attorneys, and seldom heard witnesses, but for the most part decided the cases on oath. No appeal could be taken from its verdict, but when the case was grave the court voluntarily referred it to the council. Such a court would seem well adapted to handle cases arising under the sumptuary laws.

When this ordinance is laid alongside one of the previous century,[66] greater elaborateness in it is at once apparent. The law reflects the increase in variety and costliness in apparel that necessarily attended the accumulation of wealth. Regulation is shown to have kept pace, in some measure at least, with luxury. It is noticeable, too, that the forbidden garments and styles were described more carefully than in the older ordinance. It would seem that the city fathers were seeking to make it harder for offenders to escape through indefinite terms in the law. Again, there were more explanations. The motives were professed, and the situations that had provoked legislation were described. Too much stress cannot be safely laid upon the fullness of the law as indicating that the regulative policy had become more definite or grown more conscious of its purposes. The change may be in some part attributable to advance in the art of legal phrasing.

One feature of the fifteenth century ordinance not to be found in the other is the appearance of articles called forth by special outbreaks of extravagance. They represent an effort of the council to head off luxury wherever it showed

[64] Baader, p. 109. Baader says that the term "herrn am hader" denotes the "so-called fünfergericht" (p. 121, note 1).

[65] See above, pp. 25–27.

[66] See above, pp. 107–109.

itself in some new guise. It is true that all the sumptuary laws were aimed at abuses already existent. They all were intended to restore a normal order that had been violated and seemed threatened with disruption. These articles, however, which were directed against specific outbreaks, would seem to indicate an early appearance of the council upon the scene of disorder; an action taken promptly before the abuse had got beyond control; and therefore perhaps a certain alertness of attention. In no respect does the later ordinance as compared with the earlier display any relaxation in the attempt to enforce by law ideas of propriety in dress. Whether these ideas were stricter or not is practically impossible to determine. One can only say of their content that in the older law the council's notions of propriety seemed to be informed chiefly by a hostility to extravagance first, and then to innovation and foreign importations. In the later law there was revealed in addition to these the consideration of modesty. There was also a certain respect for class distinctions, not, however, as strongly emphasized as later. The hostility to extravagance and ostentation still predominated; but mere novelty or foreign origin, "outlandishness," and suggestive exposure of person appeared as sufficient grounds for making certain forms of clothing unlawful to wear.

CHAPTER IX

Problems of Sumptuary Legislation

If, anticipating for the moment a more thorough study, we turn from a sumptuary law of the fifteenth century, such as the clothing ordinance described in the foregoing chapter, to a statute of the same variety enacted at the close of the seventeenth century, we find that an interesting change had taken place. The council appears to have been no less sensible of a duty to enforce propriety by law, for its regulations in 1693 were of even greater volume than the ordinances of two centuries before, and they were much more particular; but the aldermannic definition had with time developed. To prevent extravagance in dress was still the object, but the council no longer employed a single measure of judgment for the whole community. There was a different standard for each social rank. The rule no longer held that what was permitted to one to wear was permissible to all who could afford it. The respect of social lines which was feebly visible in the ordinance of the fifteenth century is the conspicuous trait of the ordinance of 1693, and asserts itself not only in the professions of the preamble, but in the very structure of the law.

It was natural that this extension of the theory of restriction should take place in a society as sharply stratified as that of Nürnberg as soon as the diffusion of wealth made it possible for the lower ranks to imitate their superiors. At the same time it operated to give the paternalism of the council a new object: the maintenance of social distinctions in dress. The place of importance which this distinct duty had assumed by 1693 in the view of the city fathers is indicated in the preamble of the statute. Enumerating the reasons for a new ordinance, they named among them

the violation of that of 1654, and "the immoderate costly display" resulting, which must be a matter of grievance to "virtue-loving persons." A further grief lay in the fact that "one can scarcely distinguish one class from the other any longer," so that foreigners riding through the city often confused persons of high and low degree; and, finally, they deplored the risk that was run of being "plunged by God, the Almighty Creator and Preserver of mankind into destruction."[1]

The dominating influence of the motive of preserving social gradations in the value and manner of dress was indicated also in the structure of the ordinance. Four ranks were recognized; and the law was divided into four great sections to correspond. The first regulated the apparel, ornaments, and equipage, first of the men, then of the women, married and single, of "the old noble families [des Alten Adelichen Geschlechts] in the foremost rank." The second section laid down parallel rules for the second class, who were defined as including the "respectable merchants" [Erbarn Kauff- und Handels-Leute], who had "no 'offen' business," but carried on commercial and trading enterprises with their own means, and assumed the risks, and whose ancestors had done the like; who also were genannten of the Great Council.[2] The third class was defined in the third division as merchants and traders, and members of the Great Council, who carried on a business which was their own, but which was not as "superior and dignified" as that of the class above them. With these were classified the craftsmen of the small council. In the fourth class, regulated in the final division, were placed the persons engaged in trade who had been in business at Nürnberg only a few years, and had not yet attained the standing of genannten. Along with these were the shopkeepers and craftsmen who were "in the genannten-rank," and the merchants' assistants.

[1] The document used is a manuscript copy of a contemporary print in the British Museum.

[2] See above, p. 17, and Chapter I, passim.

The ordinance enumerated in each paragraph of the long section devoted to the members of the first class, first what was allowed them in dress, then what was forbidden. It followed a parallel course with each of the other social grades, but with a decreasing volume of negative provisions, because it was able at a stroke to deny to each succeeding rank all of the things prohibited to the ranks above. Observance of social precedence was required in everything, down to the ribbons on the horse that drew the coach of a bride. In the uppermost class the horse might have his forelock, mane, and tail tied with a colored ribbon; in the second class only his forelock and tail; in the third class nothing but his forelock. A comparison of a few of the parallel rules laid down for the several classes will serve to illustrate the differences in dress which the law required, and at the same time will show how meticulous the regulation of this period was.

For example take the rules for the headgear of women. Ladies of the first class might wear velvet caps, not too ample, bordered with sable and marten. On festal occasions (Ehren- und Fest-Tägen) these caps might be ornamented with rosettes or buckles of gold, and a few pearls, but no diamonds; and the value of the decoration should not exceed seventy or seventy-five gold crowns. They might wear little hair-caps all of gold, but without pearls, and not worth above thirty or forty gulden. On the other hand, it was forbidden to them to "set diamonds in the hair-caps, and upon the hat-cords, should such again come into use." Gold and precious stones other than diamonds were permissible, and the upper-class maiden was privileged to wear pearl bands in her hair.

Wives and daughters of the second rank might also wear velvet caps, but with a difference. They must not let them cost over twenty-four gulden, nor put gold buckles on them, or gold-lace, but must content themselves with gold mixed with silver. They might wear silk caps without breaking the law, and could have narrow gold borders on them, but they must abjure hair-caps that were all of gold

and hats with gold and silver buckles. The maidens of this class might wear a pearl hair-band, but not over twenty-five or thirty gulden in value. When it came to the maidens and matrons of the third rank, they might wear caps of cut or uncut velvet, with rims of dyed marten or jennet; and they might have their headdresses set with silver, but the value must not exceed ten gulden. Their summer hats, with silver hat-cord, must observe the narrow value-limit of three or four gulden. They might wear silk caps, but instead of gold ornamentation they could have on them only silver or mother-of-pearl bangles. In the fourth rank the wives and daughters of Nürnberg were forbidden all of the things forbidden to the three upper classes and most of the apparel permitted to their superiors. They might have caps of figured "Tripp-velvet," with rims and lining of fur, but not of marten. In case of mourning they might wear crepe veils on their hats not more than four ells long.

The law regulated the elegance of travelling equipages both as a source of extravagance and as an index of social standing. Very particular attention was given to the material of the saddle-cloth and the holster, to the pompons on the heads of the coach-horses, to distinctions in the use of feathers, and to the prohibition of silk or half-silk tassels on the harness. The jealous emphasis on class distinction is further exemplified in the section regulating sleighs. Persons of the first rank were not to have too much gold on their sleighs; but as a matter of fact they had a practical monopoly of sleighing. There were only a limited number "outside of the first rank" who had from of old been "privileged to sleigh"; and these, when they made use of the privilege, were forbidden by the council to have any gold, and but very little silver on their sleighs, or to use "expensive bells, feathers, silk tassels and other ornamentation" which should make the whole equipage cost more than a hundred or a hundred and twenty gulden. Furthermore they were charged to remember that they were expected,

according to the old custom, to seek permission of the ruling burgomasters when they wished to go sleighing.[3]

The coaches, chaises, and "victorias" of persons of first rank were allowed to be upholstered with silk or brocade, but not to be hung with costly fringes and tassels. Persons of the second rank were forbidden entirely to have pompons on their coach-horses and gold or silver fringes on the blankets. They might have their coaches upholstered with cloth, but not red or blue; and silk fringes were allowable. People in the third class could not have horses and coaches, chaises, and victorias at pleasure. They might keep a coach if they needed to drive, on paying fifty thalers a year for the privilege, but their coach must be a plain vehicle without painting or carving upon it, and lined with sober gray cloth. Their horses might not wear harness of silver or bright metal; and the coachmen and servants were not to wear livery, but were to be attired in dark coats of plain gray without cords or borders.

Picturesque details might be multiplied, but the examples presented are enough to illustrate the two features of the ordinance that stand out prominently in a comparison with earlier laws of the same kind: the greater effort to preserve class distinctions in attire, and the increased minuteness of regulation. Both represent an advanced stage of tendencies which were observable in the legislation of the fourteenth and fifteenth centuries, where all varieties of sumptuary law in Nürnberg are seen to have been growing more thorough and systematic, while distinctions in social standing as ground for paternal regulation are clearly traceable. Strong indications of this latter tendency are seen in the extension of the wedding regulations to the "common man" in the Hochzeits-büchlein of 1485, while regard of rank is distinctly present in the fifteenth century clothing ordinance where permission was accorded to "honorable" women to wear specified materials. The peremptory need of sumptuary legislation for the express purpose of keeping social station clearly visible by means of attire was declared by

[3] See below, pp. 131–132.

the Diet of Worms of 1521, and was urged upon the imperial free cities.[4]

This need rapidly developed as a motive of the paternal action of the Nürnberg council during the century of the Reformation. As we have noted before, it had not led in previous times to specific discrimination against the lower classes. It had made itself apparent only in the extension to them of rules which had formerly been thought needful for the upper classes alone, and in special permissions to persons of high degree, which carried an implicit restriction. The definition which it gained in the course of the sixteenth century is shown in the very title of an "Ordinance and prohibition of August 8, 1568 regarding vain display, and what is permissible and proper in clothing and other things for each man according to his rank." The refinements of distinction which were observed in this ordinance are exemplified in the final paragraph respecting "the superfluities of serving-maids," where it is explained that the rules laid down for servant-girls were meant to apply "only to housemaids and not to shop-girls, or those who serve in the shops"; but that these were to dress like the ladies and maidens of the craftsman class.[5] In the sixteenth century, regulation by rank was applied also in the wedding ordinance, from which it had been almost entirely absent as late as 1526; and the title of a wedding regulation of 1598 reads: "Ordinance prescribing how the common Zahl-Hochzeiten shall be celebrated in Nürnberg"; and the title of one of 1603 is: "Renewed ordinance prescribing how the Erbarn und verlegten Hochzeiten shall be celebrated."

The lively interest of the council in the enforcement of social prerogatives at this period was manifested in an order which the seven elders issued in December, 1599. The special occasion was the sleighing, which had begun again with the falling weather of the preceding few days; and the council was taking measures in order that only those whom it befitted might ride in sleighs. The fathers

[4] Resolution "des kleinen Ausschusses," presented April 17, in the Deutsche Reichstagsakten, Jüngere Reihe, vol. ii, p. 336, and p. 340.
[5] Siebenkees, vol. i, p. 100.

ordered the constables to make a list of those who went sleighing on that day, December 13; and to lay this before the council that the members might take it under advisement "to whom outside of the families such a mode of travel should be permitted" and to whom it should be forbidden. They further resolved that "since also vanity is here increasing to such a degree, that one rank can scarcely be distinguished from another, and common shop-keepers and their wives presume to wear almost more than members of the old families, one should instruct the appointed magistrates [deputierten herren] to press the new Hoffartordnung that such disorder may be prevented betimes."[6]

This brief glance at the sumptuary enactments of the sixteenth and seventeenth centuries makes it possible to confirm our observations upon earlier laws. It has revealed two respects in which later legislation of this character differed from that of the Middle Ages proper; namely, in greater particularity, and in stronger emphasis upon the propriety of class distinctions. Yet these were not sudden developments of the later period. Regulation had been growing steadily more intricate, and regard for differences of rank had appeared in the ordinances before the close of the Middle Ages. It may be affirmed, therefore, on the authority of good evidence, that in Nürnberg the essential motives and tendencies of the sumptuary restrictive policy appeared in advance of the Reformation, and had their origin amid the legal conceptions of the Middle Ages.

Our review of the statutes showed that as early as the thirteenth, and repeatedly in the fourteenth and fifteenth centuries, the Nürnberg council was regulating intimate personal concerns, such as the manner and cost of weddings, funerals, baptisms, and clothes, through laws which were neither simply police regulations in the modern sense of the

[6] Ältermanual, December 13, 1599, Nr. 14, Bl. 202; quoted in Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. vii, p. 274. At the same time they were instructed to cause certain "erbarn" ladies to see a copy of the ordinance on weddings, privily however, in order to refresh their memories. These expressions were not intended for public consumption, and are apt to come nearer to the real mind of the council than the preambles of the ordinances.

word, nor were related to the processes of economic industry and exchange, but which evidently proceeded from a sense of paternal responsibility for the conduct of every man and woman in the community. The main object seems to have been to cut off the superfluous, to repress what was regarded as proceeding only from vanity; but examination of ordinances of the fifteenth century regarding tippling, dancing, swearing, weddings, and dress showed that superfluity was not the only ground of regulation, and that the council evinced also a sense of duty to discourage the expression of desires that seemed harmful to good character. The manifestation of such a view of its duty revealed the government of Nürnberg to be standing at the close of the mediaeval period in a relation to the individual which the state has often been supposed to have entered only as a result of the Reformation.

It was noticed that the earliest sumptuary regulation was in the form of brief, almost fragmentary, rules, apparently uttered one or two at a time, as occasion demanded. Later the ordinances grew more mature in statement, and at the same time they regulated with greater thoroughness. By the latter half of the fifteenth century they had grown long and complicated; and there is evidence to show that at this time they were not issued at one breath, but they set forth in codified form an accumulation of enactments. They show the effects of repeated patching, revamping, and alteration, to meet a change of conditions or a difficulty of enforcement. Such frequent readjustment would seem to betoken a continuous interest of the council in its sumptuary policy, and goes to show that the vitality of the impulse to care for intimate processes of the citizen's life, whether economic or moral, had not abated at the close of the Middle Ages.

During the mediaeval period the sumptuary laws, as they became more thorough-going, displayed, if anything, a tendency to be less exacting in their denials, and more liberal in their concessions. It is not necessary to infer from this a decay in the theory of regulation, a decline in the idea of

its desirability. It was but natural that the notions of propriety held by the city fathers should be liberalized, as, with extension of commercial intercourse, life itself and its manners grew more complex, and the outlook upon the world widened. Means of gaining wealth were being multiplied; new tastes were awakened by new objects of imitation; and the most conservative were certain in time to find their standards of criticism revised. The intervals between the surviving laws are too long and the dates of the laws are too uncertain to make it possible to trace with great accuracy the changing views as reflected in them; but the analogy of other cities, strengthening the evidence of the ordinances which we have, suggests that the authorities yielded to new usages and costlier fashions only when they found it impracticable to make the rules of the past generation operative. Then they lowered the tension of the statute to a point where it seemed enforceable, as we have seen them doing in certain articles of the fifteenth century clothing ordinance.

The point of interest is that the slackening was not due to abandonment of the idea that regulation was desirable, but probably was born of the very attempt to enforce it. If the magistrates found it necessary to retreat before the encroachments of luxury, they at least put up a fight; and the vitality of the theory upon which they were acting is demonstrated. Whatever the necessity under which they were placed to give way before usages once thought extravagant that had established a hold, they offered no clemency to new outbreaks, but endeavored repeatedly in the Wedding-manual and in the clothing ordinance to head these off with strong prohibitions. The story of their experience in enforcing the laws, and the degree of determination with which they pressed them, will have to await a study of their judicial administration, but comparison of the laws themselves lays the necessary foundation for this in giving the history of the conceptions on which they were based. It shows that the paternal sense of an obligation to keep the men and women of the city within certain bounds of

economy and personal uprightness awakened early in the council of Nürnberg, and although somewhat liberalized in spirit, had not lost its vigor at the end of the Middle Ages, but was operating to hedge private life about with multiplying legal restrictions.

The observations of this study have been directed upon Nürnberg, and in so far as Nürnberg was a typical community they have a general significance. The evidence assembled has exhibited the sumptuary ordinances as a serious legislative activity of a sovereign body that stood in the main currents of its time. In tracing the laws in their historic growth it has shown the intimate details of conduct over which such a government would press its control under the sense of paternal responsibility; and has served to illuminate the mediaeval view of the relation of the state and the individual at the points of closest contact. In setting forth the restriction which the city fathers of Nürnberg proposed, it paves the way for study of the interesting problem of its enforceability; equips one to proceed with a survey of its course in Nürnberg after the Reformation; and furnishes a basis for comparative observations of its development in communities differently governed and differently circumstanced.

INDEX

THE PRIVILEGES AND IMMUNITIES OF STATE CITIZENSHIP

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IN
HISTORICAL AND POLITICAL SCIENCE

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THE PRIVILEGES AND IMMUNITIES OF STATE CITIZENSHIP

BY

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CONTENTS

PREFACE

The following study was undertaken at the suggestion of Professor Westel W. Willoughby. So far as is known, no previous attempt has been made to treat the subject comprehensively, or to enumerate the rights which the citizens of the several States are entitled to enjoy, free from discriminatory legislation, by virtue of the so-called Comity Clause. To Professor Willoughby and Professor John H. Latané, under whose direction the work was carried on, I am indebted for both advice and inspiration; and I am especially under obligation to President Frank J. Goodnow, who was kind enough to read the manuscript and to offer much valuable advice. I desire, also, to express my appreciation to Mr. Eben Winthrop Freeman, President of the Greenleaf Law Library of Portland, Maine, for his courtesy in extending to me the use of that library during the summer of 1916, when the greater part of the material for this piece of work was collected.

R. H.

THE PRIVILEGES AND IMMUNITIES OF STATE CITIZENSHIP

CHAPTER I

History of the Comity Clause

It is provided by the Federal Constitution[1] that: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." This clause (hereafter called for the sake of convenience the Comity Clause[2]), it was said by Alexander Hamilton, may be esteemed the basis of the Union.[3] Its object and effect are outlined in Paul v. Virginia[4] in the following words:

> It was undoubtedly the object of the clause in question to place the citizens of each State upon the same footing with citizens of other States, so far as the advantages resulting from citizenship in those States are concerned. It relieves them from the disabilities of alienage in other States; it inhibits discriminating legislation against them by other States; it gives them the right of free ingress into other States and egress from them. It insures to them in other States the same freedom possessed by the citizens of those States in the acquisition and enjoyment of property and in the pursuit of happiness; and it secures to them in other States the equal protection of the laws. It has been justly said that no provision in the Constitution has tended so strongly to constitute the citizens of the United States one people as this.[5] Indeed, without some provision of the kind removing from the citizens of each State the disabilities of alienage in the other States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists.

The words "privileges" and "immunities," like the greater part of the legal phraseology of this country, have been carried over from the law of Great Britain, and recur

[1] Art. 4, sec. 2, cl. 1.
[2] Willoughby, Constitutional Law, vol. i, p. 213.
[3] The Federalist, No. LXXX.
[4] 8 Wall. 168, 19 L. ed. 357.
[5] Citing Lemmon v. People, 20 N. Y. 607.

constantly either as such or in equivalent expressions from the time of Magna Charta. For all practical purposes they are synonymous in meaning, and originally signified a peculiar right or private law conceded to particular persons or places whereby a certain individual or class of individuals was exempted from the rigor of the common law. A privilege or immunity is conferred upon any person when he is invested with a legal claim to the exercise of special or peculiar rights, authorizing him to enjoy some particular advantage or exemption.[6]

The Comity Clause, as is indicated by the quotation from Paul v. Virginia, was primarily intended to remove the disabilities of alienage from the citizens of every State while passing through or doing business in any of the several States. But even without this removal of disability, the citizens of the several States would have been entitled to an enjoyment of the privileges and immunities accorded to alien friends; and these were by no means inconsiderable at the English law. In the early period of English history practically the only class of aliens of any importance were the foreign merchants and traders. To them the law of the land afforded no protection; for the privilege of trading and for the safety of life and limb they were entirely dependent on the royal favor, the control of commerce being a royal prerogative, hampered by no law or custom as far as concerned foreign merchants. These could not come into or leave the country, or go from one place to another, or settle in any town for purposes of trading, or buy and sell, except upon the payment of heavy tolls to the king. This state of affairs was changed by Magna Charta, chapter forty-one of which reads:

All merchants shall have safe and secure exit from England and entry to England, with the right to tarry there and move about by land as by water, for buying and selling by the ancient and right

[6] See Magill v. Browne, Fed. Cas. No. 8952, 16 Fed. Cas. 408; 6 Words and Phrases, 5583, 5584; A. J. Lien, "Privileges and Immunities of Citizens of the United States," in Columbia University Studies in History, Economics, and Public Law, vol. 54, p. 31.

customs, quit from all evil tolls, except, in time of war, such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.[7]

Whatever may have been the motives of the barons in securing the adoption of this chapter (and since they had no particular love for the merchants of the town, it may well be that these were not entirely disinterested), it was not regarded with much favor by the latter class. The right to exact tolls and place restrictions upon all rival traders who were not members of their gilds, whether foreigners or not, was a cherished privilege of the chartered boroughs; and chapter thirteen of Magna Charta had guaranteed to these the full enjoyment of all their "ancient liberties and free customs."[8] The result was a continual struggle on the part of the English merchants to put restrictions on foreign traders. The latter, however, enjoyed the royal favor, and by the Charta Mercatoria of 1303 the provisions of Magna Charta in this respect became a reality, various privileges and exemptions being conferred in order to offset increased rates of duty.

During the reigns of Edward II and Edward III a varying policy was pursued by the Crown with respect to alien merchants. The statute of 1328 abolishing the "staples beyond the sea and on this side" provided "that all merchants, strangers and privy may go and come with their merchandises, after the tenor of the Great Charter";[9] and seven years later this privilege was further confirmed by an act which, in considerable detail, placed strangers and

[7] This provision is commented upon with admiration by Montesquieu, who says: "La grande chartre des Anglois defend de saisir et de confisquer en cas de guerre les marchandises des negociants étrangers, à moins que ce ne soit pas représailles. Il est beau que la nation Angloise ait fait de cela un des articles de sa liberté" (L'Esprit des Lois, book xx, ch. 14).

[8] See Pollock and Maitland, vol. i, pp. 447–448, with respect to the inconsistency between these two chapters.

[9] 2 Edward III, c. 9.

residents upon an exact equality in all branches of trade, wholesale and retail, under the express declaration that no privileged rights of chartered boroughs should be allowed to interfere with its enforcement.[10] The provisions of these statutes do not seem to have been strictly enforced; and under Richard II the privileges of the boroughs were restored, although freedom of trade with respect to alien merchants was, in theory at least, still recognized.[11]

Not only with respect to trading, but also in regard to several other privileges, did alien friends enjoy many important rights. According to Blackstone,

> An alien born may purchase lands or other estates; but not for his own use, for the king is thereupon entitled to them. If an alien could acquire a permanent property in lands he must owe an allegiance, equally permanent with the property, to the king of England, which would probably be inconsistent with that which he owes to his own natural liege lord; besides that thereby the nation might in time be subject to foreign influence, and feel many other inconveniences, Wherefore, by the civil law such contracts were also made void; but the prince had no such advantage of forfeiture thereby as with us in England. Among other reasons which might be given for our constitution, it seems to be intended by way of punishment for the alien's presumption, in attempting to acquire any landed property; for the vendor is not affected by it, he having resigned his right and received an equivalent in exchange. Yet an alien may acquire a property in goods, money, and other personal estate, or may hire a house for his habitation; for personal estate is of a transitory and movable nature; and besides this indulgence to strangers is necessary for the advancement of trade. Aliens, also, may trade as freely as other people; only they are subject to certain higher duties at the custom-house; and there are also some obsolete statutes of Henry VIII, prohibiting alien artificers to work for themselves in this kingdom; but it is generally held that they were virtually repealed by statute 5 Eliz., c. 7. Also an alien may bring an action concerning personal property, and make a will; and dispose of his personal estate; not as it is in France, where the king at the death of an alien is entitled to all he is worth, by the *droit d'aubaine* or *jus albinatus*, unless he has a peculiar exemption. . . . No denizen[12] can be of the privy council or either house of Parliament or have any office of trust, civil or military, or be capable of any grant of lands, etc., from the Crown.[13]

[10] See 9 Edward III, c. 1, and cf. 25 Edw. III, stat. 4, c. 7.

[11] See 2 Richard II, stat. 1, c. 1, and 11 Richard II, c. 7.

[12] An alien to whom letters patent had been issued so as to make him a British subject.

[13] Blackstone, Commentaries, vol. i, pp. 372–374.

Aliens also had no inheritable blood and were incapable of taking or transmitting property by descent.[14]

It may thus be seen that, independently of any constitutional provision, the citizens of the thirteen original States were entitled to the enjoyment of a considerable class of privileges upon removal from their own to another State. There was, on the other hand, much room for discrimination as well; and the jealousy which existed between the States, coupled with the fact that each of these was now fully capable of changing the rules of the English common and statute law to suit its own purposes, left no guarantee as to the length of time during which the citizens of the several States would be capable of enjoying even such privileges as were accorded to alien friends. Moreover, it was generally felt that Americans should be regarded as more closely related to one another than to citizens of foreign countries, and that something more than an alien status was needed if the inhabitants of the several States were to constitute one people.

It was with this idea of securing a stronger bond than had previously existed between the States that the Fourth Article of the Articles of Confederation was adopted. This, the immediate precursor of the Comity Clause, reads:

> The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; and provided also that no imposition, duty, or restriction, shall be laid by any State on the property of the United States, or either of them.

Madison says:[15]

> There is a confusion of language here which is remarkable. Why

[14] Blackstone, Commentaries, vol. ii, p. 249.
[15] The Federalist, No. XLII.

the terms *free inhabitants* are used in one part of the Article, *free citizen* in another, and *People* in another; or what was meant by superadding to "all privileges and immunities of free citizens," "all the privileges of trade and commerce," cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State; so that it may be in the power of a particular State, or rather every State is laid under a necessity, not only to confer the rights of citizenship in other States upon any whom it may admit to such rights within itself, but upon any whom it may allow to become inhabitants within its jurisdiction.[16]

This article was proposed in its final shape on November 13, 1777, and adopted by the Continental Congress. In spite of its disconnected and loose structure, it must have been regarded as satisfactory, for the only amendments proposed were of little importance. On June 22, 1778, the delegates from Maryland proposed that the word "paupers" be omitted, and the words "that one State shall not be burthened with the maintenance of the poor who may remove into it from any of the others in the Union," added. On June 25, 1778, the delegates from South Carolina moved to insert the word "white" between the words "free inhabitants," so that the privileges and immunities granted should be definitely secured to the white race only; they also suggested certain other verbal changes. A similar proposal was embodied in the order of ratification of Georgia, in which it was suggested in addition that after the word "vagabonds" there should be inserted "all persons who refuse to bear arms in defense of the State to which they belong, and all persons who have been or shall be attainted of high treason in any of the United States." None of these alterations was adopted.[17]

In the Journal of the Constitutional Convention the present clause of the Constitution is credited with appearing, in the form in which it now reads, in the plan laid

[16] See also Story on the Constitution, sec. 1799.

[17] Journal of the Continental Congress, vol. ii, pp. 326, 598, 606, 615; Elliott's Debates on the Federal Constitution, 2d ed., pp. 72-92.

before the Convention by Charles Pinckney of South Carolina;[18] and in a speech delivered in the House of Representatives on February 13, 1821, with respect to the admission of Missouri, he specifically laid claim to its authorship.[19] But in the "Observations on the Plan of Government Submitted to the Federal Convention in Philadelphia, on the 28th of May, 1787, by Mr. Charles Pinckney," printed by Francis Childs in October, 1787, the Fourth Article of the Articles of Confederation is recommended for adoption practically untouched;[20] and in view of the historical doubt as to the identity of the so-called Pinckney Draft printed in the Journal of the Convention with that actually submitted by Mr. Pinckney and afterward turned over to the Committee on Detail, it does not seem probable that Pinckney's claim can be sustained. However this may be, the clause as it now reads was submitted to the Convention by the Committee on Detail on August 6, 1787, as Article XIV of the proposed constitution. The only alteration suggested was that some provision should be included in favor of property in slaves; but upon the question being put it was passed in the affirmative, South Carolina being the only State voting against it, and Georgia being divided. It was later placed in its present position in the Constitution by the Committee on Style.[21]

[18] See Elliott's Debates, 2d ed., pp. 245, 249.
[19] Annals of Congress, 16th Cong., 2d sess., p. 1134.
[20] M. Farrand, Records of the Federal Convention, vol. iii, p. 50.
[21] Farrand, vol. i, pp. 173, 443, 577.

CHAPTER II

General Scope of the Comity Clause

The wording of the Comity Clause is obviously very general; and standing by itself, it might be construed in such a way as to obliterate state lines entirely, since the citizens of every State in the Union might be regarded as entitled by it to identically the same privileges and immunities. The first reported case bearing upon the clause is Campbell v. Morris,[1] which was decided in 1797. This case is rather remarkable in some ways, in that it recognizes that the provisions of the clause are to be given a limited operation, and indicates fairly accurately the line of demarcation which has been generally adopted by the courts since that time. The language of the court, speaking through Judge Chase, is as follows:

> By the second section of the fourth Article of the Constitution of the United States, the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States. Privilege and immunity are synonymous, or nearly so. Privilege signifies a peculiar advantage, exemption, immunity; immunity signifies exemption, privilege. The peculiar advantages and exemptions contemplated under this part of the Constitution, may be ascertained if not with precision and accuracy, yet satisfactorily. By taking a retrospective view of our situation antecedent to the formation of the first general government, or the confederation, in which the same clause is inserted *verbatim*,[2] one of the great objects must occur to every person, which was the enabling the citizens of the several States to acquire and hold real property in any of the States, and deemed necessary, as each State was a sovereign, independent State, and the States had confederated only for the purpose of general defense and security, and to promote the general welfare. It seems agreed, from the manner of expounding the words immunities and privileges, by the counsel on both sides, that a particular and limited operation is to be given to these words, and not a full and comprehensive one. It is agreed it does not mean the right of election, the right of holding offices, the right of being

[1] 3 Harr. and McHen. (Md.) 535.
[2] This is obviously a misstatement.

elected. The Court are of opinion it means that the citizens of all the States shall have the peculiar advantages of acquiring and holding real as well as personal property and that such property shall be protected and secured by the laws of the State in the same manner as the property of the citizens of the State is protected. It means, such property shall not be liable to any taxes, or burdens which the property of the citizens is not subject to. It may also mean that as creditors, they shall be on the same footing with the state creditor, in the payment of the debts of a deceased debtor. It secures and protects personal rights.

The latitude for difference in construing the Comity Clause is well exemplified by the peculiar interpretation put upon it by the supreme court of Tennessee in the case of Kincaid v. Francis,[3] decided in 1811. The court there denied that the clause was intended to prevent discrimination by a State in according privileges to its own citizens as against those of other States; on the contrary, it regarded the clause as intended to compel the Federal Government to extend the same privileges and immunities to the citizens of every State, and to prevent that government from granting privileges or immunities to citizens of some of the States which were not likewise granted to those of all the others. This ingenious interpretation, though fully capable of application as far as the words of the clause itself are concerned, can, of course, be viewed in no other light than as erroneous if the history of the adoption of the clause, its position in the Constitution, and the wording of the similar article in the Articles of Confederation are taken into account. And, as a matter of fact, this is the only case in which such an interpretation occurs.[4]

An interpretation for the most part similar to that given

[3] 3 Cooke (Tenn.) 49.

[4] A somewhat similar view is, however, taken in Chapman v. Miller, 2 Speers (S. C.) 769, in which it was said by Butler, J.: "I cannot find that any of the writers or commentators on the constitution have ever undertaken to expound this article, either by explanation or definition; and I shall not quit the concrete of this case by resorting to any abstract disquisitions on the subject,—or attempt to do that which others have avoided. This much may be said on the subject with entire confidence—that it is not in the power of Congress to give privileges to citizens of one State over those of another, by any measure which it can constitutionally adopt; nor can it give to a State a power to do a thing which it could not do itself."

in Campbell v. Morris, but going somewhat farther than the decision in that case, is afforded in Corfield v. Coryell.[5] This case, reported in 1825, is the first federal authority upon the question of the construction of the clause; and it is of particular importance in any examination of the general scope of the clause in that the language used in that connection, though obiter, has been made the basis of numerous decisions since that time, and is even now cited occasionally with approval. That part of the decision dealing with the privileges and immunities of state citizenship reads:

> The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, *fundamental*; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several States which compose this union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject, nevertheless, to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through, or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of habeas corpus; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either real or personal; and to an exemption from higher taxes or impositions than are paid by the other citizens of the State; may be mentioned as some of the particular privileges and immunities of citizens, which are clearly embraced by the general description of privileges deemed to be fundamental; to which may be added, the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised. These and many others which might be mentioned, are, strictly speaking, privileges and immunities, and the enjoyment of them by the citizens of each State, in every other State, was manifestly calculated (to use the expressions of the preamble of the corresponding provision in the old articles of confederation) the better to secure and perpetuate mutual friendship and intercourse among the people of the different States of the union. But we cannot accede to the proposition . . . that, under this provision of the constitution, the citizens of the several States are entitled to participate in all the *rights* which belong exclusively to the citizens of any other particular State merely upon the ground that they are enjoyed by those citizens.

[5] 4 Wash. C. C. 371.

The most casual examination of the reasoning in this decision shows that it is based almost entirely upon the prevalent political theory of natural rights. Judge Washington evidently took the view that this clause of the Constitution was meant to be simply a condensation in less awkward phraseology of the corresponding article in the Articles of Confederation; and, acting upon this principle, in his enumeration of the rights secured to the citizens of the several States he merely elaborates the rights specifically there set forth. In so doing he follows much the same line of reasoning as the Maryland court in Campbell v. Morris. But in addition he takes the stand that these rights are the rights which are fundamental and are necessarily to be enjoyed by the citizens of all free States. This view would lead logically to the conclusion that the rights secured to the citizens of each State were the same. There would result, accordingly, a sort of general citizenship in common throughout the entire country, by virtue of which certain defined rights were guaranteed to every one of its members as against legislation on the part of any of the States. This interpretation, in spite of the general acceptance given it, is not borne out by the intentions of the framers of the Constitution. In the selection from the Federalist before quoted, it was said that those coming under the denomination of free inhabitants of a State were to be regarded as entitled in every other State to the privileges which the latter might see fit to accord to its own citizens; "that is, to greater privileges than they may be entitled to in their own State."[6]

In point of fact, although the various privileges named in Corfield v. Coryell have practically all been since held to be secured to the citizens of the several States, this result has been attained not because these were fundamental privileges by their nature necessarily inherent in citizenship, but because they were privileges which each State actually

[6] The Federalist, No. LXII.

granted to its own citizens. The settled construction of the Comity Clause has therefore come to be that, in any given State, every citizen of every other State shall have the same privileges and immunities which the citizens of that State possess; and where the laws of the several States differ, a citizen of one State asserting rights in another must claim them according to the laws of the latter State. The view that a citizen of one State carries with him into any other State certain fundamental privileges and immunities which come to him necessarily by the mere fact of his citizenship in the first-mentioned State, has been definitely abandoned.[7]

The result has been that it is impossible to set forth any particular rights and privileges which are merely as such appurtenant to citizenship. If any right whatsoever is denied by a State to its own citizens, it may be denied fully as properly to citizens of other States. The test as to whether any particular state law is in contravention of the Comity Clause is not whether it denies some certain right to citizens of other States, but whether it denies them this right while at the same time extending it to its own citizens. In other words, it is discriminatory legislation aimed by a State against the citizens of other States that is regarded as prohibited; and if the legislation is in fact not discriminatory, it is entirely valid as respects this provision of the Constitution. "It is only equality of privileges and immunities between citizens of different States that the Constitution guarantees."[8]

This change in the interpretation of the Comity Clause has been the basis of several decisions which would be

[7] See Ward v. Maryland, 12 Wall. 418, 20 L. ed. 499; Paul v. Virginia, 8 Wall. 168, 19 L. ed. 357; Downham v. Alexandria, 10 Wall. 173, 19 L. ed. 929; Detroit v. Osborne, 135 U. S. 492, 34 L. ed. 260, 10 Sup. Ct. Rep. 1012; Slaughterhouse Cases, 16 Wall. 36, 21 L. ed. 394; Williams v. Bruffy, 96 U. S. 176, 24 L. ed. 716; Kimmish v. Ball, 129 U. S. 217, 32 L. ed. 695, 9 Sup. Ct. Rep. 277; Chambers v. Baltimore and Ohio R. Co., 207 U. S. 142, 52 L. ed. 143, 28 Sup. Ct. Rep. 34; Lemmon v. People, 20 N. Y. 607; Allen v. Negro Sarah, 2 Harr. (Del.) 434.

[8] Field, J., in Downham v. Alexandria, 10 Wall. 173, 19 L. ed. 929.

difficult of justification under the old theory of fundamental privileges belonging to the citizens of all free governments. Thus it is settled that a citizen of one State is not entitled to carry with him into another State privileges which he enjoys in the place of his citizenship.

This was the decision in the case of Detroit v. Osborne.[9] The plaintiff in that case had brought a suit for damages against the city of Detroit to recover for injuries received as the result of a defect in a sidewalk within the city limits. In the State of which she was a citizen the circumstances would have been sufficient to entitle her to a verdict; and a similar rule prevailed in a majority of the States. The Michigan law, however, was to the contrary; and this being so, it was held that she was not entitled, by virtue of her right to recover in her own State, to recover in Michigan contrary to the law of that State, the court saying: "A citizen of another State going into Michigan may be entitled under the Federal Constitution to all the privileges and immunities of citizens of that State; but under the Constitution he can claim no more. He walks the streets and highways in that State, entitled to the same rights and protection, but none other, than those accorded by its laws to its own citizens."

By a similar mode of reasoning, the Constitution is not to be regarded as giving a right to a citizen of any State to enjoy within his own State the privileges and immunities which may be granted by the laws of other States to their citizens. The contrary of this was asserted by the plaintiff in error in McKane v. Durston.[10] He was a citizen of New York who had been found guilty of violating the state laws concerning elections and the registration of voters, and he had prayed and had been granted an appeal from the judgment ordering his imprisonment. By the law of New York a defendant who had appealed from conviction of a crime not punishable with death might in certain instances

[9] 135 U. S. 492, 34 L. ed. 260, 10 Sup. Ct. Rep. 1012.
[10] 153 U. S. 684, 38 L. ed. 867, 14 Sup. Ct. Rep. 913.

be admitted to bail, but only when there was a stay of proceedings; and the stay in proceedings was granted only upon the filing with the notice of appeal of a certificate of the trial judge that there was in his opinion reasonable doubt whether the judgment should stand. It was insisted that these statutory regulations were unconstitutional as denying privileges and immunities of citizens of the States, since in most of the other States a defendant convicted of a criminal charge other than murder had the right, as a matter of law, upon the granting of an appeal from the judgment of conviction, to give bail pending such appeal. This argument was summarily dismissed by the Court, it being held that whatever might be the scope of the clause in question, the privileges and immunities enjoyed by the citizens of one State under its constitution and laws could not possibly be regarded as the measure of the privileges and immunities to be enjoyed, as of right, by a citizen of another State under the constitution and laws of the latter.[11]

In a few cases it has been claimed by a citizen of one State that a statute was unconstitutional because it denied an equality of privileges and immunities to citizens of other States. It has been uniformly held that the constitutionality of a state statute cannot be attacked upon this ground by a citizen of that State.[12] An exception to this rule and to the holding in McKane v. Durston is to be noted in the case of In re Flukes.[13] Here, on the petition of a citizen

[11] Similarly a state statute is not unconstitutional as denying equal privileges and immunities for the reason that it prohibits the importation of certain kinds of property by its own citizens, while allowing this to citizens of other States. "The clause was intended to secure the citizens of one State against discrimination made by another State in favor of its own citizens, and not to secure the citizens of any State against discrimination made by their own State in favor of the citizens of other States, nor to secure one class of citizens against discrimination made between them and another class of citizens of the same State." Commonwealth v. Griffin, 3 B. Monr. (Ky.) 208. See also Murray v. McCarty, 2 Munf. (Va.) 393.

[12] Bradwell v. Illinois, 16 Wall. 130, 21 L. ed. 442; Hudson Water Co. v. McCarter, 209 U. S. 349, 52 L. ed. 828, 28 Sup. Ct. Rep. 529.

[13] 157 Mo. 125, 57 S. W. 545, 51 L. R. A. 176.

of the State, a statute was held unconstitutional which penalized the sending of any chose in action out of the State for collection by garnishment or attachment against the wages of any debtor resident within the State. The ground of the decision was that the statute could not by its terms be enforced against the wages of non-resident debtors, so that "a citizen of New York or California could bring just such a suit as the petitioner has brought and be held wholly blameless." In other words, any statute which does not put residents of the State upon an equally good footing with non-residents is to be regarded, according to the decision of the Missouri court, as unconstitutional. Such a doctrine is so absolutely opposed to the weight of authority that it would seem necessarily erroneous; and it is not believed that the reasoning advanced in this case can properly be supported.

From what has been said it will be seen that the element of discrimination is the controlling factor in determining whether a state law is a violation of the privileges and immunities of citizens of the several States. If there is no discrimination in favor of citizens of the domestic State, there is no unconstitutionality, however much the citizens of other States may be deprived of the enjoyment of any right enumerated in the various lists which have been drawn up from time to time in the decisions of the courts. Furthermore this discrimination must be substantial; and a mere difference in the method of applying state legislation in the cases of residents and non-residents will not necessarily invalidate the statute in question. Thus, where the mode of collecting a tax on liquor brought in from another State differed from that used with regard to liquor manufactured in the State, it was nevertheless held that there was no discrimination, since the amount paid was the same in both cases.[14]

[14] Hinson v. Lott, 8 Wall. 148, 19 L. ed. 387. See also Travelers' Insurance Co. v. Connecticut, 185 U. S. 364, 46 L. ed. 949, 22 Sup. Ct. Rep. 673.

A question of considerable interest prior to the Civil War was with respect to the extent to which negroes were protected by the Comity Clause. Slaves, being property, admittedly did not come within its provisions; but differences of opinion existed with regard to free negroes to whom the privileges of citizenship had been extended by any one State. The state courts were not at all in accord upon the matter. Those which regarded the free negro as entitled to an equality of privileges and immunities usually based this belief upon the ground that the amendments to the Fourth Article of the Articles of Confederation, limiting its operation to the white race, had been rejected; and also upon the ground that prior to the adoption of the Constitution, free negroes were looked upon as citizens by the States in which they lived.[15] In other cases the courts regarded the negroes as not entitled to the benefit of this clause, but accorded them a citizenship of a lower order than that of the whites.[16] The majority of the courts, however, held that the clause was not intended to have reference to negroes in any case, and that they were entirely incapable of becoming citizens of any State in a constitutional sense.[17]

[15] Smith v. Moody, 26 Ind. 229; State v. Manuel, 4 Dev. and Bat. (N. C.) 20.

[16] Thus in Ely v. Thompson, 3 A. K. Marsh. (Ky.) 70, the Court says: "Although free persons of color are not parties to the social compact, yet they are entitled to repose under its shadow."

[17] Amy v. Smith, 1 Litt. (Ky.) 326; Crandall v. State, 10 Conn. 339; State v. Claiborne, 1 Meigs (Tenn.) 331; Pendleton v. State, 6 Ark. 509. In the last-mentioned case the general trend of this class of decisions is well set forth in the following words: "Are free negroes or free colored persons citizens within the meaning of this clause? We think not. In recurring to the past history of the constitution, and prior to its formation, to that of the confederation, it will be found that nothing beyond a kind of quasi-citizenship has ever been recognized in the case of colored persons. . . . If citizens in a full and constitutional sense, why were they not permitted to participate in its formation? They certainly were not. The constitution was the work of the white race, the government for which it provides and of which it is the fundamental law, is in their hands and under their control; and it could not have been intended to place a different race of people in all things upon terms of equality with themselves. Indeed, if such had been the desire, its utter impracticability is too evident to admit of doubt. The two races differing as they do in complexion, habits, conformation, and intellec-

The last view of the matter was substantially upheld by the Supreme Court in the celebrated Dred Scott Case.[18] After considerable investigation with respect to the status of the negro at the time of the Revolution and of the adoption of the Constitution, as well as with respect to state legislation upon that subject, Chief Justice Taney came to the conclusion that the negro race at the time and long afterwards was in an inferior and subject condition; and that therefore it could not be supposed that it was intended by the framers of the Constitution to secure to that race rights and privileges throughout the Union which were denied by the majority of the constituent parts of that Union within their own limits. This opinion, it was pointed out, would apply with particular emphasis to the slave-holding States, since a contrary interpretation would exempt the negro from the special laws and police regulations adopted by those States with respect to him and deemed by them to be necessary for their own safety. For the States had no power to limit or restrict those persons entitled to the protection of the clause, or to place them in an inferior position before the law. "It [the Comity Clause] guaranties rights to the citizen," says the chief justice, "and the State cannot withhold them. And these rights are of a character and would lead to consequences which make it absolutely certain that the African race were not included under the name of citizens of a State, and were not in the contemplation of the framers of the Constitution when these privileges and immunities were provided for the protection of the citizen in other States."[19]

tual endowments, could not nor ever will live together upon terms of social or political equality. A higher than human power has so ordered it, and a greater than human agency must change the decree. Those who framed the constitution were aware of this, and hence their intention to exclude them as citizens within the meaning of the clause to which we referred."

[18] Scott v. Sandford, 19 How. 393, 15 L. ed. 691.

[19] This argument was disputed at some length by Mr. Justice Curtis. In his dissenting opinion he took the ground that it was the conviction of the makers of the Constitution and subsequently of

Another question relating to the privileges and immunities of citizens of the several States which caused much interest at one time was with regard to the effect of the Fourteenth Amendment. A wide difference of opinion prevailed in this connection. The exact meaning of the privileges and immunities of citizens of the United States secured by the amendment was unsettled, in the minds both of members of Congress and of the judiciary. Thus Senator Poland thought that the amendment secured "nothing beyond what was intended by the original provision in the Constitution that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."[20] There was a well-defined opinion among the judiciary also that the privileges and immunities protected by the Fourteenth Amendment were the same "fundamental" rights inherent in citizenship as had been outlined by Judge Washington in Corfield v. Coryell. This was the view taken in one of the earliest attempts to define the privileges and immunities of citizens of the United States which the States were forbidden to abridge. This was in the case of United States v. Hall,[21] in which it was said: "What are the privileges and immunities of citizens of the United States here referred to? They are undoubtedly those which may be denominated fundamental; which belong of right to the citizens of all free states, and which have at all times been enjoyed by the citizens of the several States which compose this Union from the time of their becoming free, independent, and sovereign."

This view was repudiated by the Supreme Court in the Slaughterhouse Cases.[22] Here Mr. Justice Miller, deliver-

the legislative power of the United States, that free negroes, as citizens of some of the States, might be entitled to the privileges and immunities of citizens in all the States.

[20] Congressional Globe, 39th Cong., 1st sess., part iv, p. 2961. See also the remarks of Senator Henderson, ibid., 39th Cong., 1st sess., part iii, p. 2542; Mr. Stevens, ibid., 39th Cong., 1st sess., part iii, p. 2459; Mr. Shanklin, ibid., 39th Cong., 1st sess., part iii, p. 2500.

[21] Fed. Cas. No. 15282, 26 Fed. Cas. 79.

[22] 16 Wall. 36, 21 L. ed. 394.

ing the opinion of the Court, drew a sharp distinction between citizenship in the United States and citizenship in a State. "It is quite clear," he says, "that there is a citizenship of the United States and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual"; and he goes on to point out that the argument of the plaintiffs in the case rested wholly upon the assumption that the citizenship was the same, and that the privileges and immunities to be enjoyed were the same. The description of the privileges and immunities of state citizenship given in Corfield v. Coryell is quoted with approval, as embracing those civil rights for the establishment and protection of which organized government is instituted, and which the state governments were created to establish and secure; no additional security of national protection was given them by the Fourteenth Amendment. While clinging somewhat to the idea of fundamental rights, Justice Miller says specifically that the sole purpose of the Comity Clause was "to declare to the several States that whatever those rights, as you grant or establish them to your own citizens, or as you limit or qualify, or impose restrictions on their exercise, the same neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction." The case firmly established the rule that, in consequence of the duality of citizenship in this country, there exists in correspondence to each class of citizenship a separate class of privileges and immunities, both protected against state violation, but entirely distinct in their character.

The exact scope and the momentous consequence of this decision, as is pointed out in Twining v. New Jersey,[23] are more clearly recognized by an examination of the views of the minority justices in the case. Mr. Justice Field was of the opinion that the privileges and immunities of state

[23] 211 U. S. 78, 53 L. ed. 97, 29 Sup. Ct. Rep. 14.

citizenship, which had been held by the majority of the Court to relate exclusively to state citizenship and to be protected solely by the state governments, had been guaranteed by the Fourteenth Amendment as privileges and immunities of citizens of the United States. He said:

> The fundamental rights, privileges, and immunities which belong to him as a free man and a free citizen, now belong to him as a citizen of the United States, and are not dependent upon his citizenship of any State. . . . The amendment does not attempt to confer any new privileges or immunities upon citizens, or to enumerate or define those already existing. It assumes that there are such privileges and immunities which belong of right to citizens as such, and ordains that they shall not be abridged by state legislation. If this inhibition has no reference to privileges and immunities of this character, but only refers, as held by the majority of the court in their opinion, to such privileges and immunities as were before its adoption specially designated in the Constitution or necessarily implied as belonging to citizens of the United States, it was a vain and idle enactment, which accomplished nothing and most unnecessarily excited Congress and the people on its passage. With privileges and immunities thus designated or implied no State could ever have interfered by its laws, and no new constitutional provision was required to inhibit such interference. The supremacy of the Constitution and the laws of the United States always controlled any state legislation of that character. But if the amendment refers to the natural and inalienable rights which belong to all citizens, the inhibition has a profound significance and consequence.[24]

If this opinion of the minority justices had prevailed, a change of the utmost importance would unquestionably have been introduced into the system of government in this country. The authority and independence of the States would have been diminished to a practical nullity, in that all their legislative and judicial acts would have been rendered subject to correction by the legislative and to

[24] This opinion was concurred in by Justices Bradley and Swayne and Chief Justice Chase. In a separate opinion Mr. Justice Bradley says: "I think sufficient has been said to show that citizenship is not an empty name, but that, in this country at least, it has connected with it certain incidental rights, privileges, and immunities of the greatest importance. And to say that these rights and immunities attach only to State citizenship, and not to citizenship of the United States, appears to me to evince a very narrow and insufficient estimate of constitutional history and the rights of men not to say the rights of the American people." See also the concurring opinions of Justices Field and Bradley in Bartemeyer v. Iowa, 18 Wall. 129, 21 L. ed. 929, and Butchers' Union Co. v. Crescent City Co., 111 U. S. 746, 28 L. ed. 585, 4 Sup. Ct. Rep. 652.

review by the judicial branch of the National Government.[25] With relation to the privileges and immunities of state citizenship, the result would have been the abandonment of the doctrine that the controlling factor in the application of the Comity Clause is discrimination on the part of the States, and a return to the earlier and necessarily vague idea of fundamental and inherent rights. This is shown in the dissenting opinion of Mr. Justice Bradley, where he says:

> It is true that the courts have usually regarded the clause referred to as securing only an equality of privileges with the citizens of the State in which the parties are found. Equality before the law is undoubtedly one of the privileges and immunities of every citizen. I am not aware that any case has arisen in which it became necessary to vindicate any other fundamental privilege of citizenship; although rights have been claimed which were not deemed fundamental, and have been rejected as not within the protection of this clause. Be this, however, as it may, the language of the clause . . . seems fairly susceptible of a broader interpretation than that which makes it a guarantee of mere equality of privileges with other citizens.

As a result of the duality of citizenship and the attendant privileges, it has been held that the citizens of a territory are not within the provisions of the Comity Clause. And a state law may validly discriminate against residents of territories or Indian reservations, while conversely a law of a territory may constitutionally grant to residents of the territory privileges and immunities which are denied to nonresidents.[26] This would seem somewhat contrary to the spirit, if not to the letter, of the constitutional provision; and it should be noted that by congressional enactment it has been declared that "all citizens of the United States shall have the same right in every State and territory as is enjoyed by white citizens therein to inherit, purchase, lease, sell, hold, and convey real and personal property."[27]

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[25] Twining v. New Jersey, 211 U. S. 78, 53 L. ed. 97, 29 Sup. Ct. Rep. 14.

[26] McFadden v. Blocker, 3 Ind. Terr. 224, 54 S. W. 873, 58 L. R. A. 894; Sutton v. Hayes, 17 Ark. 462; in re Johnson's Estate, 139 Cal. 532, 73 Pac. 424.

[27] Revised Statutes, sec. 1978.

There has been an attempt upon the part of some courts to hold constitutional statutes discriminating against non-residents, on the ground that such statutes by their terms make no discrimination against citizens of other States, but only between residents and non-residents.[28] Such decisions usually argue that the requirements of such a statute would apply with as much force to a citizen of the domestic State who was at the time a non-resident as to a citizen of another State; while the latter, if resident in the State, would be entitled to the benefit of the statute equally with citizens of the State. These decisions for the most part are based upon insufficient and specious reasoning, and are not to be regarded as controlling. It is true that in several cases the Supreme Court has held that citizenship and residence were not necessarily synonymous.[29] These cases, however, were in connection with the right to sue in the federal courts on the ground of diversity of citizenship, and have no direct bearing upon the right to enjoy privileges and immunities as citizens of a State. In a great majority of the cases which have held statutes void as denying such privileges and immunities, no distinction of this kind has been attempted; and in a large part of these the statutes under consideration related by their terms to non-residents. Only once in the Supreme Court has a distinction between citizenship and residence been drawn in connection with the Comity Clause. This was in the dissenting opinion of Justice Brewer in Blake v. McClung.[30] The fact that in

[28] Cummings v. Wingo, 31 S. C. 427, 10 S. E. 107; Central R. R. Co. v. Georgia Company, 32 S. C. 319, 11 S. E. 192; Robinson v. Oceanic Steam Navigation Co., 112 N. Y. 315, 19 N. E. 625, 2 L. R. A. 626; Welsh v. State, 126 Ind. 71, 25 N. E. 883, 9 L. R. A. 664; Olmstead v. Rivers, 9 Neb. 234, 2 N. W. 366; Frost v. Brisben, 19 Wend. (N. Y.) 11; Baker v. Wise, 16 Gratt. (Va.) 39; Worthington v. District Court, 37 Nev. 212, 142 Pac. 230.

[29] Parker v. Overman, 18 How. 137, 15 L. ed. 318; Robertson v. Cease. 97 U. S. 646, 24 L. ed. 1057; Grace v. Insurance Co., 109 U. S. 278, 27 L. ed. 932; Menard v. Goggin, 121 U. S. 253, 30 L. ed. 914, 7 Sup. Ct. Rep. 873.

[30] 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165. See also the opinion of Justice Daniels in Scott v. Sandford, 19 How. 393, 15 L. ed. 691.

this case the majority opinion was against the constitutionality of a Tennessee statute discriminating purely between residents and non-residents, would seem to constitute at least a tacit denial of the validity of such a distinction. Moreover the provision of the Fourteenth Amendment that "all persons born or naturalized within the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside," would appear to operate still more strongly against any differentiation between citizenship and residence in a State.[31]

A complete list of the privileges and immunities secured to the citizens of the several States has never been worked out. In the cases in which an enumeration of these has been attempted the result usually has not differed essentially from the list of Judge Washington in Corfield v. Coryell, already quoted. In Ward v. Maryland[32] it was said:

> Attempt will not be made to define the words "privileges and immunities," or to specify the rights which they are intended to secure and protect, beyond what may be necessary to the decision of the case before the Court. Beyond doubt those words are words of very comprehensive meaning, but it will be sufficient to say that the clause plainly and unmistakably secures and protects the right of a citizen of one State to pass into any other State of the Union for the purpose of engaging in lawful commerce, trade or business, without molestation; to acquire personal property; to take and hold real estate; to maintain actions in the courts of the State; and to be exempt from any higher taxes or excises than are imposed by the State upon its own citizens.[33]

The Supreme Court, however, has usually deemed it preferable to decide each case arising in this connection upon the special circumstances involved.[34]

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[31] Nevertheless, recent decisions in state courts have been based upon this distinction. La Tourette v. McMaster, — S. C. —, 89 S. E. 398; Worthington v. District Court, 37 Nev. 212, 142 Pac. 230. See also Commonwealth v. Wilcox, 56 Pa. Super. Ct. 244.

[32] 12 Wall. 418, 20 L. ed. 449.

[33] See also in re Watson, 15 Fed. 511; Van Valkenburgh v. Brown, 43 Cal. 43; Cooley, Constitutional Limitations, 7th ed., p. 37, n. 1. The subject is treated in some detail in two very instructive articles by Mr. W. J. Meyers, entitled "Privileges and Immunities of Citizens," in Michigan Law Review, vol. i, pp. 286, 364.

[34] Conner v. Elliott, 18 How. 591, 15 L. ed. 497; McCready v. Virginia, 94 U. S. 391, 24 L. ed. 248.

It must be constantly borne in mind in the further discussion of this subject that the privileges and immunities spoken of as secured to the citizens of the several States are not absolutely secured. In thus referring to them, it is meant simply that, with regard to the exercise of such privileges and immunities, the several States cannot constitutionally discriminate in favor of their own citizens as against the citizens of other States; whereas, in respect to certain classes of privileges that are not secured by this clause, the States are at full liberty to discriminate as they see fit. In general it may be said that such discriminatory legislation on the part of any State is permissible in the following cases: (1) with respect to the exercise of public rights, such as the enjoyment of political and quasi-political privileges and the utilization of property in which the State has a proprietary interest; (2) in the legitimate exercise by a State of its police power; (3) with respect to corporations of other States. The rights which the citizens of each State are entitled to share upon equal terms with the citizens of other States are, generally speaking, private or civil, as opposed to public rights; but with respect to these also there are certain limitations to the extent to which equality of treatment may be demanded. An examination in detail of these general principles forms the basis for the following chapters.

CHAPTER III

Rights Protected Against Discriminatory Legislation

In discussing the general scope of the Comity Clause, it was said that the class of rights covered by that provision consists in general of "private" as opposed to "public" rights. While this classification is substantially adopted in every case dealing with this clause of the Constitution and making any attempt to define the privileges and immunities of state citizenship, it is obviously of a somewhat vague character, and leaves a wide field for discussion with respect to just what rights are to be included as "private." A review of the cases upon this point reveals two main classes of privileges and immunities which the citizens of the several States may enjoy without fear of discriminatory legislation. The first class includes the exercise of the general rights of property and contract; the second, the protection of substantive rights. Under one of these two heads every important privilege or immunity secured by virtue of state citizenship will properly fall.

Property and Contract Rights.—In both Corfield v. Coryell[1] and Ward v. Maryland[2] there are dicta to the effect that the right to acquire and possess property of every description is one secured to the citizens of the several States by virtue of the Comity Clause. Taking up first the right to acquire property, one may conveniently divide the modes of acquisition into two classes; namely, acquisition by operation of law, and acquisition by act of the parties concerned in the transaction.

[1] 4 Wash. C. C. 371.
[2] 12 Wall. 418, 20 L. ed. 449.

With respect to the acquiring of property of any kind by the first of these methods, discriminatory legislation on the part of any State against the citizens of other States is emphatically declared unconstitutional in the leading case of Blake v. McClung.[3] This case involved a statute of Tennessee, by which it was provided that resident creditors of foreign corporations doing business in that State should be entitled to a priority in the distribution of assets, or the subjection of the same to the payment of debts, over all simple contract creditors who were residents of any other State or countries. The defendant, who was a resident of Tennessee, had, together with other residents of Tennessee, filed an original general creditors' bill against the Embreeville Company, an English corporation doing business in that State, asking for the appointment of a receiver to administer the affairs of the company, on the ground of insolvency. Blake, together with other non-resident creditors, filed intervening petitions, alleging that the plaintiffs in the general creditors' bill claimed a priority in the distribution of the assets of the corporation and that the statute, as far as it authorized this priority in distribution, was unconstitutional. The Tennessee court upheld the statute and awarded resident creditors the priority of payment out of the assets of the company claimed by them; the case was then carried to the Supreme Court. Mr. Justice Harlan, who rendered the decision, said in part:

> Beyond question, a State may through judicial proceedings take possession of the assets of an insolvent foreign corporation within its limits, and distribute such assets or their proceeds among creditors according to their respective rights. But may it exclude citizens of other States from such distribution until the claims of its own citizens shall have been first satisfied? In the administration of the property of an insolvent foreign corporation by the courts of the State in which it is doing business, will the Constitution of the United States permit discrimination against individual creditors of such corporations because of their being citizens of other States, and not citizens of the State in which such administration occurs? . . . The courts of that State [Tennessee] are forbidden, by the statute in question, to recognize the right in equity of citizens residing in other States to participate upon terms of equality with

[3] 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165.

citizens of Tennessee in the distribution of the assets of an insolvent foreign corporation lawfully doing business in that State. . . . In other words, so far as Tennessee legislation is concerned, while this corporation could lawfully have contracted with citizens of other States, those citizens cannot share in its general assets upon terms of equality with citizens of that State. If such legislation does not deny to citizens of other States, in respect of matters growing out of the ordinary transactions of business, privileges that are accorded to it by citizens of Tennessee, it is difficult to perceive what legislation would effect that result.

We adjudge that when the general property and assets of a private corporation lawfully doing business in a State are in course of administration by the courts of such State, creditors who are citizens of other States are entitled, under the Constitution of the United States, to stand upon the same plane with creditors of like class who are citizens of such State.[4]

In Belfast Savings Bank v. Stowe, 92 Fed. 100, 34 C. C. A. 229, it was held that a foreign assignment by an insolvent debtor will operate upon property in the State so as to defeat an attachment procured by a resident creditor.

It should be noticed that in the decision in Blake v. McClung the Court observes that the objections to the statute under consideration would not necessarily be applicable to state laws requiring foreign corporations, as a condition of coming into the State, to deposit with a designated state official funds sufficient to secure resident stock- or policy-holders. Such a deposit would be regarded as in the nature of a trust, and the corporation would be deemed to have consented that in case of insolvency the fund should be distributed according to the terms of the statute. This specific decision was made in People v. Granite State Provident

[4] On the case being remanded for further proceedings, the Tennessee court ordered a computation to be made of the aggregate indebtedness of the company to all its creditors, and the rest of the estate to be applied first to the payment of the indebtedness due to creditors resident in Tennessee. On the case being brought before the Supreme Court again, it was held that this decree still gave a decided advantage to resident creditors, and that non-residents were entitled to share in the distribution of the assets of the insolvent corporation upon terms of equality in all respects with creditors who were citizens of Tennessee. Blake v. McClung, 176 U. S. 59, 44 L. ed. 371, 20 Sup. Ct. Rep. 307. See also for like holdings, Sully v. American National Bank, 178 U. S. 289, 44 L. ed. 1072, 20 Sup. Ct. Rep. 935; Williams v. Bruffy, 96 U. S. 176, 24 L. ed. 716; American and British Manufacturing Co. v. International Power Co., 159 N. Y. Supp. 582; Maynard v. Granite State Provident Association, 92 Fed. 435, 34 C. C. A. 438; Miller's Administrators v. Cook's Administrators, 77 Va. 806.

Association,[5] in the case of a foreign building and loan association. Why this distinction should be drawn is not clear. It may indeed be said that creditors in other States know that those particular funds are segregated from the mass of property owned by the company, and that they cannot look to such funds to the prejudice of those for whose special benefit the deposit was made. But nevertheless there would certainly exist a discrimination in favor of residents in so far as the distribution of the assets of the insolvent corporation was concerned. And non-resident creditors could as easily be presumed to know the provisions of a statute similar to that in Blake v. McClung as a record in the registry of deeds. If the State cannot endow resident creditors with a priority in the distribution of the assets of a foreign corporation, why should it be able to compel that corporation to accomplish the same result by pledging a portion—or possibly all—of its property to that purpose? Lacking the power to accomplish an end directly, it should surely equally lack the power to accomplish the same end by indirect means.

The protection accorded to citizens of the several States does not necessarily prevent a State from granting special privileges to certain classes of its own citizens in respect to the acquisition of property. Statutes granting such privileges have from time to time been held constitutional, particularly in the case of state inheritance tax laws, from whose operation certain classes of its citizens were exempted. Such an exemption need not render the law invalid as discriminating against non-residents of the same class, unless there is an express prohibition against investing them with a similar right of exemption. Otherwise there is no burden imposed by the State upon the citizens of other States, but rather an extension of a particular privilege to certain of its own citizens which, by virtue of the constitutional provision, would be impliedly granted as well

[5] 161 N. Y. 492, 55 N. E. 1053.

to citizens of other States falling within the same classification.[6]

The second method of acquiring property—by act of the parties—needs little attention, since, for the purposes of this examination, it differs in no important particular from acquisition by operation of law; and what has been said in connection with the latter will apply with equal force here. In the early case of Ward v. Morris,[7] decided in 1799, in which it was held that a deed to non-residents was valid as against a subsequent attachment by a resident creditor of the grantor, the rule was well laid down in the following words:

> If a deed is good as to a creditor or person residing within the State, all creditors or persons residing in any of the other States, as to the means of acquiring and holding real and personal property, are to be considered on the same footing, and as enjoying the same immunities and privileges. . . . The privilege or capacity of taking, holding, conveying, and transmitting lands lying within any of the United States, is by the general government conferred on and secured to all the citizens of any of the United States, in the same manner as a citizen of the State where the land lies could take, hold, convey, or transmit the same.[8]

Where the acquisition of property rights is incident to a status, the cases hold that a State may properly discriminate in favor of its own citizens as against those of other States. This is on the theory that such status is not an incident of citizenship, but is under the absolute control of the state legislature, which may modify it at pleasure. For this reason, statutes granting greater dower rights to women resident in the State than to non-residents, and prohibiting the granting of divorces to parties not citizens of the State, have been upheld.[9]

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[6] In re Johnson's Estate, 139 Cal. 532, 73 Pac. 424.

[7] 4 Harr. and McHen. (Md.) 330.

[8] See also Magill v. Brown, 16 Fed. Cas. 408, Fed. Cas. No. 8952 (the right to take by devise or bequest); Farmers' Loan and Trust Co. v. Chicago and Atlantic Ry. Co., 27 Fed. 146 (the right to take and hold property in trust).

[9] Buffington v. Grosvenor, 46 Kan. 730, 27 Pac. 137, 13 L. R. A. 262; Bennett v. Harms, 51 Wis. 251, 8 N. W. 222; Worthington v. District Court, 37 Nev. 212, 142 Pac. 230.

The right to hold and enjoy property free from discriminatory legislation necessarily follows, if the right to acquire is once granted; and there are dicta to this effect in many cases.[10] Nevertheless some rather interesting questions have been afforded with respect to the validity of state taxation as to the exercise of this right.

A citizen of another State, as a general rule, may be forced to pay taxes upon personal property actually situated within the boundaries of the domestic State, even though taxes may have been assessed and paid upon such property under the laws of his own State. If he desires the protection of the state laws to be extended to his property, he may be made to pay therefor; and the provisions of the Comity Clause cannot be extended so as to give a right to demand exemption from such taxation, and place the burden of paying for such protection upon the resident citizen.[11] But a non-resident cannot constitutionally be taxed at a higher rate upon his personal property situated in the State than a resident owning like property under like circumstances; nor can he be compelled to pay taxes on such property if like property under similar circumstances is exempt from taxation in the hands of a resident.[12] When a non-resident observes laws enacted with the purpose of regulating the conduct and actions of citizens of the State, it is his right to have his property within the limits of that State protected under its laws as effectually as the property of a resident. Otherwise, as was pointed out in Wiley v. Parmer,[13] a State would have the power to exempt its own citizens from taxation, and to support the government and pay its debts by taxing the property of non-residents. Thus a state statute requiring domestic corporations to pay into the state treasury a certain percentage of all dividends de-

[10] See, e. g., Corfield v. Coryell, 4 Wash. C. C. 371; Ward v. Maryland, 12 Wall. 418, 20 L. ed. 449; Paul v. Virginia, 8 Wall. 168, 19 L. ed. 357.

[11] Battle v. Mobile, 9 Ala. 234; Duer v. Small, 4 Blatch. C. C. 263.

[12] Sprague v. Fletcher, 69 Vt. 69, 37 Atl. 239, 37 L. R. A. 840.

[13] 14 Ala. 627.

clared on the shares of non-resident stockholders was held unconstitutional, since citizens of the State were exempted from the payment of a similar tax upon the shares held by them.[14] Similarly a statute denying to non-residents the right to deduct from their taxable personal property certain debts owed by them, and according this right to residents, was invalid.[15]

Nevertheless the general rule by which non-residents are entitled to be taxed upon their property at the same rate as residents is not free from exceptions. An interesting case in this connection is that of the Travelers' Insurance Company v. Connecticut,[16] which arose out of the method adopted by the State of Connecticut for taxing local corporations. The stockholders were divided into two classes, one composed of residents of the State, who were subject to municipal taxation, and the other of non-residents, who were subject to a special state tax. The rules for fixing the valuation of the stock were different for the two classes, so that in actual practise the non-resident stockholders were forced to pay at a higher rate than the resident. Upon its face this would seem to constitute a clear case of discrimination against the non-resident shareholders. The Supreme Court, however, held that the discrimination was only apparent, saying in part:

> This apparent discrimination against the non-resident disappears when the system of taxation prevailing in Connecticut is considered. By that system, the non-resident stockholder pays no local taxes. He simply pays a state tax, contributes so much to the general expenses of the State. While, on the other hand, the resident stockholder pays no tax to the State, but only to the municipality in which he resides. The rate of the state tax upon the non-resident stockholder is fixed, while the rate of local taxation differs in the several cities and towns. . . . Obviously the varying difference in the rate of the tax upon the resident and non-resident stockholders does not invalidate the legislation. How then can it be that a difference in the basis of assessment is such an unjust discrimination as nec-

[14] Oliver v. Washington Mills, 11 Allen (Mass.) 268.

[15] Sprague v. Fletcher, above. See also Wiley v. Parmer, 14 Ala. 627; Union National Bank v. Chicago, 3 Biss. 82; Farmington v. Downey, 67 N. H. 441, 30 Atl. 345.

[16] 185 U. S. 364, 46 L. ed. 949, 22 Sup. Ct. Rep. 673.

essarily vitiates the tax upon the non-resident. . . . The legislature with these inequalities before it, aimed, as appears from the opinion of the Supreme Court [of Connecticut] to apportion fairly the burden of taxes between the resident and the non-resident stockholder, and the mere fact that in a given year the actual workings of the system may result in a larger burden on the non-resident was properly held not to vitiate the system, for a different result might obtain in a succeeding year, the results varying with the calls made in the different localities for local expenses. . . . The validity of the legislation does not depend on the question whether the courts may see some other form of assessment and taxation which apparently would result in greater equality of burden. . . . It is enough that the State has secured a reasonably fair distribution of burdens, and that no intentional discrimination has been made against non-residents.

The effect of the holding in this case, unless it is modified in the future, is necessarily to open up a means by which the State may discriminate through taxation against non-residents. The language of the opinion is such as to legitimize such discriminatory legislation, unless it is clearly aimed directly against citizens of other States with the express intent of denying or limiting a clearly defined civil right. There also seems to be in the mind of the Court an idea, though not specifically so stated, that when, by the laws of any State, its own inhabitants are not secured an equality of taxation, its non-residents may be taxed by still a different method from that applied to any class of residents. If this view should be definitely upheld, it would clearly recognize in the several States a considerable power to discriminate against non-residents. Yet there seems to be no reason why it should not be sustained, provided the method adopted as to non-residents did not result in actual operation in imposing upon this class a tax rate very much higher than that imposed on any resident property-owner.[17]

Non-resident property-owners in a State are also secured the right to import and export their property on equal terms with the residents. The majority of cases dealing with state legislation upon this point have held such legislation invalid as regulation of interstate commerce and within the exclusive control of the Federal Government. Neverthe-

[17] See Blackstone v. Miller, 188 U. S. 189, 47 L. ed. 439, 23 Sup. Ct. Rep. 277; State v. Frear, 148 Wis. 456, 134 N. W. 673.

less this right is clearly guaranteed by the Comity Clause, and it is so stated in some cases. Thus, in Minnesota v. Barber[18] a state statute requiring as a condition to the sale of certain fresh meats for food that the animals be inspected in the State before being slaughtered, was held unconstitutional, both as a regulation of interstate commerce and also, since its effect was to prohibit the importation of animals slaughtered in other States, as a restriction of the slaughtering of animals to slaughterers in Minnesota, and thus a discrimination against the products and citizens of other States in favor of the products and citizens of Minnesota.[19] Such a right to import property into a State does not operate to exempt the importer from responsibility for damage to others that may follow from such importation. The contrary of this was asserted in Kimmish v. Ball,[20] with respect to a statute of Iowa relative to allowing cattle infected with the Texas cattle fever to run at large, but the law was upheld, it appearing that citizens of other States stood upon the same footing as citizens of Iowa so far as concerned their liability under the statute.

This right of non-residents to import and export property upon terms of substantial equality with residents of a State may be derived very properly from the right to free ingress and egress, which is spoken of as secured to the citizens of the several States in all the principal cases attempting to give any enumeration of the privileges and immunities appertaining to state citizenship.[21] In Julia v.

[18] 136 U. S. 313, 34 L. ed. 455, 10 Sup. Ct. Rep. 862.

[19] See also Brimmer v. Rebman, 138 U. S. 78, 34 L. ed. 862, 11 Sup. Ct. Rep. 213.

[20] 129 U. S. 217, 32 L. ed. 695, 9 Sup. Ct. Rep. 277.

[21] See for cases on the right of free ingress and egress: Ex parte Archy, 9 Cal. 147; Willard v. People, 4 Scam. (Ill.) 461; Julia v. McKinney, 3 Mo. 270; Smith v. Moody, 26 Ind. 299; Commonwealth of Massachusetts v. Klaus, 130 N. Y. Supp. 713, 145 App. Div. 798. In Crandall v. Nevada, 6 Wall. 35, 18 L. ed. 745, the Court quotes with approval the following language of Chief Justice Taney in his dissenting opinion in the Passenger Cases, 7 How. 283, 12 L. ed. 702: "A tax imposed by a State for entering its territories or harbors is inconsistent with the rights which belong to citizens of other States."

McKinney,[22] for instance, the Court says: "We are of opinion that all persons who are citizens of any of the States have a right by the Constitution of the United States to pass through Illinois with any sort of property that they may own."[23] This broad statement is, however, open to criticism; and the right of free ingress and egress does not carry with it the right to import or export property, either where such property relation is opposed to the public policy of the State, so as to be prohibited to its own citizens, or where the importation of the property in question is prohibited by the State in the legitimate exercise of its police power.

The first of these limitations—namely, that citizens of other States may validly be prohibited from bringing into the State any sort of property the ownership of which is in contravention of the public policy of that State—may be regarded as having been definitely settled by the case of Lemmon v. People.[24] A statute of New York was involved which automatically freed slaves who were not fugitives, but were brought into the State by the voluntary act of their owner. The appellant was on a voyage from Virginia to Texas, where he intended to make his home, and while he was passing through New York his slaves were taken from him and freed under the statute. The case came up for hearing in 1860 just before the outbreak of the Civil War, and naturally aroused much interest because of the existing state of public feeling. The point involved was argued at great length and was very carefully considered by the Court, which finally held in favor of the constitutionality of the statute, three justices dissenting. "Although the peculiar circumstances giving rise to the suit were such as to cause this decision to seem somewhat unjust to the appellant, nevertheless there would appear to be

[22] 3 Mo. 270.

[23] To the same effect are Willard v. People and ex parte Archy, above.

[24] 20 N. Y. 607.

no question as to its correctness. As has before been pointed out, the well-established construction of the Comity Clause is that it operates to endow citizens of other States with substantially the same privileges and immunities as enjoyed by the citizens of the domestic State, but no more. They cannot complain of any discrimination in a case where they are deprived of a right which the laws of the State do not permit its own citizens to enjoy. Therefore, if a State prohibits to its own citizens the enjoyment of some privilege on grounds of public policy, citizens of other States may not complain if, on coming within the jurisdiction of that State, they are likewise deprived of a similar privilege, though this may be fully accorded to them by the laws of their own State.[25]

It may also be said to be well established that in the exercise of its police power a State may prohibit the entrance within its borders of persons and property detrimental to the welfare of its inhabitants. In the absence of any action upon the same subject by Congress, a State may protect its people and their property against the dangers resulting for them from the entrance of the prohibited classes of persons or property, provided only the means employed to that end do not go beyond the necessities of the case so as unreasonably to burden the exercise of privileges secured by the Federal Constitution.[26] A State may, for instance, legitimately restrict the free ingress and egress of persons or property by quarantine regulations, or by regulations concerning the importation of animals, provided these are not repugnant to similar regulations on the part of the Federal Government.[27]

[25] See for similar holdings, Allen v. Negro Sarah, 2 Harr. (Del.) 434; ex parte Kinney, 3 Hughes C. C. 9; Sweeney v. Hunter, 145 Pa. St. 363, 22 Atl. 653, 14 L. R. A. 594; Keyser v. Rice, 47 Md. 203.

[26] Reid v. Colorado, 187 U. S. 137, 47 L. ed. 108, 23 Sup. Ct. Rep. 92.

[27] Morgan Steamship Co. v. Board of Health, 118 U. S. 455, 30 L. ed. 237, 6 Sup. Ct. Rep. 1114; Rasmussen v. Idaho, 181 U. S. 198, 45 L. ed. 820, 21 Sup. Ct. Rep. 594; Railroad Co. v. Husen, 95 U. S. 465, 24 L. ed. 527.

The right to import and export property is closely connected with the general power to contract and to engage in commercial transactions in relation thereto. As was said in Brown v. Maryland,[28] "the object of importation is sale." All the early cases dealing with the privileges and immunities of state citizenship included among these the right to enter into contracts upon equal terms with citizens of the domestic State; and in Ward v. Maryland[29] it was specifically held that "the clause plainly and unmistakably secures and protects the right of a citizen of one State to pass into any other State of the Union for the purpose of engaging in lawful commerce, trade, or business without molestation . . . and to be exempt from any higher taxes or excises than are imposed by the State upon its own citizens." In this case the Court held void a statute which required a larger license fee of non-resident than of resident traders engaged in selling certain specified commodities in the city of Baltimore, on the ground that this was a clear discrimination against the citizens of other States, who were entitled to sell those goods without being subjected to any higher license fees than were required of residents.[30]

Almost all of the cases on this point deal with state statutes concerning license fees required of peddlers and drummers. Statutes regulating such occupations and requiring those following them to take out licenses in order to practice their trade, have existed from early times in both England and America. The general power of a State to impose such taxes upon all pursuits and occupations

[28] 12 Wheat. 419, 6 L. ed. 678.

[29] 12 Wall. 418, 20 L. ed. 449.

[30] See also Hoxie v. New York, New Haven, and Hartford R. Co., 82 Conn. 352, 73 Atl. 754, in which it was said: "The right to engage in commerce between the States is not a right created by or under the Constitution of the United States. It existed long before the Constitution was adopted. It was expressly guaranteed to the free inhabitants of each State by the Articles of Confederation and impliedly guaranteed by Article IV, sec. 2 of the Constitution of the United States as a privilege inherent in American citizenship."

within its limits is unquestionable, but like all other powers must be exercised in conformity with the requirements of the Federal Constitution.[31] Without entering into any consideration of the question as to how far such regulations are in conflict with the federal control over interstate commerce, it may be said that under the ruling in Ward v. Maryland it has been uniformly held that such a method of carrying on business is a privilege within the meaning of the Comity Clause; and that a denial of it to citizens of other States or a requirement of a heavier license tax from them than from residents of the State would be an act of unconstitutional discrimination.[32] On the other hand, where, by the terms of a law or ordinance regulating the sale of goods by peddlers or drummers, the privilege is equally open to all on the same terms, and the license fees imposed are the same regardless of the citizenship of the peddler or the place of origin of his wares, such law or ordinance is a legitimate exercise of power and will be upheld.[33]

There is some doubt in the case of city ordinances imposing a license tax upon peddlers or drummers not residents of the city whether these are in effect unconstitutional discriminations against citizens of other States; and the state courts in the past have entertained different views with respect to this question. On the one hand it is argued that the citizens of other States are entitled to no greater privileges than are accorded by the State to its own citizens.

[31] Welton v. Missouri, 91 U. S. 275, 23 L. ed. 347.

[32] See in re Watson, 15 Fed. 511; Emert v. Missouri, 156 U. S. 296, 39 L. ed. 430, 15 Sup. Ct. Rep. 367, and cases cited; Marshalltown v. Blum, 58 Ia. 184; State v. Furbish, 72 Me. 493; Bliss's Petition, 63 N. H. 135; Rodgers v. Kent Circuit Judge, 115 Mich. 441, 73 N. W. 381; Bacon v. Locke, 42 Wash. 215, 83 Pac. 721.

[33] Graffty v. Rushville, 107 Ind. 502, 8 N. E. 609; Howe Machine Co. v. Gage, 100 U. S. 676, 25 L. ed. 754. The contrary is held in re Schechter, 63 Fed. 695, apparently on the ground that the practical effect of the legislation in question was to discriminate against citizens of other States; but this decision is believed to be erroneous, and is certainly opposed to the weight of authority. See Singer Manufacturing Co. v. Wright, 33 Fed. 121, where it was held that a statute taxing a certain class of dealers was not invalidated on the ground that there were no domestic dealers engaged in that line of business.

An ordinance of this character, it is said, discriminates against citizens of the domestic State not living within the city fully as much as against citizens of other States; and therefore there is no right in the claim of the latter to equality of treatment with residents of the city itself, since this would be to put them on a better footing than that of the majority of the citizens of the domestic State. Moreover such an ordinance is not aimed at citizens of other States as such, but purely against all who are not residents of the particular locality in question.[34] An opposite conclusion is reached by other cases dealing with similar ordinances, which hold that the existence of a discrimination which may apply to a citizen of another State is unconstitutional as to him, and that in effect he is entitled to an equality of treatment with the most favored class of the citizens of the State.[35] The latter view seems to be the more generally accepted one, but there is much to be said in favor of the first line of argument. Ordinances of this character are usually aimed as much at citizens of the home State as at those of other States, and far from discriminating against the latter class, as a matter of fact put them upon exactly the same basis as the majority of the members of the former. The Comity Clause is generally accepted as applicable only in cases in which the discrimination made is drawn upon state lines, which is ordinarily not the condition of affairs in ordinances of the character under consideration. To say that the citizens of other States may not be deprived of privileges enjoyed by any of the citizens of a State would seem to be stretching the construction of that clause beyond its natural purport. If they are accorded a substantial equality with the citizens of the State, the general trend of the decisions would seem to show that this privilege is the utmost that can be demanded. Of

[34] Rothermel v. Meyerle, 136 Pa. St. 250, 20 Atl. 583, 9 L. R. A. 366; Mount Pleasant v. Clutch, 6 Ia. 546.

[35] Fecheimer v. Louisville, 84 Ky. 306, 2 S. W. 65; McGraw v. Marion, 98 Ky. 673, 34 S. W. 18; in re Jarvis, 66 Kan. 329, 71 Pac. 576; State v. Nolan, 128 Minn. 170, 122 N. W. 255.

course the practical effect of such city ordinances must be taken into account; and if it can be shown that they actually operate on, and were intended to operate on, the citizens of other States in the majority of instances then their unconstitutionality would probably not be contested. Otherwise it would seem proper to uphold their validity upon the grounds stated.[36]

As with other rights secured to the citizens of the several States, the right to contract and to carry on commercial transactions in general, free from discriminatory legislation, must be exercised subject to the police power of the States. This wide and ill-defined power, however, is apparently somewhat limited in this connection, both because it is capable of infringing too far upon the constitutional rights of citizens, and because in the majority of instances it necessarily comes into conflict with the transaction of interstate commerce.[37]

Finally, it should be said that rights attached by the law to contracts by reason of the place where such contracts are made or executed, wholly irrespective of the citizenship of the parties to those contracts, cannot be deemed privileges of state citizenship within the meaning of the Constitution. In Conner v. Elliott[38] certain provisions of the Louisiana code were examined which enacted that marriages contracted in the State should superinduce, of right, "partnership or community of *acquêts* or gains" in the absence of any stipulation to the contrary, but that marriages contracted out of the State should not superinduce these rights of marital community unless the parties afterwards came into the State to live. It was claimed that as these provisions gave a Louisiana widow the right of marital com-

[36] This conclusion is quite apart from any question of their unconstitutionality as attempts on the part of the States to regulate interstate commerce. Such ordinances should probably be held unconstitutional on this ground if they discriminated in any way against goods the products of other States or countries.

[37] See Walling v. Michigan, 116 U. S. 446, 29 L. ed. 691, 6 Sup. Ct. Rep. 454.

[38] 18 How. 591, 15 L. ed. 497.

munity, a widow of a citizen of another State, who did not live in Louisiana, was entitled to similar rights as to property there situated. This contention was denied by the Court, which held that these rights were not rights of citizenship, but merely incidents grafted by the law of the State upon the contract of marriage.

> The law does not discriminate between citizens of the State and other persons; it discriminates between contracts only. Such discrimination has no connection with the clause . . . now in question. If a law of Louisiana were to give to the partners *inter sese* certain peculiar rights, provided they should reside within the State, and carry on the partnership trade there, we think it could not be maintained that all copartners . . . residing and doing business elsewhere, must have those peculiar rights.

Protection of Substantive Rights.—That the citizens of every State are entitled by virtue of the Comity Clause to institute and maintain actions of any kind in the courts of the several States has been declared from the very beginning by the decisions discussing the general scope and operation of that clause.[39] Indeed, if the rights to acquire and hold property and to enter into contracts upon an equal footing with the citizens of other States are regarded as among the privileges appertaining to all citizenship, the right to sue and be sued in the courts of other States upon a similar equality with their citizens would necessarily follow; for unless there is a right to resort to legal proceedings in order to obtain redress for wrongs done to property or to enforce contracts which have been made, these property and contract rights are rendered so far valueless as to be practically nullified. It is true that the point has never been before the Supreme Court for adjudication; but in view of the numerous dicta upon the question in former decisions, there would seem to be no doubt as to the nature of their holding in a case directly involving the right to sue.

[39] See, e. g., Corfield v. Coryell, 4 Wash. C. C. 371; Ward v. Maryland, 12 Wall. 418, 20 L. ed. 449; Slaughterhouse Cases, 16 Wall. 36, 21 L. ed. 394; Blake v. McClung, 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165; Chambers v. Baltimore and Ohio R. Co., 207 U. S. 142, 52 L. ed. 143, 28 Sup. Ct. Rep. 34. Specifically so held in State v. Grimm, 239 Mo. 135, 143 S. W. 483; Paine v. Lester, 44 Conn. 196.

An interesting case in this connection is that of Chambers v. Baltimore and Ohio Railroad Company,[40] which involved a statute of Ohio providing that a right of action might be enforced in that State because of the death of a citizen of Ohio caused by wrongful act, neglect, or default in another State for which the law of the latter State gave a right to maintain an action. The statute was construed by the Ohio courts as giving no right of action except in the case that the deceased was a citizen of Ohio; and it was claimed that this decision was an abridgment of the right of citizens of other States to resort to the state courts on terms of equality with the citizens of the State. The court recognizes that this right is secured by the Constitution, saying in part:

> The right to sue and defend in the courts is the alternative of force. In an organized society, it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each State to the citizens of all other States to the precise extent that it is allowed to its own citizens. . . . The State policy decides whether and to what extent the States will entertain in its courts transitory actions, where the causes of action have arisen in other jurisdictions. Different States may have different policies, and the same State may have different policies at different times. But any policy the State may choose to adopt must operate in the same way on its own citizens and those of other States. The privileges which it affords to one class it must afford to the other. Any law by which privileges to begin actions in the courts are given to its own citizens and withheld from the citizens of other States is void, because in conflict with the supreme law of the land.

It was held, however, that the Ohio statute was valid, since the discrimination was based solely on the citizenship of the deceased, and the courts were open to plaintiffs who were citizens of other States if the deceased was a citizen of Ohio.[41] The decision, accordingly, although recognizing that a statute barring citizens of other States from the state courts would be unconstitutional, has a distinctly narrowing effect upon the extent of the right to sue and de-

[40] 207 U. S. 142, 52 L. ed. 143, 28 Sup. Ct. Rep. 34.

[41] A similar holding was given in Dougherty v. American McKenna Process Co., 255 Ill. 369, 99 N. E. 619.

fend; and this was pointed out at some length by Mr. Justice Harlan in a dissenting opinion in which Justices White and McKenna concurred. The opinion denies in effect that citizens of other States have an equal right with citizens of the domestic State to have secured to them, in case of their death through the negligence of third parties, a remedy for the wrong done to them in their lifetime, by means of a suit brought in the name and for the benefit of their widows or personal representatives. The courts may be closed to a widow or to the estate of a citizen of another State. Although the Supreme Court looked upon the statute in question as operating only upon the beneficiaries of the deceased, its clear intent was to grant to citizens of Ohio, even though after death, a privilege not accorded to citizens of other States. Unquestionably, also, in actual practice, statutes similar to the one here held constitutional would have the effect of discriminating against non-resident widows, in spite of the fact that in a minority of the cases in which the deceased was a resident of another State, the widow might be a citizen of the domestic State. It may happen, too, as was pointed out in the majority opinion in this case, that the death action may be given by law to the person killed, at the time when he was "vivus et mortuus," so that it would survive and pass to his representatives.[42] Such a question was not at issue in the case; but from the language used by the court, it may fairly be presumed that in this event a statute giving a right of action for wrongful death only when the deceased was a citizen of the domestic State would be regarded as resulting in an unconstitutional discrimination.

It has been suggested[43] that, in spite of the numerous dicta to the contrary, the right of a citizen of one State to sue in the courts of another State upon an equal footing with the latter's own citizens should not be regarded as a constitutional privilege secured by the Comity Clause; that though the privilege to seek redress in the courts is funda-

[42] See Higgins v. Railroad, 155 Mass. 176, 29 N. E. 534.
[43] See Harvard Law Review, vol. 17, p. 54.

mental, the right to seek redress in one particular set of courts is an incident of local, and not of general, citizenship; and that a privilege belonging to the citizens of a State by virtue of citizenship which is confined to a particular locality is not secured to the citizens of the several States according to the ruling in McCready v. Virginia.[44] This reasoning, though novel, is hardly convincing; and the analogy to McCready v. Virginia is somewhat fanciful. In that case, which is elsewhere discussed, the statute in question forbade non-residents to take oysters from Virginia waters, and was held constitutional on the ground that the tide-waters and the fish in them were the property of the State and were held in trust by it for its people; that through its proprietary interest the State had the right to exclude any except its own citizens from the use of these waters. It can be readily seen that no similar basis of justification can be utilized for the action of a State in excluding all except its own citizens from the use of its courts; and the analogy attempted to be discovered rests apparently upon a misconception of the proper meaning of the rather unfortunate phrase of Chief Justice Waite with respect to "privileges of special" as opposed to "general" citizenship. Aside from this, as was pointed out above, unless the right to sue without discrimination is to be regarded as a right appurtenant to state citizenship, there can be no means by which the rights undoubtedly appurtenant can be so enforced as to be of material value to the holder.

When both plaintiff and defendant in a suit are non-residents of the State in which the case is brought for trial, there is a difference of opinion in the state courts; and the authorities are in conflict as to whether the Court may be required to assume jurisdiction of the case in such a contingency. If the Court is willing to assume jurisdiction and there is no statute providing against its so doing, there would seem to be no question that a citizen of one State may sustain an action against a citizen of another in a

[44] 94 U. S. 391, 24 L. ed. 248.

State where neither lives. To hold otherwise would necessarily cause grave injustice in many cases.

> It would be strange indeed if a citizen of Georgia meeting his debtor, a citizen of Massachusetts, in the State of New York, should not have a right to demand what was due him, nor be able to enforce his demand by a resort to the courts of that State. It is said that the Federal court is open to him; that is so, provided the sum claimed is to an amount authorizing the interference of the latter court, to wit, $500.00. What is to become of those numerous claims falling short of that amount? Must a citizen of California, to whom one, a citizen of Maine, owes a debt of $480, go to Maine, and bring his suit there, or wait until he catches him in California? We hold not: but that the courts of every State in the Union, where there is no statutory provision to the contrary, are open to him to seek redress.[45]

It has sometimes happened, however, that there has been a statutory provision to the contrary, or that the Court has refused to take jurisdiction of the case solely because of the non-residence of both parties to the suit. Probably the better opinion as to the constitutionality of such a statute or the rightfulness of such action on the part of the Court is represented by the holding in Cofrode v. Gartner,[46] in which a writ of mandamus was granted to compel the lower state court to hear and decide a case in which neither party was a resident of the State, the judge in the lower court having stricken the case from the docket because of this fact. If the right to sue without discrimination be admitted as one of the rights secured to the citizens of the several States, it is difficult to see how a different conclusion could be reached. The resident citizen has the right to sue upon a transitory cause of action arising in another State, and against a citizen of still a third State, provided only he can obtain jurisdiction over the person of the defendant. To deny a citizen of another State a similar right to bring suit in related circumstances is to deny him the same right to employ legal remedies as is possessed by resident citizens; and it is extremely difficult to see that this

[45] Nash, C. J., in Miller v. Black, 53 N. C. 341.
[46] 79 Mich. 332, 44 N. W. 623, 7 L. R. A. 54.

action would not be a discrimination of an unconstitutional nature as to such a person.[47]

The courts which hold the opposite view have arrived at their conclusions by a rather specious and unsatisfactory method of reasoning, usually with reference to statutory provisions limiting the right to sue as respects non-resident parties to causes of action arising within the limits of the domestic State. They hold, in general, that such statutes make no discrimination between citizens of the different States, but between residents and non-residents; and therefore that the provisions of the Comity Clause are not applicable.[48] Such a distinction between citizenship and residence in a State, if a legitimate interpretation of the meaning of the words of the Constitution, would have justified the holding valid of the majority of state statutes that have been declared unconstitutional by both state and federal courts; and the whole trend of judicial decisions in this country has been against such a construction. Apart from this, moreover, by the express words of the Fourteenth Amendment all persons born or naturalized in the United States are to be regarded as citizens of the State in which they reside, thus making state citizenship dependent upon residence.[49] Viewed in this light, it seems as though the courts adopting a distinction between citizenship and residence have been led, by their desire to prevent "a construction which would strike down a large body of laws which have existed in all the States from the foundation of the government," to adopt instead an interpretation which is

[47] See also, Eingartner v. Illinois Steel Co., 94 Wis. 70, 68 N. W. 664; Steed v. Harvey, 18 Utah 367, 54 Pac. 1011; State v. District Court, 126 Minn. 501, 146 N. W. 403; Davis v. Minneapolis, St. Paul, and Sault Ste. Marie Ry. Co., — Minn. —, 159 N. W. 1084.

[48] Robinson v. Oceanic Steam Navigation Co., 112 N. Y. 315, 19 N. E. 625; Central R. R. v. Georgia Company, 32 S. C. 319, 11 S. E. 192; Collard v. Beach, 81 N. Y. App. Div. 582; Adams v. Penn. Bank, 35 Hun. (N. Y.) 393; Morris v. Missouri Pacific Ry. Co., 78 Tex. 17, 14 S. W. 228.

[49] And prior to the passage of this amendment, it was said: "A citizen of the United States residing in any State of the Union is a citizen of that State" (Marshall, C. J., in Gassies v. Ballou, 6 Pet. 761, 8 L. ed. 573).

forced and almost entirely theoretical, resting upon a play of words rather than upon the obvious meaning of the provisions of the Constitution, and which is entirely insufficient to support their decisions.[50]

It seems, then, to be fairly well established that the right to sue in the courts of the several States on the same footing with their own citizens is a privilege of state citizenship. But this right, as well as all those of similar nature, is subject to certain limitations and exceptions. One which is rather surprising and somewhat difficult of explanation is that a State may validly deny to non-residents equal benefit with residents under the Statute of Limitations. Why a law to this effect does not discriminate against the citizens of other States so as to be unconstitutional is most difficult to understand. Nevertheless, such a statute of Wisconsin was upheld by the Supreme Court in Chemung Canal Bank v. Lowery,[51] which declared: "If, when the cause of action shall accrue against any person, he shall be out of the State, such action may be commenced within the times herein respectively limited, after the return of said person into this State. But the foregoing provision shall not apply to any case where, at the time the cause of action shall secure, neither the party against or in favor of whom the same shall accrue are residents of this State." In other words, it provided that while the defendant in a suit was out of the State, the Statute of Limitations should not run against a resident plaintiff, but should run against a non-resident. The Court, in holding the statute valid, said by Mr. Justice Bradley:

> The argument of the plaintiff is that . . . the law refuses to non-residents of the State an exemption from its provisions which is accorded to residents. . . . This seems, at first view, somewhat plausible; but we do not regard the argument as a sound one. There is, in fact, a valid reason for the discrimination. If the statute does not run as between non-resident creditors and their debtors, it might often happen that a right of action would be extinguished, perhaps for years, in the State where the parties reside; and yet, if the defendant should be found in Wisconsin, it may be only in a

[50] See before, Chapter II.
[51] 93 U. S. 72, 23 L. ed. 806.

railroad train, a suit could be sprung upon him after the claim had been forgotten. The laws of Wisconsin would thus be used as a trap to catch the unwary defendant, after the laws which had always governed the case had barred any recovery. This would be inequitable and unjust.

This reasoning seems hardly clear or convincing; it would surely seem that if resident creditors of the State may sue their non-resident debtors at any time within a certain number of years after their return to the State, non-resident creditors should be entitled to the same privilege. The plaintiff in this case was a foreign corporation, but the Court did not base the decision in any way upon this fact.[52]

That the right to sue upon terms of equality, although required to be granted to non-residents by the several States, is nevertheless a right in which the citizens of other States are not entitled to participate except in conformity with such reasonable regulations as may be established by the domestic State, is further shown by the fact that non-residents may be required to give security for costs before having their case heard. This point seems to be well settled, both through dicta of the Supreme Court[53] and through specific holdings of the state courts. The latter, however, though agreeing in their conclusions, reach them by rather different methods of reasoning. It has been argued by some that a rule requiring such security does not interfere with the privileges and immunities of non-residents, but simply places them on a basis in relation to the payment of costs similar to that on which the citizens of the domestic State stand; that as the costs may be secured from the latter class by seizure of their property, so requiring prepayment of costs by non-residents with no property within the jurisdiction of the Court does not amount to a discrimination as to the former.[54] The costs being required equally of both

[52] To the same effect are: Higgins v. Graham, 143 Cal. 131, 76 Pac. 89; in re Colbert's Estate, 44 Mont. 259, 119 Pac. 791; Commonwealth v. Wilcox, 56 Pa. Super. Ct. 244.

[53] Blake v. McClung, 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165; Chemung Canal Bank v. Lowery, 93 U. S. 72, 23 L. ed. 806.

[54] Kilmer v. Groome, 19 Pa. Co. Ct. Rep. 339.

classes, it is hard to make out any discrimination in such proceedings, or any flaw in this reasoning.

Other grounds, however, have been presented for defending similar requirements which are not so capable of justification. For instance, a statute containing such provisions has been held valid on the sole ground that it had been in operation for a considerable length of time, during which its validity had never been questioned by either bench or bar.[55] It is certainly true that this fact would lend considerable strength to the argument in favor of the constitutionality of the statute; but it can hardly be regarded as raising a conclusive presumption to that effect. Another case bases its decision on a distinction between citizenship and residence, saying that there was no discrimination made against citizens of other States, but only against non-residents, who might or might not be such citizens.[56] That this distinction cannot properly be drawn has been already pointed out. It is purely verbal and is insufficient to support any decision based upon it. A more satisfactory reason for upholding a requirement of prepayment of costs on the part of non-residents is that this is a proper exercise of the police power of the State.[57] It would seem certain that the State may very properly avail itself of such a requirement in regard to non-residents in order to protect itself against fraud. It is obviously a matter of considerable public interest that effective means should be adopted in order to insure that the costs of legal proceedings within the State shall be paid; and inability on the part of the State to collect them from non-residents would react to the detriment of the public.

A more striking limitation on the right to sue as secured to citizens of the several States is that no equality of treatment as respects particular forms of process is required, as a general rule, with regard to non-residents. This was the

[55] Haney v. Marshall, 9 Md. 194; Holt v. Tennallytown and Rockville Ry. Co., 81 Md. 219, 31 Atl. 809.

[56] Cummings v. Wingo, 31 S. C. 427, 10 S. E. 107.

[57] Nease v. Capehart, 15 W. Va. 299; White v. Walker, 136 La. 464, 67 So. 332; Bracken v. Dinning, 140 Ky. 348, 131 S. W. 19.

point at issue in the first reported case dealing with the privileges and immunities of state citizenship, Campbell v. Morris.[58] The state statute involved permitted an attachment warrant to be issued against the lands of a non-resident debtor in all cases, but against those of a resident debtor only in case of fraud or abscondence. The Court, after a general discussion of the scope and purpose of the Comity Clause, came to the conclusion that this statute denied no constitutional right to the non-resident.[59] Similarly it has been held that statutes requiring an undertaking in attachment proceedings against non-residents, but not in similar proceedings against residents, were not unconstitutional.[60] The grounds upon which these decisions apparently are based, though not specifically so stated, would seem to be that the privilege of recourse to the courts is granted to non-residents for the purpose of protecting the exercise of the other rights secured to them; consequently, if a substantial equality of protection is afforded, there is no discrimination in favor of resident citizens and against non-residents, citizens of other States. It is the protection of substantive rights which is guaranteed to the citizens of the several States; and the procedural forms adopted for enforcing such rights may validly differ in respect to non-residents, provided only the difference is not such as to defeat their enjoyment of some substantive right accorded by a State to its own citizens.[61]

Provisions such as those in the attachment laws in the cases cited above may very well be justified also on grounds

[58] 3 Harr. and McHen. (Md.) 535.

[59] See to the same effect Manley v. Mayer, 68 Kan. 377, 75 Pac. 550; Pyrolusite Manganese Co. v. Ward, 73 Ga. 491; Hilliard v. Enders, 196 Pa. St. 587, 46 Atl. 839; Baker v. Wise, 16 Gratt. (Va.) 139; Burton v. New York Central and Hudson River R. Co., 132 N. Y. Supp. 628; Lee v. Lide, 111 Ala. 126, 20 So. 410.

[60] Marsh v. State, 9 Neb. 96, 1 N. W. 869; Head v. Daniels, 38 Kan. 1, 15 Pac. 911.

[61] It is apparently for this reason that a statute discriminating in favor of citizens with respect to the issuing of a writ of capias ad respondendum was held unconstitutional in Black v. Seal, 6 Houst. (Del.) 541. See also Johnstone v. Kelly, 7 Penn. (Del.) 119, 74 Atl. 1099.

similar to those supporting a requirement of the payment of security for costs on the part of non-residents; that is to say, they may be regarded merely as tending to place the resident and the non-resident on an equal footing, or they may be upheld as an exercise of the police power of the State. It is apparent, however, that a discrimination against non-residents with respect to the forms of process granted to them for the protection of any substantive right may be such as practically to nullify in actual fact the protection theoretically accorded. If it could be shown that this was either the purpose or the necessary effect of the state statute authorizing such discrimination, the statute would necessarily be held unconstitutional. Thus, after prescribing the order in which the debts of a deceased person should be paid by his representatives, a State may not require that priority of payment be always accorded to debts due its own citizens over debts due citizens of other States. The recovery of a debt is a privilege, and such a policy on the part of the State has the effect of preventing citizens of other States from enjoying this privilege as fully as its own citizens. The debt being property in the hands of the creditor, he has the same right to enforce its payment through legal proceedings, and in the same order of priority, as have citizens of the domestic State.[62]

In connection with the ability of the State to discriminate between its own citizens and those of other States in respect to particular forms of process, it might be noticed that there is some conflict of the authorities with regard to the constitutionality of statutes authorizing substituted service upon non-residents and a personal judgment thereon. It was clearly laid down by the Supreme Court in Pennoyer v. Neff[63] that a statute authorizing constructive service by publication upon a non-resident and the rendition of a per-

[62] Stevens v. Brown, 20 W. Va. 450; Blake v. McClung, 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165; Opinion of the Justices, 25 N. H. 537; Mr. Chancellor Ridgely in Douglass v. Stephens, 1 Del. Ch. 465.

[63] 95 U. S. 714, 24 L. ed. 565.

sonal judgment thereon is unconstitutional as a denial of due process of law. But in order to prevent misapplication of its reasoning, the Court in that case goes on to say that the State may validly authorize certain kinds of proceedings, such as those affecting the personal status of the non-resident, or his status *in rem* as to actions to enforce liens, or to quiet title, or to recover possession of property, or for the partition thereof, or to obtain judgment enforceable against property seized by attachment or other process. In doing so, it makes use of the following language, which has occasioned a diversity of opinion in subsequent cases bearing upon the point:

> Neither do we mean to assert that a State may not require a non-resident entering into a partnership or association within its limits, or making contracts enforceable there, to appoint an agent or representative in the State to receive service of process and notice in legal proceedings instituted with respect to such partnership, association, or contracts, or to designate a place where such service may be made and notice given, and provide upon their failure to make such appointment or to designate such place that service may be made upon a public officer designated for that purpose, or in some other prescribed way, and that judgments rendered upon such service may not be binding upon the non-residents both within and without the State. As was said by the Court of Exchequer in Vallee v. Dumerque, 4 Exch. 290, "It is not contrary to natural justice that a man who has agreed to receive a particular mode of notification of legal proceedings should be bound by a judgment in which that particular mode of notification has been followed; even though he may not have actual notice of them."

In spite of this express exception, the majority of cases have held, upon the authority of this case, that statutes authorizing the recovery of a personal judgment against a non-resident upon process served on his representative within the State are unconstitutional, both as a denial of due process of law and an invalid discrimination against the citizens of other States. It is said that since citizens of the domestic State have entire immunity from being subjected to personal judgments upon such service of process, it must necessarily follow that the citizens of other States are entitled to equal immunity, and that there is an essential difference in the conditions and methods of the two

modes of service upon residents and non-residents such as amounts to an unconstitutional discrimination. These decisions further declare that the fact of an individual's doing business within a State by an agent cannot affect the question of the jurisdiction of the courts of that State over him personally; that he submits his property which he sends into the State to the jurisdiction of its courts, but not his person.[64]

On the other hand, it was held in Guenther v. American Steel Hoop Co.[65] that a statute containing such provisions was in conflict with no provision of the Federal Constitution, the qualification set forth in Pennoyer v. Neff being quoted, and regarded as controlling upon this point. The decision draws a distinction, which is not found in the cases holding differently, between constructive and substituted service of process. While admitting the unconstitutionality of the former as applied to this case, the Court strenuously argues that there are legal remedies which may be allowed against those who are domiciled without the State, but which are not to be applied to those who are domiciled within it; in the latter class the substituted service of process is included. The Court seems inclined in this case to group the whole right of non-residents to legal remedies under one head with rights such as that of voting or of taking fish in the waters of the State, as a right not incident to citizenship, but local in its nature and not secured to the citizens of the several States. This classification, as is pointed out elsewhere, is far from being one that is either satisfactory or generally acceptable in the light of other decisions. Nevertheless, it is submitted, it may well be urged that the non-resident is entitled to no more under the Comity Clause than a mode of service which is as effective, just, and fair as the statutory mode of service by copy upon residents; that any mode of service by which he

[64] See, for instance, Moredock v. Kirby, 118 Fed. 180; Cabanne v. Graf, 87 Minn. 510, 92 N. W. 461; Caldwell v. Armour, 1 Penn. (Del.) 543, 43 Atl. 317; Brooks v. Dun, 51 Fed. 138.

[65] 116 Ky. 580, 76 S. W. 419.

is given notice of the suit pending against him meets fully this requirement since the object of the personal service is to give him such notice; and that if he is doing business in the State by an agent, service of process upon the latter would be as effective notice to his principal as if the service were made directly upon the person of the latter. The question cannot be regarded as definitively settled either one way or the other at the present time.

CHAPTER IV

Rights not Protected Against Discriminatory Legislation

From the earliest times in the judicial interpretation of the Comity Clause it has always been affirmed that there are certain kinds of public or political rights which do not come within its operation. With regard to those rights the States have always been considered as constitutionally able to make such regulations as they may see fit; and it is held that no one is entitled to exercise them except in accordance therewith. They may be said generally to include two classes of rights: (1) political or municipal privileges, such as the right to vote, to hold public office, and to follow certain professions or occupations invested with a particular public interest; (2) the right to make use of those things in which the State is vested with a proprietary interest. By acceptance of Judge Washington's dictum in Corfield v. Coryell to the effect that the rights of the citizens of the several States secured by the Constitution were those in their nature fundamental, belonging to the citizens of all free governments, rights of the special character above described were necessarily excluded. And although the basic idea of this decision is no longer to be regarded as authoritative, nevertheless the distinction drawn has been so generally followed as to be now firmly established.

Political Privileges.—The two main political privileges granted by the States to their own citizens are the right to vote and the right to hold public office. At the time of the adoption of the Constitution there seems to have been a well-defined and generally entertained feeling that, whatever rights were included by the Comity Clause, these two at least were of an entirely different nature; this fact is

evidenced by the dicta to that effect in several of the early cases.[1] It was apparently never supposed that the citizens of any State, upon their removal to any other State, might lawfully claim, by virtue of the Comity Clause, the right to exercise such privileges because they had enjoyed them in the State from which they had originally come. As a consequence there are few cases in which the question was a subject of litigation; and the courts themselves apparently deemed the whole matter so self-evident that they were usually content merely to state the fact without going into any discussion of the reasons for their conclusions. Indeed it may reasonably be supposed that they regarded as axiomatic and in no need of supporting arguments the fact that political rights were entirely within the power of the several States to regulate.

This feeling of the courts was most probably based upon the universally prevailing and accepted doctrine of "natural rights." As a consequence of this doctrine there was a widespread belief in certain "fundamental" rights, to be enjoyed by the members of any body politic of necessity, because demanded by the "law of nature." In so far as these rights had assumed definite shape in the mind of any one, they consisted of the rights to acquire and hold property and to contract with relation to the same. These rights, being conceived of as inherent in the idea of citizenship, were, as a matter of course, those which were commonly regarded as guaranteed by the Comity Clause; but any others, not being inherently possessed by the citizens of every political society, were to be considered as for the individual States to grant to or withhold from whomsoever they pleased. In view of the fact that the so-called "natural rights" theory was at the time accepted practically without question, it is not to be wondered at that the judges in the early cases were so positive in their statements as to

[1] See, for instance, Campbell v. Morris, 3 Harr. and McHen. (Md.) 535; Abbott v. Bayley, 6 Pick. (Mass.) 89; Murray v. McCarty, 2 Munf. (Va.) 393.

the exclusion of political privileges from the list of rights to be shared equally by the citizens of all the States, while at the same time feeling no necessity for giving their reasons for so thinking. As has been elsewhere pointed out,[2] the accepted view of the courts is now that, generally speaking, whatever privileges are extended by a State to its own citizens must be extended likewise to the citizens of other States. With this in mind, it becomes necessary to find more stable ground than the now obsolete theory of inherent rights upon which to base any class of privileges as entirely within the regulatory power of a State.

The whole relationship of the right of suffrage to citizenship is reviewed at some length by Chief Justice Waite in Minor v. Happersett.[3] The Court says in that case:

> It is clear, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted. This makes it proper to inquire whether suffrage was coextensive with the citizenship of the States at the time of its adoption. If it was, then it may with force be argued that suffrage was one of the rights which belonged to citizenship, and in the enjoyment of which every citizen must be protected. But if it was not, the contrary may with propriety be assumed.

Passing on to a consideration of the regulations of the various original States, the Court finds that in each of these only a restricted number of the inhabitants of the State were allowed to exercise the franchise, from which fact it is deduced that there was no thought in the minds of the framers of the Constitution but that the right to vote was one entirely dependent upon the pleasure of each State. As further proof of this, it is said:

> By Article 4, section 2, it is provided that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." If suffrage is necessarily a part of citizenship, then the citizens of each State must be entitled to vote in the several States precisely as their citizens are. This is more than asserting that they may change their residence and become citizens of the State and thus be voters. It goes to the extent of insisting that, while retaining their original citizenship, they may vote in any State. This, we think, has never been claimed.

[2] See before, Chapter II.
[3] 21 Wall. 162, 22 L. ed. 627.

Although it is by no means asserted that the right to vote is not one which every State may regulate at its pleasure, nevertheless it is not believed that the reasons given in this, the leading case on the subject, are particularly substantial. The Court admittedly decides the question on the ground that, as people have acted with substantial uniformity for a considerable time upon a certain idea—to wit, that citizenship does not confer the right of suffrage—this fact in itself is sufficient reason upon which to base a decision. But, as has been pointed out, the idea upon which the people had acted in this instance was based mainly upon the unstable foundation afforded by the theories of the Natural Rights school of political philosophy with respect to the inherent and fundamental rights appertaining to citizenship. As a result we have the anomalous condition of affairs that the Supreme Court in effect bases its holding upon a theory that has been, tacitly at least, entirely abandoned. Nevertheless the fact that the right to vote is not a right which the citizens of the several States may exercise free from discriminatory legislation must be regarded, in the light of judicial decision, as firmly established. It is certain that the States may prescribe conditions precedent to the exercise of the franchise, such as attaining a certain age, belonging to a particular sex, a residence within the State for a specified length of time. But what if a State should discriminate between its own citizens and those of other States in the exaction of such requirements? This is a question which has never arisen and which it is not probable would ever arise, but it is sufficient to show the possibility that the Comity Clause might be applicable in certain instances even to the exercise of political rights. The Supreme Court has said in another case that a state statute in regard to voting might conceivably be regarded as a violation of the privileges and immunities of a citizen of the United States, which was the precise point at issue in

Minor v. Happersett.[4] It would seem that a statute might as conceivably be a violation of the privileges and immunities of the citizens of the several States.[5]

The right to hold public office links itself naturally with the right to vote, upon which it may be said, partially at least, to be founded. The comments which have been made upon the exclusion of the right of suffrage from the operation of the Comity Clause, apply with equal validity to the majority of cases under this head.[6] In the case of the right to hold public office, however, much stronger and more satisfactory reasons may be adduced as to why this right is entirely within the control of each State. One who holds public office is the agent of the State; the office itself is nothing more than a mere delegation of authority from the State to be exercised in its behalf. In choosing those who are to act in its employ, the State is at no greater disability than any private individual entering into a similar contract of employment. An exactly analogous question presents itself with respect to the power of the State to provide that only certain classes of workmen shall be employed to labor on public buildings and other improvements, a power which has been upheld in recent years as against several rather

[4] In Pope v. Williams, 193 U. S. 621, 48 L. ed. 817, 24 Sup. Ct. Rep. 573. The exact language of the Court was: "It is unnecessary in this case to assert that under no conceivable state of facts could a state statute in regard to voting be regarded as an infringement upon or a discrimination against the individual rights of a citizen of the United States removing into the State and excluded from voting therein by state legislation. The question might arise if an exclusion from the privilege of voting were founded upon the particular State from which the person came, excluding from that privilege, for instance, a citizen of the United States coming from Georgia and allowing it to a citizen of the United States coming from New York or any other State. In such case an argument might be urged that . . . the citizen from Georgia was by the state statute deprived of the equal protection of the laws. Other extreme cases might be suggested."

[5] See for cases to the same effect as Minor v. Happersett, United States v. Anthony, 11 Blatch. C. C. 200; Van Valkenburgh v. Brown, 43 Cal. 43; People v. Barber, 48 Hun. (N. Y.) 198; United States v. Petersburg Judges, 1 Hughes C. C. 493.

[6] See besides the cases cited under the right to vote, People v. Loeffler, 175 Ill. 585, 57 N. E. 785; in re Mulford, 217 Ill. 242, 75 N. E. 345, 1 L. R. A. [N. S.] 341.

unfavorable earlier decisions.[7] "It belongs to the State, as guardian and trustee for its people, and having control of its affairs, to prescribe the conditions upon which it will permit work to be done on its behalf or on behalf of its municipalities."[8] In order, then, to justify discrimination by a State in favor of its own citizens with respect to the holding of public office, it is possible to get away from the vague grounds upon which the courts have been content to rest the power of the State to regulate the exercise of the franchise. Instead recourse may be had to the proprietary power of the State, in accordance with which, as will be seen presently, the State may take measures to reserve public property for the use of its own citizens. This power of the State rests upon a well-established principle of English and American law, and is therefore eminently more satisfactory than a power based upon fundamental rights and the general feeling of the public for any given length of time. Whether the same principle could be applied to state regulation of the suffrage, however, is not clear.

The power of the State to discriminate in favor of its own citizens in respect to the holding of public office may be pushed to a considerable extent. For instance, it has been held that the right to act as executor or administrator of the estate of a decedent may be entirely restricted by a State to its own citizens.[9] This is upon the ground that the holder of such a position receives his powers only by the active consent of the courts, and is at all times subject to their control and direction; acting under the control of the agents of the State, he thereby becomes an officer of the State in a public, or at least quasi-public, capacity.

The power to control property of a deceased person to the end that it shall be applied to the payment of the just debts of the de-

[7] See Atkin v. Kansas, 191 U. S. 207, 48 L. ed. 148, 24 Sup. Ct. Rep. 124; Heim v. McCall, 239 U. S. 175, 60 L. ed. 206, 36 Sup. Ct. Rep. 78.

[8] Atkin v. Kansas, above.

[9] In re Mulford, 217 Ill. 242, 75 N. E. 345. See also Gallup v. Schmidt, 183 U. S. 300, 46 L. ed. 207, 22 Sup. Ct. Rep. 162.

cedent, for the protection of those who were peculiarly dependent upon him, and who may otherwise become burdens on the public, and the remainder be transmitted to the persons or to the purposes the testator desired it to go or be applied to, rests in the State in its sovereign capacity. In exercising this governmental function the State has the clear right to call to its aid and to invest with official power only such persons as are residents within its territorial limits.[10]

It should be noticed that, although the functions of executors and administrators are in many ways analogous to those of trustees, it has been held unconstitutional for a State to discriminate against the citizens of other States with regard to the right to act as trustee.[11] This distinction seems a just one, for trustees derive their powers directly from the voluntary creators of the trust, and are in no sense officers of the law or of the courts.[12]

That any person holding even a quasi-public office and in any way responsible to the State for his actions may be required to be a citizen of the State is further substantiated by a recent decision holding that a city may properly restrict the business of a private detective to citizens of the State, as being a business of a quasi-official character.[13]

In several early cases the right to follow certain professions or occupations affected with a public interest was declared to be dependent entirely upon the will of the State, and subject to whatever regulations it should think proper to impose; and this decision was based upon a similarity of reasoning with the right of the State to extend the franchise or to grant public office to certain favored classes only.[14] Thus state statutes restricting the practice of medicine or law or the selling of liquor were upheld on this ground. For reasons similar to those previously mentioned, the right of the States to do this was not seriously questioned; and the courts did not endeavor especially to

[10] In re Mulford, above.

[11] Roby v. Smith, 131 Ind. 342, 30 N. E. 1093, 15 L. R. A. 792.

[12] Woerner, American Law of Administration, 2d ed., vol. i, sec. 10.

[13] Lehon v. City of Atlanta, 16 Ga. App. 64, 84 S. E. 608.

[14] See Austin v. State, 10 Mo. 591; Lockwood v. United States, 9 Ct. of Claims 346.

find any particular ground for their decisions beyond saying that such privileges were political in their nature and not dependent on citizenship. At a later period, however, there was considerable litigation upon this question, and the state laws involved were then justified under the police power. A discussion of the cases arising in that connection and the principles laid down by them is entered into elsewhere.[15]

Proprietary Interests.—Besides what have been termed by the courts political privileges, it has been settled that the citizens of the several States are not entitled by virtue of the Comity Clause to enjoy upon equal terms with the citizens of any State the use of property in which that State is vested with a proprietary interest and which it holds for the general benefit of its own citizens. The legal theory upon which the idea rests that certain kinds of property are held by the State in trust for its citizens, runs far back into the law of England. As in all countries where the feudal system prevailed, the title to all property within the country was originally in the king, who could grant it away to whomsoever he pleased. "The king," says Blackstone, "is the universal lord and original proprietor of all the lands in his kingdom, and no man doth or can possess any part of it but what has, mediately or immediately, been derived as a gift from him, to be held upon feudal services."[16] By Magna Charta a restraint was imposed upon his freedom with respect to granting rights of fishery in running waters;[17] and although the effect of this limitation upon the king's power of grant was a matter of some dispute, it seems to have been generally conceded that since that time the royal prerogative did not include the power to grant exclusive fishery rights in navigable waters.[18] In such rivers, said Lord Mansfield, "the fishery is common;

[15] See below, Chapter V.
[16] Commentaries, vol. ii, p. 52.
[17] Blackstone, Commentaries, vol. ii, p. 39.
[18] Duke of Somerset v. Fogwell, 5 Barn. and Cress. (K. B.) 875; Martin v. Waddell, 16 Pet. 367, 10 L. ed. 997.

it is prima facie in the King, and is public."[19] The title to the waters and the soil under them was still in the king, but he held it as a representative of and a trustee for the people of the realm. On the settlement of the colonies, similar rights passed to the grantees in the royal charters in trust for the communities to be established. At the American Revolution these rights, charged with a like trust, became vested in the original States within their respective borders, subject only to the rights surrendered by the Constitution to the Federal Government. The same theory was extended to the case of the acquisition of territory by the United States, whether by cession from one of the States, or by treaty with a foreign country, or by discovery and settlement; the same title and dominion passed to the United States for the benefit of the whole people and in trust for the several States to be ultimately created out of such territory. On the creation of these new States and their admission into the Union, the same rights vested in them as were already possessed by the original States in this respect.[20]

Very early in their history the various colonies passed acts with regard to fisheries and oyster dredging and planting, which prohibited non-residents from taking fish or oysters from their territorial waters. These laws remained in force after the Revolution, and the question was quickly raised with respect to their constitutionality. It was claimed that since these fisheries were held by the State for the common use of all of its citizens, the right to enjoy them was a privilege of all such citizens; and that a citizen of another State could no more be excluded from the exercise of this privilege than he could be prohibited from enjoying any other privilege or immunity accorded by the State to its own citizens. The first case in which this

[19] Carter v. Murcot, 4 Burr. (K. B.) 2162.

[20] Shively v. Bowlby, 152 U. S. 1, 38 L. ed. 331, 14 Sup. Ct. Rep. 548; Martin v. Waddell, 16 Pet. 367, 10 L. ed. 997; Pollard v. Hagan, 3 How. 212, 11 L. ed. 565.

claim was raised is Corfield v. Coryell.[21] Judge Washington, after giving his often-quoted outline of the privileges and immunities protected by the Comity Clause, goes on to say:

> We cannot accede to the proposition which was insisted on by the counsel, that, under this provision of the Constitution, the citizens of the several States are permitted to participate in all the rights which belong exclusively to the citizens of any other particular State, merely upon the ground that they are enjoyed by those citizens; much less, that in regulating the use of the common property of the citizens of such State, the legislature is bound to extend to the citizens of all the other States the same advantages as are secured to their own citizens. A several fishery, either as the right to it respects running fish, or such as are stationary, such as oysters, clams, and the like, is as much the property of the individual to whom it belongs, as dry land, or land covered by water; and is equally protected by the laws of the State against the aggressions of others, whether citizens or strangers. Where those private rights do not exist to the exclusion of the common right, that of fishing belongs to all the citizens or subjects of the State. It is the property of all; to be enjoyed by them in subordination to the laws which regulate its use. They may be considered as tenants in common of this property; and they are so exclusively entitled to the use of it that it cannot be enjoyed by others without the tacit consent, or the express permission of the sovereign who has the power to regulate its use.

This decision was regarded as controlling by the various state and federal courts in all the similar cases arising in the following fifty years.[22] They are a unit in declaring that the denial of the right of each State to regulate the use of the common property of its citizens in any manner which it might see fit would be to annihilate the sovereignty of the States and in effect to establish a consolidated government. This opinion was carried so far that in one case it was held that a State could properly prohibit its own citizens from employing citizens of other States to gather oysters for them.[23] This would seem to have been rather a forced interpretation of the rule laid down in Corfield v. Coryell, since such a holding in effect restricts the right of citizens of other States to contract upon equal terms with

[21] 4 Wash. C. C. 371.

[22] See Bennett v. Boggs, Baldwin C. C. 60; State v. Medbury, 3 R. I. 138; Dunham v. Lamphere, 3 Gray (Mass.) 268; Haney v. Compton, 36 N. J. L. 507.

[23] Haney v. Compton, 36 N. J. L. 507.

citizens of the domestic State; and the propriety of this decision seems somewhat questionable, particularly since the non-resident was not engaged in gathering oysters for his own use but for that of his employer.[24] Nevertheless, in spite of the uniformity of these decisions, there seems to have existed some doubt as to the correctness of Judge Washington's reasoning. For example, in Dunham v. Lamphere,[25] in which the Massachusetts law regarding fisheries on the sea-coast was involved and was upheld on the ground that it made no discrimination between citizens of Massachusetts and citizens of other States, Chief Justice Shaw was somewhat dubious with regard to the decision in Corfield v. Coryell, and went no further than to say that it was based upon grounds "which appear plausible, if not satisfactory."

All doubt on the question was finally put at an end by the decision of the Supreme Court in McCready v. Virginia,[26] in which was involved a statute of Virginia prohibiting citizens of other States from taking or catching oysters or shell-fish or planting oysters in any of the waters of the State. The Court said, by Chief Justice Waite:

> The States own the tidewaters . . . and the fish in them, so far as they are capable of ownership while running. For this purpose the State represents its people, and the ownership is that of the people in their united sovereignty. . . . The title thus held is subject to the paramount right of navigation, the regulation of which, in respect to foreign and interstate commerce, has been granted to the United States. There has been, however, no such grant of power over the fisheries. These remain under the exclusive control of the State, which has consequently the right, in its discretion, to appropriate its tidewaters and their beds to be used by its people as a common for taking and cultivating fish, so far as it may be done without obstructing navigation. Such an appropriation is in effect nothing more than a regulation of the use by the people of their common property. The right which the people of the State thus acquire comes not from their citizenship alone, but from their citizenship and property combined. It is, in fact, a property right, and not a mere privilege or immunity of citizenship. . . .
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> . . . Looking only to the particular right which is here asserted, we think we may safely hold that the citizens of one State are not

[24] See Booth v. Lloyd, 33 Fed. 593.
[25] 3 Gray (Mass.) 268.
[26] 94 U. S. 391, 24 L. ed. 248.

invested by this clause of the Constitution with any interest in the common property of the citizens of another State. If Virginia had by law provided for the sale of its once vast public domain, and a division of the proceeds among its own people, no one, we venture to say, would contend that the citizens of other States had a constitutional right to the enjoyment of this privilege of Virginia citizenship. Neither if, instead of selling, the State had appropriated the same property to be used as a common by its people for the purposes of agriculture, could the citizens of other States avail themselves of such a privilege. And the reason is obvious; the right thus granted is not a privilege or immunity of general but of special citizenship. It does not "belong of right to the citizens of all free governments," but only to the citizens of Virginia, on account of the peculiar circumstances in which they are placed. They, and they alone, owned the property to be sold or used, and they alone had the power to dispose of it as they saw fit. They owned it not by virtue of citizenship merely, but of citizenship and domicile united; that is to say, by virtue of a citizenship confined to that particular locality.

The planting of oysters in the soil covered by water owned in common by the people of the State is not different in principle from that of planting corn upon dry land held in the same way. Both are for the purposes of cultivation and profit; and if the State, in the regulation of its public domain, can grant to its own citizens the exclusive use of dry lands, we see no reason why it may not do the same thing in respect to such as are covered by water. And as all concede that a State may grant to one of its citizens the exclusive use of a part of the common property, the conclusion would seem to follow, that it might by appropriate legislation confine the use of the whole to its own people alone.

The reasoning upon which the Court bases its holding is in places somewhat confused, and the chief justice has gone to what seem rather unnecessary lengths in some parts of the decision; as for example, in his distinction between general and special citizenship. The regarding of the privileges and immunities appurtenant to the former class of citizenship as "those belonging of right to the citizens of all free governments" is also open to criticism, as has elsewhere been pointed out. But whatever may be thought of these parts of the reasoning, the decision itself has ever since been followed absolutely in similar cases; and it is now established beyond the shadow of a doubt that a citizen of one State is not, of constitutional right, entitled to share upon equal terms with the citizens of another State those proprietary interests belonging generally to the State as such. And, indeed, there would seem to be no question respecting the propriety of the limitation thus laid down, if

the nature of the interest possessed in this type of property by the State and its citizens is kept in mind. The interest of the latter is in nowise to be differentiated from their interest in that property over which they have actual rights of ownership. From the enjoyment of such property they may, of course, validly exclude all other persons. It would not be contended that a citizen of any State would have a constitutional right to share, equally with citizens of another State, land or its products in which the latter were tenants in common. And in property of the character now under consideration the situation is, to all intents and purposes, the same. The people of any State, therefore, acting through the State as their agent, may restrict the use of such property to a few of their own number, or license citizens of other States to use it, or they may absolutely exclude all but themselves from its enjoyment. In short, it is their own property, and they may take what measures they will to preserve it for their own use.[27]

The general rule upon this matter is now clearly settled. But with respect to the question as to the kinds of property in which the State is to be regarded as invested with a proprietary interest, no definite agreement has been reached so that one may set up a standard by which to be guided in making a decision. The cases which have been hitherto examined dealt with running waters and the soil under them, together with the fish swimming in them and the beds of shell-fish. Later cases, however, have extended the idea to other sorts of property, and the subject is at the present time in some confusion.

A leading case in this connection is Geer v. Connecticut,[28] in which a statute of Connecticut was under consideration which made it unlawful for any one to kill certain varieties

[27] An interesting example of the power of the States in this connection is their ability to enforce the payment of a license fee for fishing in public waters from members of Indian tribes to whom the free use of such waters had been guaranteed by treaty with the Federal Government. Kennedy v. Becker, 241 U. S. 556, 60 L. ed. 1166, 36 Sup. Ct. Rep. 705; Ward v. Race Horse, 163 U. S. 504, 41 L. ed. 244, 16 Sup. Ct. Rep. 1076.

[28] 161 U. S. 519, 40 L. ed. 793, 16 Sup. Ct. Rep. 600.

of game birds for the purpose of conveying them out of the State. In rendering the decision Justice White goes into a very careful examination of the nature of the interest which the State has in *ferae naturae* as a general class. He finds that both at Roman and civil law it was recognized that such animals, having no owner, were to be considered as belonging in common to all the citizens of the State; and after citing the Code Napoleon to the same effect, he goes on to say:

> Like recognition of the fundamental principle upon which the property in game rests has led to similar history and identical results in the common law of Germany, in the law of Austria, Italy, and indeed it may be safely said in the law of all the countries of Europe. . . . The common law of England also based property in game upon the principle of common ownership, and therefore treated it as subject to governmental authority.
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> Blackstone, whilst pointing out the distinction between things private and those which are common, rests the right of an individual to reduce a part of this common property to possession, and thus acquire a qualified ownership in it, on no other or general principle from that upon which the civilians based such right. . . . The practice of the government of England from the earliest times to the present has put into execution the authority to control and regulate the taking of game.
>
> Undoubtedly this attribute of government to control the taking of animals *ferae naturae*, which was thus recognized and enforced by the common law of England, was vested in the colonial governments, where not denied by their charters, or in conflict with grants of the royal prerogative. It is also certain that the power which the colonies thus possessed passed to the States with the separation from the mother country, and remains in them at the present day. . . . Whilst the fundamental principles upon which the common property in game rests have undergone no change, the development of free institutions has led to the recognition of the fact that the power or control lodged in the State, resulting from this common ownership, is to be exercised, like all other powers of government, as a trust for the benefit of the people, and not as a prerogative for the advantage of the government as distinct from the people, or for the benefit of private individuals as distinguished from the public good. Therefore, for the purpose of exercising this power, the State, . . . represents its people, and the ownership is that of the people in their united sovereignty.[29]

The Court went on to hold the statute under consideration constitutional, upon the ground that the common owner-

[29] It was also said that the statute was possible of being upheld as a valid exercise of the police power, following from the duty of the State to preserve for its people a valuable food supply. See Silz v. Hesterberg, 211 U. S. 31, 53 L. ed. 75, 29 Sup. Ct. Rep. 10; the Abby Dodge, 223 U. S. 166, 56 L. ed. 390, 32 Sup. Ct. Rep. 310.

ship of game implied the right to keep the property, if the sovereign so chose, always within its jurisdiction.[30] Although the case involved no question of discrimination against the citizens of other States, it definitely places wild game within the class of property which, under the ruling in McCready v. Virginia, the State may validly reserve for its own citizens entirely; and on this authority it has been specifically so held in several cases.[31] The power to preserve the game for the use of the citizens of a State carries with it the right to make this restriction effective by prohibitive regulations. Accordingly the State may deny to citizens of other States the privilege of buying shot-guns or other weapons for use in killing such game.[32]

In Hudson Water Company v. McCarter[33] a statute of New Jersey prohibiting the transportation of water into other States was upheld on similar grounds to those relied upon in Geer v. Connecticut. The privilege of acquiring rights in such property was regarded as qualified by the power of the State to insist that its natural advantages remain unimpaired by its citizens; so that it might validly prohibit the removal of these out of the State. The Court, however, does not go to the length of saying that a State may validly exclude citizens of other States from reducing water in its natural condition to possession within the State, though this result would logically follow; but contents itself with saying that since citizens of other States were left by the statute under consideration as free to purchase water within the boundaries of New Jersey as its own citizens, they were not in a position to complain of a

[30] Upon the strength of the holding in this case, two lower federal courts have declared the Migratory Bird Act of 1913 unconstitutional. United States v. Shauver, 214 Fed. 154; U. S. v. McCullagh, 221 Fed. 288.

[31] See in re Eberle, 98 Fed. 295; State v. Gallup, 126 N. C. 979, 35 S. E. 180.

[32] Patsone v. Pennsylvania, 232 U. S. 138, 58 L. ed. 539, 34 Sup. Ct. Rep. 281.

[33] 209 U. S. 349, 52 L. ed. 828, 28 Sup. Ct. Rep. 529.

deprivation of any privileges belonging to them by virtue of their state citizenship.[34]

By these decisions the State was regarded as possessing a proprietary interest in animals *ferae naturae* and in certain products of nature while still in their natural condition, and as capable, therefore, of regulating by whom and upon what conditions such property might be reduced to possession. On the other hand, there is a line of decisions with regard to certain other products of nature which hold that these may properly be reduced to possession while in their natural condition and are not the subject of any proprietary interest on the part of the State.

In Ohio Oil Co. v. Indiana,[35] for example, it was held that the surface proprietors within a gas field have the right to reduce to possession the gas and oil beneath. To the ordinary observer there would not seem to be a very essential difference between water flowing above ground and oils and gases seeping through the earth below. The Court, however, after citing several state cases in which an analogy had been drawn between gas and oil and animals *ferae naturae,* and these deposits had been termed minerals *ferae naturae,* says by Mr. Justice White:

> If the analogy between animals *ferae naturae* and mineral deposits of oil and gas, stated by the Pennsylvania court and adopted by the Indiana court, instead of simply establishing a similarity of relation, proved the identity of the two things, there would be an end to the case. This follows because things which are *ferae naturae* belong to the "negative community"; in other words are public things subject to the absolute control of the State, which, although it allows them to be reduced to possession, may at its will not only regulate but wholly forbid their future taking. But whilst there is an analogy between animals *ferae naturae* and the moving deposits of oil and natural gas, there is not identity between them. Thus, the owner of land has the exclusive right on his property to reduce the game there found to possession, just as the owner of the soil has

[34] See also Kirk v. State Board of Irrigation, 90 Neb. 627, 134 N. W. 167. It would seem that where a river runs through more than one State, the upper State, in spite of its sovereign rights over the water, cannot use these to such an extent as to work material injury to the lower State. Kansas v. Colorado, 206 U. S. 46, 51 L. ed. 956, 27 Sup. Ct. Rep. 655. Two States so situated are, then, in a position very similar to that of individual riparian owners at common law.

[35] 177 U. S. 190, 44 L. ed. 729, 20 Sup. Ct. Rep. 576.

the exclusive right to reduce to possession the deposits of natural gas and oil found beneath the surface of his land. The owner of the soil cannot follow game when it passes from his property; so, also, the owner may not follow the natural gas as it shifts from beneath his own to the property of some one else within the gas field. It being true as to both animals *ferae naturae* and gas and oil, therefore, that whilst the right to appropriate and become the owner exists, proprietorship does not take being until the particular subjects of the right become property by being reduced to actual possession. The identity, however, is for many reasons wanting. In things *ferae naturae* all are endowed with the power of seeking to reduce a portion of the public property to the domain of private ownership by reducing them to possession. In the case of natural gas and oil no such right exists to the public. It is vested only in the owners in fee of the surface of the earth within the area of the gas field. This difference points at once to the distinction between the power which the lawmaker may exercise as to the two. In the one, as the public are the owners, every one may be absolutely prevented from seeking to reduce them to possession. . . . The enacting by the State of a law as to the public ownership is but the discharge of the governmental trust resting in the State as to property of that character. On the other hand, as to gas and oil, the surface proprietors within the gas field all have the right to reduce to possession the gas and oil beneath.[36]

The language here used has been made the basis of the decisions in Lindley v. Natural Carbonic Acid Gas Company[37] and West v. Kansas Natural Gas Company,[38] the one holding that mineral waters sifting underground through porous rock were not property held by the State for the common benefit of the public; the other that a State may not constitutionally prohibit natural gas and oil from being transported out of the State.

A review of the cases upon this whole question leads to the belief that the sorts of property in which the State is to be regarded as vested with a proprietary interest, and in the use of which it may accordingly discriminate in favor of its own citizens, are comparatively limited in number; and that this number will not be extended beyond its present compass. Over the animals *ferae naturae* within its borders; the waters running upon its surface and their beds, together with the fish in them; the public lands, including possibly the public roadways; the employment upon public

[36] And, *semble*, that residents of other States who may be surface proprietors within the gas field may not.
[37] 220 U. S. 61, 55 L. ed. 369, 31 Sup. Ct. Rep. 337.
[38] 221 U. S. 229, 55 L. ed. 716, 31 Sup. Ct. Rep. 564.

buildings and probably the appointment to public office; possibly over the atmosphere and the forests within its territory,[39] the State has full control and power to restrict their use to whomsoever and in whatsoever way it sees fit, without contravening any constitutional provisions. Beyond this, it is not believed that such a power extends. Nevertheless, it is a power which contains within it great possibilities of extension even within the boundaries outlined; and the increasing hold which the idea of public ownership is acquiring at the present time over popular fancy may very easily serve to bring out its potentialities in a more striking manner than any in which they have so far been developed.

[39] See Kansas v. Colorado, 185 U. S. 125, 46 L. ed. 838, 22 Sup. Ct. Rep. 552; Georgia v. Tennessee Copper Co., 206 U. S. 230, 51 L. ed. 1038, 27 Sup. Ct. Rep. 618.

CHAPTER V

Discriminatory Legislation under the Police Power

It has been stated in a previous chapter that one of the rights secured by the Comity Clause to the citizens of the several States is the right to import and export property, and also the right to free ingress and egress personally upon terms of substantial equality with the citizens of the other States. It has never been questioned to any considerable extent, however, that a State may adopt proper quarantine and other police regulations with a view to the safeguarding of the health and welfare of its own citizens, although such regulations very evidently operate as restrictions upon the enjoyment of the privilege above named. So far as is known, there are no cases in which state regulations of this nature were concerned which expressly discriminated against citizens of other States. The cases involving this point are for the most part concerned with the question as to whether state laws of this character are unconstitutional as regulations of interstate commerce. In this connection there has been a line of cases dealing with state laws relative to the introduction of diseased cattle or cattle coming from districts in which a disease was prevalent.

These cases make no discrimination between citizens of different States, but rather against goods which are the products of different States. Properly speaking, therefore, they afford no ground for legislative enactments making personal residence a basis of classification, such as that residents of a State would thereby be permitted to introduce their property into the State, while a similar privilege would be denied to non-residents with respect to similar property. There have been no instances of state statutes having such an effect; but it is believed that they might

very possibly be upheld.[1] If the danger against which they seek to guard is one with respect to which residence or non-residence within the State might become a factor of some importance in determining the likelihood of its presence or absence, then such a law would be a proper means of protection upon the part of the domestic State. A statute of this character, then, would be constitutional, provided the fact of residence or non-residence bore some necessary relation to the evil guarded against. As will be seen later, the courts in some cases have taken the position that a police regulation to which non-residents were obliged to conform but from which residents, or at least certain classes of residents, were exempted, is not to be regarded as discriminating in any way against citizens of other States. This conclusion rests upon the ground that as to the exempted classes, the fact of their residence within the State is in itself sufficient to raise the presumption that they may safely be permitted freedom from conformity to the police regulations. The distinction drawn appears somewhat forced, and it would seem preferable to admit the existence of a discrimination, made, however, upon justifiable grounds.

The power of the State to exclude citizens of other States from its borders through quarantine laws hardly seems capable of doubt. It was said in Railroad Company v. Husen:[2]

> The police powers of a State justify the adoption of precautionary measures against social evils. Under it, a State may legislate to prevent the spread of crime or pauperism or disturbances of the peace. It may exclude from its limits, convicts, paupers, idiots and lunatics, and persons likely to become a public charge, as well as persons afflicted by contagious or infectious diseases, a right founded on the sacred law of self-defense.[3]

It would probably not be questioned that a State would have the power to deny entrance within its limits to citizens

[1] See State v. Smith, 71 Ark. 478, 75 S. W. 1081.

[2] 95 U. S. 465, 24 L. ed. 527.

[3] See also Morgan Steamship Co. v. Board of Health, 118 U. S. 455, 30 L. ed. 237, 6 Sup. Ct. Rep. 1114; Compagnie Française v. State Board of Health, 186 U. S. 350, 46 L. ed. 1209, 22 Sup. Ct. Rep. 811.

of another State, except under certain quarantine regulations, when the facts might show the prevalence of an epidemic of some contagious disease in the latter State. In such a case mere non-residence would be sufficiently indicative of danger to the citizens of the domestic State to justify the adoption of such a basis of distinction; and an equality of treatment could not properly be demanded upon the part of citizens of the State in which the disease in question prevailed. Although the citizens of every State may be regarded as possessing the right to free ingress to and egress from any other State upon equal terms with the citizens of the latter, they cannot be regarded as possessing any right to come into a State when suffering from "a contagious, infectious, or communicable disease," or when the fact of their non-residence would lead to the probability that their entrance into the State would result in injury to its people. If the means adopted are reasonable, there can properly be no question of the right of a State under its police power to discriminate against citizens of other States upon the grounds which have been outlined above, although this ruling may have the effect of denying to them privileges which the State grants to its own citizens.

An interesting phase of the power of a State to discriminate against the citizens of other States is afforded by the right, which has been sustained, of a State to exclude other than inhabitants of the State from the right to retail intoxicating liquors. In the earlier state cases the right of liquor selling was regarded as one which was public in its nature, and therefore not one inherent in citizenship so as to be guaranteed to the citizens of the several States.[4] The Supreme Court, also, in certain of its decisions bearing upon this point, sanctioned such discrimination upon the ground that this right is not one of those protected by the Comity Clause. Thus it was said in Crowley v. Christensen:[5] "There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen

[4] See Austin v. State, 10 Mo. 591.
[5] 137 U. S. 86, 34 L. ed. 620, 11 Sup. Ct. Rep. 13.

of the State or of a citizen of the United States."[6] This view is not capable of being squared with the now settled construction of this clause of the Constitution; namely, that, in general, citizens of other States may not be denied the enjoyment of any rights which a State may grant to its own citizens. If the power of the State to restrict the selling by retail of intoxicating liquors can be sustained, it must be upon the theory that such a business is one requiring police regulation, and that a resident of the State can be held liable more easily than a non-resident for the violation of the regulation imposed. The fact of non-residence must be regarded as constituting a special objection or danger.[7]

This whole question was considered at some length in the case of Kohn v. Melcher,[8] in which was involved a statute of Iowa forbidding any person to sell spirituous liquors within the State without a license, and providing that licenses should be granted to citizens of the State only. The claim was directly made in this case that the statute in question abridged the privileges and immunities of citizens of other States. With reference to this contention the Court said, speaking through Judge Shiras:

> If the provisions of the statute . . . are intended to control the commerce in liquors to be used for mechanical and other legal purposes, so as to secure the traffic therein to citizens of Iowa, and exclude all others from participation therein, thus intentionally discriminating in favor of the citizens of Iowa, it would seem clear that the sections of the statute providing for the exclusion of all, save citizens of Iowa, from the right to engage in such traffic, would be unconstitutional and void. . . . Laws regulating trade and commerce and which are intended to secure to the citizens or products of one State exclusive or superior rights and advantages at the expense of the citizens of other States cannot be sustained. . . . That the States, for the purpose of restricting and eradicating the evils arising from the traffic in intoxicating liquors as a beverage,

[6] Similar dicta are to be found in Bartemeyer v. Iowa, 18 Wall. 129, 21 L. ed. 929; Beer Co. v. Massachusetts, 97 U. S. 25, 24 L. ed. 989; Mugler v. Kansas, 123 U. S. 623, 31 L. ed. 205, 8 Sup. Ct. Rep. 273; Leisy v. Harden, 135 U. S. 100, 34 L. ed. 128, 10 Sup. Ct. Rep. 681. See also Foster v. Kansas, 112 U. S. 205, 28 L. ed. 696, 5 Sup. Ct. Rep. 97; Kidd v. Pearson, 128 U. S. 1, 32 L. ed. 346, 9 Sup. Ct. Rep. 6; in re Hoover, 30 Fed. 51; Cantini v. Tillman, 54 Fed. 969.

[7] See Freund, Police Power, sec. 710.

[8] 29 Fed. 433.

have the right to enact laws prohibitory thereof, cannot be questioned. If, however, in such acts, provisions are inserted which discriminate in favor of liquors manufactured in the State as against those manufactured in other States, or which protect the home dealer, by exacting a tax or license fee from the non-resident dealer, and not from the home dealer, then such provisions would be contrary to the Federal Constitution. . . . There is no doubt that the result of the statute is to entirely deprive citizens of other States of the right to sell in Iowa intoxicating liquors to be used for mechanical and the other legal purposes. It also practically confines the right to sell to a small part of the citizens of the State. Was it the intent of the legislature in enacting these provisions of the statute to grant greater privileges to the citizens of the State than are granted to those of other States in carrying on the business of buying and selling liquors for legal purposes, or were these provisions enacted as safeguards against violation of the law prohibiting sales of liquors to be used as a beverage. The difficulty of preventing evasion of the prohibitory laws is well known, and it is apparent that the permission to sell for medical and other legal purposes, unless carefully guarded and restricted, might prove to be a ready means for defeating the object and purpose of the statute. The State has the right to adopt all proper police regulations necessary to prevent evasions or violations of the prohibitory statute, and to that end, and for that purpose, has the right to restrict the sale for legal uses to such places, and by such persons, as it may be deemed safe to intrust with the right to sell. In cases in which it has been held that the state legislation could not be upheld, it will be found that the provisions of the statute were not intended to guard the community against evils arising from some traffic deemed injurious to the common weal, but were intended to secure to the citizens or products of the State an undue advantage; or in other words, under the pretext or guise of a police regulation, the true intent of the legislation was to place the products of citizens of other States at a disadvantage in carrying on commerce or business, and thereby secure the profits thereof to the citizens of the State enacting the particular law complained of. . . . Although, in effect, the citizens of other States, as well as the larger part of the citizens of Iowa, are debarred from selling in Iowa liquors to be resold for legal purposes, . . . yet this is but an incidental result; and as the intent and purpose of the restrictions, i. e., preventing violations of the prohibitory law, are within the police power of the State, it cannot be held that the sections of the statute under consideration violate any of the provisions of the Federal Constitution.[9]

It will be seen from the decision in Kohn v. Melcher that the controlling factor in the determination as to whether a law restricting the right of selling intoxicating liquors to residents of the domestic State is a valid regulation or an unconstitutional discrimination against citizens

[9] A similar holding was made in Mette v. McGuckin, 18 Neb. 323, 25 N. W. 338, affirmed without opinion in Mette v. McGuckin, 149 U. S. 781, 37 L. ed. 934, 13 Sup. Ct. Rep. 1050.

of other States, is the intent and purpose of the state legislature in passing the enactment. In other words, if this intent is to prevent violations of the state laws with regard to the sale of liquor, the law will be upheld; if its underlying purpose is to show a favoritism to home dealers, it will be declared invalid. How the intent and purpose is to be determined, or how far the action of the state legislature in passing the law will be controlling, are questions which the Court does not attempt to answer. The solution of such a question will manifestly depend largely upon the circumstances of each case. But in general it would seem that when, as in Kohn v. Melcher, there is present a prohibitory law of the State, this fact would in itself raise a prima facie presumption that the law restricting the sale of liquor to residents of the State was intended to render the prohibitory law enforceable; whereas, in the absence of a law of this nature, the presumption as to the validity of a statute restricting the sale of liquor to residents of the State would be reversed. Thus, in Arkansas, an act has been held unconstitutional which prohibited the sale of wine in certain districts by non-residents, but allowed any person growing or raising grapes or berries in such districts to sell wine of his own make upon the premises where the grapes or berries were grown and the wine was made.[10]

A rather difficult question in connection with the police power of the States is that raised by the laws of some States relative to the exercise of certain professions, such as law, medicine, and dentistry. It is not to be doubted that the State may validly require a certain degree of skill and professional learning in those engaged in these pursuits, since they obviously are closely related to the health and safety of the citizen of the State. For this purpose it may properly pass laws requiring those entering such professions to take out a license, which is granted only upon evidence being shown that the applicant is possessed of the amount

[10] State v. Deschamp, 53 Ark. 490, 14 S. W. 653; State v. Marsh, 37 Ark. 356.

of skill deemed requisite by the state legislature. Many States, however, have passed laws which require residence in the State for specified periods of time before the license will be granted, irrespective of the previous training or experience of the applicant; and in others the laws relating to the pursuit of these professions have provided for the issuance of licenses to practitioners who have practiced within the State for a certain number of years prior to the enactment of the law requiring a license, while practitioners who have practiced in other localities during that time have been required to undergo an examination as a condition precedent to being granted a license. Such laws plainly discriminate in favor of residents, but have nevertheless been generally upheld as valid police regulations.

An early and leading case in this connection is Ex parte Spinney,[11] in which was upheld a statute exempting persons who had practiced medicine or surgery in the State for a period of ten years preceding the passage of the act from the penalties imposed for the practice of medicine by unqualified persons. The Court, in holding the law valid, says:

> This law makes no distinction in terms between our own citizens and citizens of other States. It merely prescribes the qualification that practitioners are required to possess and admits all to practice who can bring themselves within the rule, whether they are citizens of this State or other States. But it is argued that one of the sorts of qualifications recognized is such that of necessity none but citizens of this State can possess it. This is so, but it does not follow, therefore, that the law is unconstitutional; for if the qualification is in itself reasonable, and such as tends to subserve the public interests, the legislature had the right to exact it, and the circumstance that citizens of other States cannot possess it may be a misfortune to them, but is no reason why a precaution proper in itself should be dispensed with. Thus it appears that the solution of this question also involves a preliminary inquiry into the policy of the law.

This, the Court goes on to say, is to be decided by the legislature.[12]

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[11] 10 Nev. 323.

[12] To the same effect are: Harding v. People, 10 Colo. 387, 15 Pac. 727; State v. Greene, 112 Ind. 462, 14 N. E. 352; People v.

This case seems to base the validity of the statute in question upon two grounds; namely, that the act was not in its terms discriminatory; and that even if made discriminatory by one of its requirements, this would not be sufficient to render it unconstitutional, provided the requirement in question was reasonable, its reasonableness as determined by the legislature being binding upon the Court. The first ground is clearly not sustainable: a State cannot validly pass a law, though by its terms constitutional, if its necessary effect is to contravene a prohibition imposed upon the State by the Federal Constitution.[13] The holding must rest entirely upon the second ground named; and, in point of fact, this ground forms the basis for the decisions in most of the cases cited. The view ordinarily taken by which this argument is justified is well set forth in State v. Randolph,[14] with reference to a similar enactment, as follows:

> The act does not grant privileges or immunities to any citizen or class of citizens either within or without the State; it only establishes a rule of evidence by which qualification to practice medicine and surgery is to be determined. It makes the fact of a person being engaged in the practice when the law took effect sufficient evidence of his fitness to continue the practice of his profession without an examination in the same way that the diploma of the student is accepted as sufficient evidence of his fitness to commence the practice without an examination.

But the fact that, in prescribing this rule of evidence, the

Phippin, 70 Mich. 6, 37 N. W. 888; Craig v. Board of Medical Examiners, 12 Mont. 203, 29 Pac. 532; State v. Carey, 4 Wash. 424, 30 Pac. 729; State v. Rosenkranz, 30 R. I. 374, 75 Atl. 491; State v. Randolph, 23 Ore. 74, 31 Pac. 201, 17 L. R. A. 470; Driscoll v. Commonwealth, 93 Ky. 393, 20 S. W. 431; People v. Hasbrouck, 11 Utah 291, 38 Pac. 118; State v. Currans, 111 Wis. 431, 87 N. W. 561; Wilkins v. State, 113 Ind. 514, 16 N. E. 172; People v. Griswold, 213 N. Y. 92, 106 N. E. 929; Gosnell v. State, 52 Ark. 228, 12 S. W. 392; State v. Vandersluis, 42 Minn. 129, 43 N. W. 789, 6 L. R. A. 119; State v. Creditor, 44 Kan. 565, 24 Pac. 346; Eastman v. State, 109 Ind. 278, 10 N. E. 97; Orr v. Meek, 111 Ind. 40, 11 N. E. 787; Richardson v. State, 47 Ark. 562, 2 S. W. 187; State v. State Medical Examining Board, 32 Minn. 324, 20 N. W. 238; Fox v. Territory, 2 Wash. Terr. 297, 5 Pac. 604; Logan v. State, 5 Tex. App. 306; People v. Blue Mountain Joe, 129 Ill. 370, 21 N. E. 923.

[13] Henderson v. Mayor of New York, 92 U. S. 259, 23 L. ed. 543.

[14] 23 Ore. 74, 31 Pac. 201.

State may discriminate against the citizens of other States, seems to be carrying the power of the State to provide for the public welfare and interests to a considerable extent. It might well be asked upon what grounds the State may regard the fact of a person's being engaged in practice within its limits for a certain period as endowing him with more satisfactory qualifications for continuing the practice than one similarly engaged elsewhere; and why a person engaged in such practice during the same period in another State, or even licensed to practice in that other State, should not be entitled to demand equality of treatment with his more fortunate fellow-practitioner living within the domestic State. It may be said that local conditions, climate, and similar circumstances peculiar to the domestic State and the familiarity with them possessed by the local practitioner, are sufficient to warrant the drawing of the distinction. This basis hardly seems a very satisfactory one, nor is any such offered by the cases upholding statutes of the character under consideration. But in view of the practical unanimity with which the distinction mentioned has been sustained, the power of the States to draw such a line may properly be regarded as settled, in the absence of any authoritative ruling to the contrary from a higher source. It should be noticed, however, in this connection, that the rule in New Hampshire is directly contrary to the majority of decisions on this point.[15]

A case has never been before the Supreme Court in which this question was considered from the point of view of discrimination against the citizens of other States. But in Dent v. West Virginia[16] the Court uses language which seems to sustain the construction adopted by the majority of the state courts. In this case a statute similar to those in question in the cases cited above was involved, it being claimed that the law was in violation of the Fourteenth

[15] State v. Hinman, 65 N. H. 103, 18 Atl. 194; State v. Pennoyer, 65 N. H. 113, 18 Atl. 878.

[16] 129 U. S. 114, 32 L. ed. 623, 9 Sup. Ct. Rep. 231.

Amendment. The opinion of the Court upholding the statute reads in part as follows:

> It is undoubtedly the right of every citizen of the United States to follow any lawful calling, business, or profession he may choose, subject only to such restrictions as are imposed upon all persons of like age, sex, and condition. This right may in some respects be considered as a distinguishing feature of our republican institutions. Here all vocations are open to everyone on like conditions. All may be pursued as sources of livelihood, some requiring years of study and great learning for their successful prosecution. The interest, or as it is sometimes termed, the estate acquired in them, that is, the right to continue their prosecution, is often of great value to the possessors, and cannot be arbitrarily taken from them, any more than their real or personal property can thus be taken. But there is no arbitrary deprivation of such right where its exercise is not permitted because of a failure to comply with conditions imposed by the State for the protection of society. The power of the State to provide for the general welfare of its people authorizes it to prescribe all such regulations as, in its judgment, will secure or tend to secure them against the consequences of ignorance and incapacity as well as of deception and fraud. As one means to this end it has been the practice of different States, from time immemorial, to exact in many pursuits a certain degree of skill and learning upon which the community may confidently rely, their possession being generally ascertained by an examination of parties by competent persons, or inferred from a certificate to them in the form of a diploma or license from an institution established for instruction on the subjects, scientific and otherwise, with which such pursuits have to deal. The nature and extent of the qualifications required must depend primarily upon the judgment of the State as to their necessity. If they are appropriate to the calling or profession, and attainable by reasonable study or application, no objection to their validity can be raised because of their stringency or difficulty. It is only when they have no relation to such calling or profession, or are unattainable by such reasonable study and application, that they can operate to deprive one of his right to pursue a lawful vocation.

It will be seen from the cases bearing upon this point that the power of the States to prescribe qualifications required to be met in order to practice medicine and allied professions is limited only by the requirement that such qualifications must not be arbitrary, but must bear a reasonable relation to the subject-matter of the legislation. That requirements of the character reviewed are not arbitrary, even though discriminatory, is stated affirmatively by the courts of all the States that have ruled upon the matter,

with the exception of those of New Hampshire.[17] There are no cases in which similar requirements have been expressly held to be so unreasonable as to be invalid; and it is difficult to determine the extent to which the States may properly go in this direction. It has been suggested that although a certain period of residence in the State may be a proper requirement, in order that the applicant's moral character and general attainments may be learned, yet if this required period be made unnecessarily long, an unconstitutional discrimination against non-residents might result.[18] On the other hand, it has been said that the States could possibly deny entirely to non-residents the right to practice medicine and similar professions.[19] There have been no cases in which either of these positions is taken; but the language of the courts in some decisions would seem to lean more strongly to the side of the latter.[20] At all events, it is to all practical purposes well settled that a State has the right to discriminate against the citizens of other States in this respect; and that to render such legislation invalid, the mere fact of discrimination alone will not suffice.

The question as to the power of the State to exclude non-residents from the practice of law upon equal terms with

[17] See, e. g., State v. Vandersluis, 42 Minn, 129, 43 N. W. 789; State v. Creditor, 44 Kan. 565, 24 Pac. 346; People v. Griswold, 213 N. Y. 92, 106 N. E. 929.

[18] Willoughby, Constitutional Law, vol. i, p. 216.

[19] Freund, Police Power, sec. 711.

[20] In State v. Creditor, above, for instance, it is said: "The legislature saw fit to permit those practising in the State when the act was passed to continue to practice without diploma or other evidence of competency. It may be, as contended, that the fact of being in the practice is not the best test or evidence of skill and capability, but the courts have nothing to do with the expediency or wisdom of the standard of qualification fixed, nor with the tests adopted for ascertaining the same. The legislature proceeded upon the theory that the fact that they have been engaged in the practice within the State was sufficient evidence of their proficiency in that profession. This fact is made by the legislature an evidence of skill and competency equivalent to a diploma from a dental college, and the wisdom of either test is a question for the legislature and not for the courts." This seems to approach closely to a declaration that the courts will accept the determination of the legislature that a given requirement is not arbitrary.

residents, does not appear to have directly arisen in any case. In Bradwell v. Illinois[21] the claim was made that a state statute restricting the practice of law to licensed attorneys infringed the privileges and immunities of citizens of other States. This contention was dismissed summarily by the Court, it appearing that the plaintiff in error was a citizen of the State, and as such not in a position to put forward this claim. In the concurring opinion of Justice Bradley, Justices Swayne and Field assenting, it is said, however: "It is the prerogative of the legislator to prescribe regulations founded on nature, reason, and experience for the due admission of qualified persons to professions and callings demanding special skill and confidence. This fairly belongs to the police power of the State." The practice of law is not so closely related to the public health, safety, or morals as the practice of professions such as medicine or dentistry; but it has been generally recognized that the police power of the State, even when restricted to the narrow sense of the term, includes the power to protect its citizens against fraud. As a protection of this nature, as well as a measure tending to the interests of the public morals, it has been generally recognized that the States have the right to regulate the qualifications for admission to the bar as they may deem most advisable; and the same arguments by which the statutes relative to the practice of medicine and dentistry have been justified in the cases examined above, would be equally applicable to similar statutes with respect to the practice of law.[22]

Under its power to prevent fraud from being practiced upon its own citizens, the State may also pass laws requir-

[21] 16 Wall. 130, 21 L. ed. 442.

[22] But see in re Day, 181 Ill. 73, 54 N. E. 646, in which, while admitting the right of the legislature to prescribe reasonable conditions excluding from the practice of law persons through whom injurious consequences might result to the State, the court nevertheless cites with approval State v. Pennoyer, 65 N. H. 113, 18 Atl. 878, as authority for the statement that the place of residence cannot furnish a proper basis of distinction and would constitute an arbitrary discrimination, making an enactment based upon it void.

ing non-residents to give security for costs before the right to sue in the state courts is granted them, although such security may not be required of its own citizens.[23] Plainly, the fact of non-residence in this case is in itself sufficient to constitute a danger to the citizens of the State. With regard to its own citizens the State may proceed against their person or property in order to meet the costs of a case, if these are not paid. With respect to non-residents, on the contrary, the State may be unable to resort to such means. A requirement, therefore, that the latter class should pay the costs in advance, or give sufficient security for their payment, is a measure of self-protection and entirely valid. Similarly, it has been recently held that a State may require non-residents taking out licenses to drive automobiles in the State to appoint an agent within the State upon whom process may be served.[24]

In Geer v. Connecticut[25] it was pointed out that the right of the State to reserve the property held in trust by it for the benefit of its citizens to its own citizens, or to admit the citizens of other States to the enjoyment thereof only upon the fulfillment of certain conditions, may very well be based upon the police power of the State to conserve its natural resources.[26] This right would not apply, however, with equal force to all the kinds of property coming under the decision in Geer v. Connecticut; and it seems preferable to rest this power of the State upon the proprietary character of its relationship to such property.

[23] Blake v. McClung, 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165; Chemung Canal Bank v. Lowery, 93 U. S. 72, 23 L. ed. 806; Nease v. Capehart, 15 W. Va. 299; before, Chapter III, and cases there cited.

[24] Kane v. New Jersey, 242 U. S. 160. In Hendrick v. Maryland, 235 U. S. 610, 59 L. ed. 385, 35 Sup. Ct. Rep. 140, it was held that the movement of motor vehicles over highways, being attended by constant and serious danger to the public, and also being abnormally destructive to the highways, is a proper subject of police regulation by the State. It is possible, then, that the State could discriminate between its own citizens and those of other States in granting licenses to drive automobiles within it.

[25] 161 U. S. 519, 40 L. ed. 793, 16 Sup. Ct. Rep. 600.

[26] In State v. Kofines, 33 R. I. 211, 80 Atl. 432, the decision was based squarely on this ground.

An interesting question with regard to the power of the States to protect their citizens from fraud is afforded by the so-called "blue sky" laws in force in many States, and recently sustained as constitutional in the Supreme Court.[27] These laws as a general rule provide that no foreign corporation, partnership, or individual shall sell or negotiate for the sale of stock, bonds, debentures, and other securities except upon being licensed by state authorities. In two of the cases in the lower federal courts in which such laws were held unconstitutional, one of the grounds relied upon was that there was a denial to the citizens of other States of an equality of treatment with citizens of the domestic State in respect to doing business there, so as to discriminate against them in their general rights of contract.[28] In the state laws before the Supreme Court there was no question involved of discrimination against the citizens of other States, the prohibitions imposed being operative with equal force upon home and foreign dealers. The decision of the Court, however, is based upon grounds sufficiently broad to justify such discrimination if it had existed. The measures were held proper means of protection on the part of the States in behalf of their citizens. Any regulation of the character bearing a reasonable relation to the subject-matter of legislation would be proper; and there would be little doubt that regulations based upon a question of residence would be regarded as bearing such a reasonable relation. The Supreme Court, while admitting that such statutes may curb and burden legitimate business, holds that the interests of legitimate business are not paramount to the police power of the States to protect their citizens from fraud.

The intangibility of securities, they being representatives, or purporting to be representatives of something else, of property, it may be, in distant States and counties, schemes of plausible pretensions,

[27] Hall v. Geiger-Jones Co., Caldwell v. Sioux Falls Stock Yards Co., Merrick v. Halsey, October term 1916, No. 438, 386, and 413, decided January 22, 1917.

[28] Bracey v. Darst, 218 Fed. 482; Compton v. Allen, 216 Fed. 537.

requires a difference of provision and the integrity of the securities can only be assured by the probity of the dealers in them and the information which may be given of them. This assurance the State has deemed necessary for its welfare to require; and the requirement is not unreasonable or inappropriate. It extends to the general market something of the safeguards that are given to trading upon the exchanges and stock boards of the country, safeguards that experience has adopted as advantageous. Inconvenience may be caused and supervision and surveillance, but this must yield to the public welfare.

It will be seen that, with the possible exception of the "blue sky" legislation, the statutes which have been held constitutional as valid exercises of the police power, although discriminatory in effect as regards the citizens of other States, are all examples of the exercise of the police power in the narrow sense of the word, as relating to the public health, safety, or morality. It has been sometimes contended that the police power ought properly to be always confined to subjects of this nature;[29] and it has been argued that by so doing a definite limit would be placed upon this power so that the uncertainty which now surrounds it would be in large measure removed. Irrespective of the advantages or disadvantages of this scheme, it is not possible of adoption at the present time. In view of the liberal interpretation which has been extended to the term by both state and federal courts in recent years, it may well be said that in scope the police power has no definite limits, but extends beyond questions of the public health, safety, and morality to those of the public prosperity and convenience.

This widened operation of the police power does not seem to have encroached as yet to any appreciable extent on the equality of privileges and immunities secured to citizens of other States.[30] Can it possibly be so extended here? Could a State validly pass laws granting privileges and immunities to its own residents, but denying them, or limiting them, with respect to non-residents, not upon the ground

[29] See L. D. Mallonee, "Police Power: Proper and Improper Meanings," in American Law Review, vol. 50, p. 861.

[30] But see Commonwealth v. Shaleen, 215 Pa. St. 595, 64 Atl. 797, in which was upheld a statute restricting to residents the granting of licenses to work as miners in anthracite coal mines.

that such discrimination was necessary in order to protect its people from danger to their health, safety, or morals, but upon the ground that the measure would subserve the public convenience or prosperity, or that the strong and preponderant opinion of its citizens demanded it? It is not believed that this can be done. As respects discriminatory legislation against citizens of other States, it is submitted that this should be regarded as valid only under the exceptional circumstances which call for the exercise of the police power in its restricted sense. To hold otherwise would be to render this part of the Constitution practically valueless. It might be very much to the convenience and prosperity of the citizens of a State that the citizens of other States should be prohibited from holding property, entering into contracts, or suing in the courts, upon terms of equality with themselves; the preponderant voice of the population of the State might very conceivably urge such measures as being in the nature of a public benefit. Yet they would almost certainly be unconstitutional.

Of the various causes which gave rise to the present system of government in this country, none was more important than the desire to do away with discrimination by one State against another. Now, at this late date, should the States be given permission to resume this power of discrimination under the guise of benefit to their own citizens? It is true that it has been frequently held that a State may validly pass laws granting special privileges to certain classes of persons without this being such a discrimination as will constitute a denial of the equal protection of the laws and a violation of the Fourteenth Amendment. The great majority of labor legislation is so justified. But there are not present in that case certain special elements which enter into the case now under consideration. There are not present the aligning of one State against another, the possibility of retaliatory legislation, the resulting bad feeling between the States, the revival of sectional-

ism with its attendant evils, all of which would very possibly, or even very probably, come to pass if the States are to be allowed a practically free rein in passing discriminatory legislation aimed at the citizens of other States, which the widened scope of their police powers in this connection might conceivably give to them. Moreover, such legislation, though perhaps for the benefit of the people of any particular State, is to the positive detriment of the people of the country at large; no such element presents itself in any other sort of valid police legislation. In view of the questionable benefits and probable evils which would result from any discriminatory legislation or action based upon the citizenship of the parties affected, it is urged that the fact of non-residence must constitute a positive danger or threat of danger to the inhabitants of the domestic State in order that the legislation in question may be upheld as constitutional.

CHAPTER VI

Power of the States Over Foreign Corporations

By a foreign corporation is meant, briefly, a corporation organized under the laws of another State or country. The term includes as well those associations which, though they may be declared by the laws of the country of their origin to be not corporations, are possessed of the peculiar features generally attributed to those bodies by the law of the State in which the question may come up. Thus, in Liverpool Insurance Company v. Massachusetts[1] the question at issue was whether the plaintiff in error could be regarded as a foreign corporation. Though what is generally known as a joint-stock company, and by Act of Parliament expressly declared not to be a corporation, it was nevertheless held that the possession by the association of the majority of the essential characteristics of a corporation as understood by the law of this country was sufficient to cause it to be regarded as one in fact; and as such it was held to come within the provisions of a statute of Massachusetts regulating foreign corporations.

In the case of Bank of Augusta v. Earle[2] the question arose whether a bank incorporated by the laws of Georgia, with a power, among other things, to purchase bills of exchange, could lawfully exercise that power in the State of Alabama. It was contended that a corporation composed of citizens of other States was entitled to the benefit of the Comity Clause, on the ground that the Court should look behind the act of incorporation and see who were the members of the corporation; and that if these were found to be citizens of other States, the privileges and immunities of

[1] 10 Wall. 566, 19 L. ed. 1029.
[2] 13 Pet. 586, 10 L. ed. 274.

citizens of Alabama relative to the purchase of bills of exchange should be extended to them. The Court, while holding that the bank could lawfully exercise the power to purchase bills of exchange, reached this conclusion, not by the above course of reasoning, but through the application of the principles of comity. The contention that the members of the corporation were to be regarded as individuals carrying on business in the corporate name, and therefore entitled to the privileges of citizens in matters of contract, would have the result, the opinion goes on to say, of extending to them the privileges of citizens of the other State, while their membership in the corporation would exempt them from the liabilities entailed by the exercise of the same privileges upon the citizens of that State. This result, says the Court, "the clause of the Constitution referred to certainly never intended to give."

In Paul v. Virginia[3] the question was definitely settled respecting the constitutionality of a statute regulating foreign corporations and discriminating against them by the imposition of conditions not required to be met by local corporations. The Court says, speaking through Mr. Justice Field:

> A grant of corporate existence is a grant of special privileges to the corporators, enabling them to act for certain designated purposes as a single individual and exempting them (unless otherwise especially provided) from individual liability. The corporation being the mere creation of local law, can have no legal existence beyond the limits of the sovereignty where created. . . . The recognition of its existence even by other States, and the enforcement of its contracts made therein, depend purely upon the comity of those States,—a comity which is never extended when the existence of the corporation or the exercise of its powers are prejudicial to their interests or repugnant to their policy. Having no absolute right of recognition in other States; but depending for such recognition and the enforcement of its contracts upon their assent, it follows, as a matter of course, that such assent may be granted upon such terms and conditions as those States may think proper to impose. They may exclude the foreign corporation entirely; they may restrict its business to particular localities, or they may exact such security for the performance of its contracts with their citizens as in their judgment will best promote the public interest. The whole matter rests in their discretion.

[3] 8 Wall. 168, 19 L. ed. 357.

The Court goes on to show that if such special privileges as those secured to the incorporators in their own State by a grant of corporate existence were likewise to be secured to them in other States, an extra-territorial operation would be given to local legislation, in no way intended by the Comity Clause, and subversive of the independence and harmony of the several States; and proceeds to point out the evils which such an interpretation of this clause would cause by the indiscriminate admission of foreign corporations, with no possibility of limiting their number, or of requiring them to give publicity to their transactions, to submit their affairs to proper examination, to render them subject to forfeiture of their corporate rights in case of mismanagement, or to hold their officers to a strict accountability for the manner in which the business of the corporation was managed by making them liable to summary removal.[4]

Since the decision in Paul v. Virginia, the rule there laid down has become firmly established, and has been affirmed in a long line of cases in both state and federal courts; such parts of the decision as were not strictly necessary to the settling of the point at issue have also received judicial confirmation upon repeated occasions.[5] The power to ex-

[4] The same conclusion had previously been reached in several lower courts. See Comonwealth v. Milton, 12 B. Monr. (Ky.) 212; Slaughter v. Commonwealth, 13 Gratt. (Va.) 767; Warren Manufacturing Co. v. Etna Insurance Co., 2 Paine C. C. 501; State v. Lathrop, 10 La. Ann. 398; Tatem v. Wright, 23 N. J. L. 429; People v. Imlay, 20 Barb. (N. Y.) 68.

[5] See, e. g., Ducat v. Chicago, 10 Wall. 410, 19 L. ed. 972; Liverpool Insurance Co. v. Mass., 10 Wall. 566, 19 L. ed. 1029; Philadelphia Fire Association v. New York, 119 U. S. 110, 20 L. ed. 342, 7 Sup. Ct. Rep. 108; Pembina Mining Co. v. Penn., 125 U. S. 181, 31 L. ed. 650, 8 Sup. Ct. Rep. 737; Anglo-American Provision Co. v. Davis Provision Co., 191 U. S. 373, 48 L. ed. 225, 24 Sup. Ct. Rep. 92; National Mercantile Co. v. Mattson, 45 Utah 155, 143 Pac. 223; Norfolk and Western R. Co. v. Pennsylvania, 136 U. S. 114, 34 L. ed. 394, 10 Sup. Ct. Rep. 958; Cumberland Gaslight Co. v. West Virginia and Maryland Gas Co., 186 Fed. 385; Home Insurance Co. v. Davis, 29 Mich. 238; Phinney v. Mutual Life Insurance Co., 67 Fed. 493; State v. Hammond Packing Co., 110 La. 180, 34 So. 388; Ulmer v. First National Bank, 61 Fla. 460, 55 So. 405; Railroad Co. v. Koontz, 104 U. S. 5, 26 L. ed. 643; People v. Wemple, 131 N. Y. 64, 29 N. E. 1002.

clude carries with it the power to prescribe regulations regarding the carrying on of business by the corporation after admission by the State[6] and also the power to make these regulations effective by the enactment of penal laws.[7] The general rule, however, that foreign corporations may be so regulated by the several States leads at times into somewhat perplexing situations. Most of these situations, however, it is not within the province of this study to discuss.

In the case of Cook v. Howland[8] a rather nice point was raised in this connection. A state statute authorized foreign corporations to do business in the State after meeting certain required conditions, but by means only of agents who were citizens of the State. The United States Life Insurance Company, a New York corporation, after having complied with the conditions mentioned and having been licensed to carry on its business within the State, constituted Cook, who was a resident and citizen of New York, one of its agents, and asked the insurance commissioners to issue him a license authorizing him to act as their agent in Vermont. This the commissioners refused to do, in accordance with the provisions of the statute. Cook then filed a petition for a writ of mandamus to compel the issuance of such a license, claiming that his privileges and immunities as a citizen of New York were infringed. The Court held in effect, relying chiefly on Hooper v. California, that a refusal of such a license to a non-resident did not deprive him of any rights guaranteed to him by the Federal Constitution, basing this on the ground that the State, having full power to regulate the admission of foreign corporations, may properly require them to do business by resident agents only; and that to license a non-resident

[6] Orient Insurance Co. v. Daggs, 172 U. S. 557, 43 L. ed. 552, 19 Sup. Ct. Rep. 281; Waters-Pierce Oil Co. v. Texas, 177 U. S. 28, 44 L. ed. 657, 20 Sup. Ct. Rep. 518.

[7] Hooper v. California, 155 U. S. 648, 39 L. ed. 297, 15 Sup. Ct. Rep. 207; Moses v. State, 65 Miss. 56.

[8] 74 Vt. 393, 52 Atl. 973.

agent to conduct the business of a foreign corporation in the State would be to give him a right to manage the business of his agency in a way prohibited to his principal, a position incompatible with the governing principles of the law of agency.

The propriety of this decision seems somewhat questionable, although the point is an extremely close one. It may indeed be argued that a State can validly impose any conditions which it may think proper upon the doing of business within its limits by a foreign corporation. But it would not seem that this power of the State permits it to deny to citizens of other States the right to engage in a lawful occupation within it upon equal terms with its own residents. In Hooper v. California the prohibition against acting as agent for a foreign corporation was directed against all persons within the State, so that the two cases may easily be differentiated. It would seem, indeed, that a much closer resemblance is borne by this case to that of Blake v. McClung,[9] elsewhere discussed. Here, in holding void a statute of Tennessee setting forth the conditions to be fulfilled by foreign corporations, whereby it was provided that creditors who were residents of the State should be accorded a priority in the distribution of assets to the payment of debts over all simple contract creditors who were residents and citizens of other States, the Court said:

> We hold such discrimination against citizens of other States to be repugnant to the second section of the fourth article of the Constitution of the United States, although, generally speaking, the State has the power to prescribe the conditions upon which foreign corporations may enter its territory for purposes of business. Such a power cannot be exerted with the effect of defeating or impairing rights secured to citizens of the several States by the supreme law of the land. Indeed, all the powers possessed by a State must be exercised consistently with the privileges and immunities granted or protected by the Constitution of the United States.[10]

[9] 172 U. S. 239, 43 L. ed. 432, 19 Sup. Ct. Rep. 165.

[10] See, also, for limitations upon the general language used in Paul v. Virginia, the dissenting opinion of Harlan, J., in Philadelphia Fire Association v. New York, 119 U. S. 110, 30 L. ed. 342, 7 Sup. Ct. Rep. 108; Ducat v. Chicago, 10 Wall. 410, 415, 19 L. ed. 972, 973.

Constitutional Guaranties of Protection to Foreign Corporations.—Although foreign corporations are not entitled to the protection of the Comity Clause, they enjoy that of the Fourteenth Amendment; and therefore no State may deprive them of their property without due process of law or deny them the equal protection of the laws.[11] A discussion of what is included under the term "due process of law" would be out of place here; and it will be sufficient to say that corporations are entitled to as full protection under this clause of the Fourteenth Amendment as are natural persons.

The clause according them the equal protection of the laws while within the limits of any one State is of peculiar interest in that its effect is to invest foreign corporations with the equality of treatment in respect to many rights which it was decided they could not claim under the Comity Clause. In general it may be said that the State still retains absolutely the power to exclude foreign corporations from doing business within its limits, except in the case of corporations in the employ of the Federal Government or engaged in interstate commerce. But if the corporation has once entered the State and is doing business there, a discrimination against it on the part of the State in favor of local corporations engaged in the same sort of business is an unreasonable classification and a denial of the equal protection of the laws. This exact point was at issue in Southern Railway Company v. Greene.[12] In that case the plaintiff in error had been doing business for several years in the State of Alabama, having complied with all the conditions prescribed for its admission; and from year to year had paid the license tax required of every corporation engaged in the same sort of business, whether domestic or foreign. Subsequently the State enacted a law, applying

[11] See Santa Clara County v. Southern Pacific Ry. Co., 118 U. S. 394, 30 L. ed. 118, 6 Sup. Ct. Rep. 1132; Smyth v. Ames, 169 U. S. 466, 42 L. ed. 819, 18 Sup. Ct. Rep. 418; Pembina Mining Co. v. Pennsylvania, 125 U. S. 181, 31 L. ed. 650, 8 Sup. Ct. Rep. 737.

[12] 216 U. S. 400, 54 L. ed. 536, 30 Sup. Ct. Rep. 287.

only to foreign corporations, by which the plaintiff in error was assessed a large amount upon its capital. The argument was made on behalf of the State that this statute was capable of justification as an exercise of the right of classification of the subjects of taxation, entirely consistent with the equal protection of the laws guaranteed by the Fourteenth Amendment. It was said that there was a distinction between the tax imposed on domestic and that imposed on foreign corporations, since in the one case the tax was for the privilege of being a corporation, while in the other it was for the privilege of doing business in the State. This argument of Court dismissed rather summarily, calling the distinction fanciful; and went on to hold specifically that to tax a foreign corporation for carrying on business by a different and more onerous rule than is used in taxing domestic corporations for the same privilege, is a denial of the equal protection of the laws.

The effect of this clause of the Fourteenth Amendment is, then, to prevent discriminatory legislation on the part of a State against a foreign corporation, at least as fully as such legislation in respect to non-resident natural persons is prohibited by the Comity Clause, in the case where the foreign corporation has become a person within the jurisdiction of that State. What is necessary on the part of the corporation to bring it within this classification cannot be stated conclusively. The ruling in Southern Railway Company v. Greene makes it clear that when the corporation has entered the State under an express license to do business, and has acquired tangible property there, it has become such a person. Probably the same would hold true in the case that it had entered the State and acquired tangible property under an implied license.[13] The mere ownership of business good-will, on the other hand, has been held not suffi-

[13] See the concurring opinion of White, J., in Western Union Telegraph Co. v. Kansas, 216 U. S. 1, 54 L. ed. 355, 30 Sup. Ct. Rep. 190.

cient to entitle a foreign corporation to the protection of this part of the Fourteenth Amendment.[14]

Foreign corporations are also protected to some extent against discriminatory legislation in that the obligation of contracts entered into by them with a State cannot be impaired by subsequent action on the part of the State. Thus, where a state statute provided that foreign corporations after entering the State should be subject to all the liabilities of domestic corporations, this was tantamount to saying that they should be subjected to the same liabilities as domestic corporations; and such a statute would constitute a contract on the part of the State that the same treatment should be accorded to both classes as long as a foreign corporation which had availed itself of the right to enter under it should have the right to continue in the State as a corporation. A subsequent statute would be invalid and unenforceable, therefore, which differentiated between the two classes of corporations by imposing heavier liabilities upon the foreign than upon the domestic.[15]

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[14] Baltic Mining Co. v. Massachusetts, 231 U. S. 68, 58 L. ed. 127, 34 Sup. Ct. Rep. 15.

[15] American Smelting Co. v. Colorado, 204 U. S. 103, 51 L. ed. 393, 27 Sup. Ct. Rep. 198. See also Chicago, Rock Island, and Pacific R. Co. v. Ludwig, 156 Fed. 152, affirmed in 216 U. S. 146.

CHAPTER VII

Conclusion

In the chapter on the general scope of the Comity Clause it was pointed out that the privileges and immunities commonly spoken of as secured by the Constitution to the citizens of the several States are, as a matter of fact, in no way guaranteed by any provision of that instrument; that the utmost that can be said in this connection is that no State may grant those privileges and immunities to its own citizens and refuse them to those of other States. Properly speaking, therefore, there exists only one privilege or immunity of which it can be said that it may be demanded as of right by the citizens of every State in the Union. That one is equality of treatment, freedom from discriminating legislation. That this is so is far from being clearly recognized or stated by the courts, even at the present time.

It is true that in practically all cases dealing with this general subject it is recognized that discriminating legislation by a State in favor of its own citizens and adverse to those of other States is forbidden by virtue of the Comity Clause. At the same time, however, the language of Judge Washington in Corfield v. Coryell is again and again cited with approval and set up as the authority upon which some state statute is adjudged constitutional or unconstitutional. The list of privileges and immunities given in that case is, in the first place, purely obiter, since the sole point at issue was with respect to the right of a State to reserve the privilege of fishery in its public waters to its own citizens. But, disregarding this fact, the language of Judge Washington is absolutely incompatible with the settled construction of the clause in question; namely, that the utmost that a

citizen of any State can claim by it is as favorable treatment in any other State as is accorded by the latter to its own citizens.

This incompatibility is the necessary result of the basic idea of the whole decision in Corfield v. Coryell. This rests upon the idea that every person has vested in him certain natural rights, which attach of themselves, with no need for any further justification. The State itself has as one of the primary purposes for its organization the securing of these natural rights as against the attempts of other men to deprive the holder of their exercise; for in a state of nature, in which each man is without restraint, there would be no way in which to preserve to every individual those natural rights which he should properly enjoy. Since a primary object of the social body known as the State is to protect its members in the free exercise of these fundamental rights, such rights are to be regarded as inherent in the idea of citizenship. No State may properly deny them to its own citizens. Therefore, in Judge Washington's opinion, a constitutional provision that the citizens of each State should be entitled to all privileges and immunities of citizens in the several States, meant simply an extension of the principle that no State could deny to its own citizens these fundamental principles so as to include the citizens of the other States of the Union. In its final analysis, then, the language in Corfield v. Coryell means that there are certain definite rights "which belong of right to the citizens of all free governments," and which may "be all comprehended under the following heads: the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety." These rights each State must extend to its own citizens and, by virtue of the Comity Clause, to the citizens of other States. Beyond these there would necessarily be no rights which a citizen of one State could claim in another.

It is evident that there is nothing in common between this

idea of a number of defined rights which are absolutely secured to citizens of each State in every other State, and the idea that the most the citizens of one State can claim in another is the same treatment as that State affords its own citizens, except with regard to the exercise of public rights and in so far as the safety and the welfare of the citizens of the State demand police legislation to the contrary. As it happens, the private rights with regard to which the citizens of each State may demand a freedom from discriminatory legislation, and the "fundamental" rights spoken of by Judge Washington, are largely identical. Probably it is for this reason that the courts of the present day still cite the case of Corfield v. Coryell so frequently with approval. Nevertheless there is an essential difference between them; for if these rights are conceived of as fundamental, they are absolutely guaranteed, while according to the correct view they are secured only in so far as they are granted by each State to its own citizens. According to the proper interpretation of Corfield v. Coryell, no State may deny these rights to its own citizens, and consequently no State may deny them to citizens of other States; according to the accepted construction of the Comity Clause, any State may deny them to its own citizens, and, if it does so, may deny them to citizens of other States. Such differing conclusions cannot be harmonized; and yet, as far as is known, no court has commented upon the incompatibility between them. The often-quoted definition of the privileges and immunities of citizens of the several States given in Corfield v. Coryell is most misleading, and has been practically overruled by the decisions which are based upon a proper interpretation of the clause.

A very necessary result of the older doctrine of fundamental rights would have been to render identical the privileges and immunities of citizens of the several States and the privileges and immunities of citizens of the United States, with the consequent subjection of every act of any

State to the legislative discretion and judicial review of the Federal Government. It is true that in the Slaughterhouse Cases, Justice Miller cites Corfield v. Coryell with approval, and says that the rights secured to the citizens of the several States are the fundamental rights of citizenship, embracing nearly every civil right known to man. But he also says expressly that the Comity Clause declares no more than that each State must grant such privileges to citizens of other States as it grants to its own citizens. He thus falls into the same error of confusion as has just been described.

In the dissenting opinions of Justices Field and Bradley there is, on this point at any rate, a much more logical argument; and, granting the correctness of their premises, the conclusions which they draw would necessarily follow and should have prevailed. They except as correct the definition in Corfield v. Coryell by which the privileges and immunities of citizens of the several States are to be regarded as the fundamental privileges inherent in citizenship in all free countries. Now if it be admitted that there are certain inherent rights of citizenship which belong as such to the citizens of all free countries, then these must necessarily attach to citizens of the United States, for the United States is undoubtedly a free country in this sense. Also these rights are the same for the citizens of every free country, since they are those natural rights for the protection of which the State is established. Therefore, argued the dissenting justices, there can be no difference between the privileges and immunities of citizens of a State and those of citizens of the United States. This line of reasoning is perfectly logical, but it rests entirely on the idea that there are these fundamental rights of citizenship, such as are described in Corfield v. Coryell. The fact that the decision of the majority of the Court was opposed to the conclusion drawn necessarily negatives the soundness of the premises upon which this is based. And the fact that it is no longer an open question as to the distinction between the

privileges and immunities of state and federal citizenship, must have as a direct consequence the result that the idea of fundamental, inherent, natural rights is abandoned; and that the whole basis of Judge Washington's definition of the privileges and immunities of citizens of a State can no longer be regarded as valid.

It cannot be too strongly emphasized, in dealing with this clause of the Constitution, that its whole purpose and its only effect are to prevent discrimination by one State against the citizens of another. To leave each State with the power to visit all but its own citizens with the disabilities of alienage would be to render any idea of an effective Union and a feeling of community of interests among the citizens of the United States an utter impossibility. Such discrimination was in part provided against by entrusting the Federal Government with the exclusive power to enact regulations of interstate commerce, except such as are local in their character and do not demand a uniformity throughout the country. It was early held by the courts that discrimination by a State against the right of citizens of other States to import goods and sell them, or in any way against the products of other States, constituted a regulation of interstate commerce which the States were without power to enact. The part of the Fourteenth Amendment prohibiting the denial by any State of the equal protection of the laws to any person within its jurisdiction, is also a provision operating in a field similar to, though more inclusive than, that of the Comity Clause. But the latter, by its express denial of the right of any State to make citizenship alone a basis of discrimination, is still a most valuable aid in preserving the feeling of nationality which is essential to the preservation of this country as a united whole. It is for this reason that in another chapter it has been argued that the police power of the States should be restricted to a narrow field when residence or non-residence is made the occasion for its exercise. If the States should

be regarded as capable of passing laws discriminating against citizens of other States in cases other than where the fact of this difference in citizenship constitutes a positive danger to their people, then the wide extent to which such power could go would in large measure destroy the efficacy of the Comity Clause entirely, and might easily lead to retaliation upon the part of other States. There would almost certainly ensue a pitting of locality against locality such as would result in the bitterness of feeling and the jealousy between the States which the Comity Clause was primarily intended to prevent. It is believed that such a state of affairs is still guarded against by this provision of the Constitution; that today, as at the time of the founding of this government, this clause may be esteemed "the basis of the Union."

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FRENCH PROTESTANTISM, 1559–1562

SERIES XXXVI NO. 4

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE
Under the Direction of the
Departments of History, Political Economy, and
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FRENCH PROTESTANTISM 1559-1562

BY

CALEB GUYER KELLY

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PREFACE

The brief period between 1559 and 1562, interlacing the reigns of Henry II and of two of his sons, Francis II and Charles IX, was momentous in the history of French Protestantism. Consequently studies in diplomacy and "la haute politique" of that epoch of four years have been vigorously pursued, but the social and economic questions have been inadequately treated. Indeed, much of the real nature of the reign of Henry II and of the growth of the Reform during his incumbency is obscure. Nothing like the "Catalogue des Actes du roi François Ier" as yet exists for the reign of Henry II. Therefore it has seemed to the writer eminently desirable to begin an investigation of the development of Protestantism through the operation of social and economic forces, particularly among the industrial and working classes. The economic activity of the Huguenots reveals one of the aspects of their social life, and their commerce forms one of the great chapters in world history. Adequately to present the subject of their economic work, whether agricultural, industrial or commercial, two factors must be examined. One comprises the Huguenots themselves, their genius, work, and capital, and the other includes the nature of France,—its plains, mountains, waters, and coasts.

The unexplored domain of the Protestant resources has proved alluring. The handful of English works and even most of the French volumes devoted to Protestantism of the sixteenth century treat in a most cursory manner this vital phase of the Reform. An exception is Professor J. W. Thompson's "The Wars of Religion in France." Biographies rather than general history seem to have occupied the majority of the writers on the France of Louis of Condé and Francis of Guise. Nevertheless, the Huguenot stamp

upon the home industry and foreign trade of France is unmistakable and indelible. As early as 1546 the Venetian ambassador Cavalli wrote that the commerce of Paris, "le coeur de la chretienté," was very great. In 1560 the streets of Paris "were cumbered with wagons, mules, and shoppers," while there were 40,000 silk workers at Tours, and 10,000 métiers at Rouen. In 1910–12 the writer collected convincing evidence in Africa and the Levant that the modern colonial France may be traced to the efforts of the hardy Huguenot mariners of Coligny. As a modest introduction to an important subject the results of considerable inquiry are here submitted.

Grateful acknowledgment for suggestive criticism is due Professor Nathaniel Weiss of the Bibliothèque du Protestantisme Français, Paris, Professor James Westfall Thompson of the University of Chicago, and Professor John Martin Vincent, of the Johns Hopkins University.

Caleb Guyer Kelly.

Baltimore, May, 1918.

FRENCH PROTESTANTISM: 1559-1562

CHAPTER I

Social and Economic Forces

The extravagance of Francis I and of Henry II staggers belief. The expenses of Francis I during 1540[1] amounted to 5,174,000 livres. Three-fifths of this sum went to the royal family. One million livres was allotted for gifts and the good pleasure of the king, while half that sum was consumed in the upkeep of the royal tables. "Extraordinary expenses not listed" and "menus plaisirs" accounted for 700,000 livres. Guards and detectives personally attached to the sovereign received as high as one-fifth of the annual budget. In comparison with modern times the standard of exchange in the sixteenth century in France was the livre tournois, which was not a piece of money but a value, or representation of a quantity of precious metal. This varied through the Middle Ages from 98 grains of silver in 1226 to 11 in 1600. The gold coin, écu d'or, in 1561 was exactly equivalent to two livres. Accepting Avenel's estimate that the franc of Francis' reign would be equivalent to three such today, it will be seen that of $10,223,640 spent by the sovereign in 1540, $6,133,184 was squandered by the immediate royal household.[2]

Henry II wasted four hundred thousand écus d'or within two months after his accession. The gabelle, or tax on salt, was extended to Poitou, Saintonge, and Guyenne, raising terrible revolts. Henry was quite "liberal," giving Guise,

[1] Baschet, La diplomatie vénétienne. Paris, 1862, p. 405.
[2] Levasseur, Histoire des classes ouvrières et l'industrie en France avant 1789 (2d ed., 1903), p. 37.

Montmorency, and St. André 800,000 francs at one time.[3] Upon Diane de Poitiers (his huntress of the 42d Psalm!) the king lavished unprecedented gifts. The royal "equipage de cerf" comprised forty-seven gentlemen and fourteen valets, or 64,755 livres expense annually.[4] Often the king would lead the court to Amboise or other game preserves, hunting for a fortnight at a time in order to escape the importunities of the army officers and others to whom he was in debt. When the king traveled, it was with a cavalcade of eight hundred horses.[5]

The court was as prodigal as King Henry. The marriage of Elizabeth of France to the Infant d'Espagne cost 950,000 ducats, nearly eight million francs,[6] but the dowries of Elizabeth and the duchess of Savoy remained unpaid until eleven years after Henry's death.[7] Among other examples of uxorial extravagance might be recounted the 93 livres spent on sweet waters for perfuming the linen used at one of Queen Catherine's pre-nuptial banquets, where there were served 21 swans, 9 cranes, and 33 "trubles à large bec," a rare species of mystic bird. Lippomanni, the Venetian ambassador, remarked that a man at the court was not esteemed wealthy unless using thirty costumes, after different patterns, which he must change daily. In Henry's reign pride in all ranks grew with the increase in wealth and the discovery of the Bolivian mines in 1545. The rapid succession of sumptuary laws showed that luxury was general, for there were eight such between 1543 and 1570.[8] Some ordinances applied to every one, though the majority were meant to check the extravagance of women. By the time of St. Bartholomew's, 1572, the importation of all

[3] Baschet, p. 434.

[4] Edouard Bourciez, Les moeurs polies et la littérature de la cour sous Henry II. Paris, 1886, p. 26.

[5] Pigeonneau, Henri, Histoire du Commerce de la France, 2 vols., Paris, 1885, vol. II, p. 57.

[6] $4,708,200.

[7] Cabié, Edmond, L'Ambassade en Espagne de Jean Ebrard, seigneur de St. Sulpice de 1562 à 1565. Paris, 1902, p. 223.

[8] Baudrillart, H. J. L., Histoire du luxe privé et public depuis l'antiquité jusqu'à nos jours. 4 vols., Paris, 1880; vol. iii, p. 438.

cloth, linen, velvet, satin damask, taffeta, gold and silver lace, armor, swords, daggers, and tapestries had been forbidden.[9] At the meeting of the estates of Orléans advocate Lange of the Third Estate complained of "the superfluity and sumptuousness of the dress of jurors, which surpassed all the effeminacies of the Asiatic and ancient sybarite."

The flaunting arrogance of the king's treasurers was proverbial. One superintendent of finances, de Cossé, filched 200,000 écus d'or in one year.[10] Many of the treasurers had houses and even chateaux which rivaled the king's in elegance, the means to purchase and furnish which they had secured mainly by plundering the populace and cheating the government. One official who was hanged owed the equivalent of half the yearly budget, three million livres!

The cloud of economic discontent hanging over Henry II's unpopular reign broke into a storm by 1559. "French finances are shattered" wrote Bishop St. Croix.[11] For the nine years previous France had been under four times the customary financial burden. The taille, or land tax, levied by Louis XII averaged 600,000 écus, out of a total revenue of two millions.[12] Francis I quintupled the taille and thus obtained the sum of five million écus yearly. Under Henry II the gabelle and other taxes supposedly brought six and one-half millions écus, but in 1559, the year of Henry's death, the receipts showed little more than 3,700,000 écus with which to meet expenses of ten millions.[13] The same year "loans" to the sovereign amounted to fourteen millions écus. Finances were so low that the king tried to economize on Brissac's army in Piedmont in 1557.[14] "In sparing 3000 francs (a month) we shall acquire 100,000 livres' dishonor," said the commander. The humiliating treaty of

[9] Baudrillart, vol. iii, p. 440.
[10] De la Barré-Duparcq, Histoire de Henri II. Paris, 1887, p. 11.
[11] St. Croix, Prosper de, Tous les Synodes nationaux des Eglises réformées de France (ed. Jean Aymon, Rotterdam, 1710), p. 176.
[12] Great Britain, Calendar of State Papers Foreign, No. 1432, Oct. 5, 1560.
[13] L'Hôpital, Michel de, Oeuvres-complètes (ed. Dufey, 5 vols., Paris, 1824–26), II, p. 36.
[14] Duparcq, Henri II, p. 50.

Cateau-Cambrésis was indirectly due to the retrenchment policy. Francis of Guise hurried back from Italy in January, 1558, and instead of attacking the Spanish and English allies in Picardy, by a sudden stroke of genius assaulted and took Calais, and swept the English off the soil of France. Yet this same army of Guise was supported by public subscription, so great was the royal debt.

Money was frequently "loaned" to King Henry by the lords and ladies of the court. The aristocracy had just fallen on evil times. It groaned under poverty at the very time that gold from North America was quadrupling prices and the Renaissance was fostering a love for luxury. The nobles had had to follow the gloomy King Henry about for several years in external wars of disaster. Some, like the constable Montmorency, were bankrupt from paying ransoms amounting to 100,000 francs, or double that sum. The aristocracy clung desperately to the tatters of medieval feudalism. It hated to see the old order disappear, and pleaded against the new centralization. It gave voice to its complaints at the meeting of the Estates of Orléans and Pontoise, in 1560–1561. Aristocratic rights, it said, were being encroached upon by the peasantry, who were trying to rise in the economic and social scale at the expense of their superiors. To meet this rivalry the nobility demanded permission to engage in every line of commercial activity without losing any of its privileges.

The economic discontent, which was hastening the introduction of the Huguenot faith, waxed still more acute when the frail boy Francis ascended the throne. To the astonishment of the Parlement of Paris, one of the king's first acts was to give to "the Cardinal of Lorraine and his brother Francis, duke of Guise, entire charge of finances and the military," on July 11, 1559.[15] Of their complete usurpation of power a later chapter will deal. The severe taxes of the Guises which followed were rarely used to alleviate conditions. Even the infantry, cavalry, gendarmes, and

[15] Archives Nationales (Paris), K 1492, No. 50, Alva to Philip II.

officers of justice remained a long time without pay. Chancellor L'Hôpital's speech before the Parlement of Paris, July 5, 1560, reiterated that the debt of the crown at Francis II's accession totalled 43,700,000 livres besides interest, while pensions and salaries of many, particularly gendarmes, were five years in arrears.[16] The receipts fell short of the expenses by fourteen and a half million livres. With no prospect of the land tax in any section being lowered, it would take the crown revenues ten years to meet the embarrassment. The debt of the king to the Genoese, Germans, Milanese, Florentines and to Lucca amounted to 644,287 ducats.[17] When Charles IX became sovereign, before Christmas, 1560, he began to spend money at the rate of one million livres a month.[18] The Estates General at Pontoise, in the summer of 1561, was held for the specific purpose of finding a way out of the king's financial difficulties.[19]

"France is the dearest country I ever came in," wrote the duke of Bedford in February, 1561.[20] Prices were fearful, indeed. From 1525 to 1575 they rose without any stop and with marvelous rapidity. Gold and silver averaged treble their value of today so that some of the staples cost as high as ninety per cent more than today. Nor were the variations simple fluctuations, for the rise and fall might be triple or quadruple. The high price of beef in the sixteenth century was almost a calamity. In 1500 meat had been abundant, but sixty years later the food of the most prosperous peasants was inferior to that of the servants at the prior date.[21] One writer said: "In the time of my father we had meat every day, the dishes were abundant. But today [1560] all has changed." At Nîmes the average

[16] Great Britain, Cal. St. P. For., No. 763, Dec. 3, 1560.
[17] Ibid., No. 1432, Oct. 5, 1560.
[18] Ibid., No. 430, Sept. 11, 1561.
[19] La Popelinière, La vraie et entière histoire des troubles et choses mémorables avenues tant en France qu'en Flandres et pays circonvoisins, depuis 'an 1562–1577 (2 vols., Basle, 1579), vol. i, p. 271.
[20] Great Britain, Cal. St. P. For., No. 1031, Feb. 26, 1561.
[21] Avenel, Georges, Paysans et Ouvriers des trois derniers siècles. Paris, 1910, p. 193.

consumption of meat per year was 1½ kilos in 1560 against 55 in 1900. A Languedoc proverb iterated the situation: "Ail et viande, repas de richard, ail et pain, repas de paysan." Quadrupeds had the right to pasture but seldom the wherewithal to prosper. In some provinces, notably Limousin, peasants complained that they were deprived of the "right of the second grasses." Before a notary the proprietor had to declare that he did not intend to use said fields for his own profit and would not use them except from March 25 up to the gathering of the first crop of grass. On one of Charles V's journeys across France, the townsmen of Malines had presented to the king with much pomp and vain glory a "vrai phénomène," a bull weighing one thousand kilograms![22] Ordinarily the cows and beef were mediocre, save in Limousin and Lyonnais.[23] In vain the magistrates besought the butchers not to augment the price of meat. The doléances of Normandy contained this plaintive note: "The poor people of Normandy are just now reduced to such extremities that no meats are obtainable; therefore they are trying to exist on fruits and cheese."

Wheat quintupled in price from 1500 to the wars of religion, while the revenue from the land was only two and one half times as great. The hectolitre (2⅝ bushels) advanced from four to twenty francs.[24] The irregularity, so common to troubled epochs in the middle age, recommenced. In 1555 the hectolitre sold for 16 francs in Languedoc and 30 francs in Lille, in the north. In 1562 the same measure cost all the way from 1 franc 35 at Caen, to 33 francs at Tulle. At Nîmes it was 15 francs and at Paris, 26. French wheat rose from an average of 8.08 francs per hectolitre in 1557 to 13.93 in 1562 and 20.70 in 1563.[25] During peace, in 1564, it dropped to 7.85. Avenel quotes the following prices in seven provinces:

[22] 2313 lbs.
[23] Monteil, Histoire agricole de la France. Paris, 1870, p. 175.
[24] Avenel, Découvertes d'Histoire Sociale, 1200–1910. Paris, 1910, p. 56.
[25] Avenel, Histoire économique des prix. 4 vols., Paris, 1894, vol. ii, p. 900.

	Ile-de-France	Normandy	Berry	Orleans	Dauphiny	Alsace	Languedoc
1525	3.80	1.68	3.86	6.94	2.51	3.83	5.19
1561	11.09	5.38	21.90	11.32	14.09	12.08	16.68

The prices of other grains per hectolitre exhibited the same fluctuations:

	Wheat	Rye	Oats	Barley
1525	4 francs	3.30	1.60	2.85
1561	12	9.00	4.25	6.00

These variations in price caused the workingmen great misery, especially as the rise or fall was usually sextuple. To add to the economic embarrassment, the farmer in 1560 harvested not more than 10 hectolitres from 200 days' work, as compared with an average of 37⅓ hectolitres from 300 days in 1912.[26] The discrepancy in the relative number of working days is accounted for by the large number of fête days which the church saw fit to declare. Since the working man observed 89 holy days and 52 Sundays, his enforced idleness amounted to two days out of five.

Because the complex variations in wheat prices made grain too costly for many peasants to buy, much ground remained untilled. This was most annoying, as every place in France was populated as much as was possible under Henry II. The square shape of the country is commodious for containing the greatest population and for supporting intensive farming. Always considered the first kingdom in Christendom,[27] France boasted the richest soil in Europe and unlimited agricultural possibilities, yet was suffering want.

Since the reign of Charlemagne it had been forbidden to buy the fruits of the earth before their maturity; every contract made in spite of this was void. The sale of wheat in the field (en vert) was considered by the ecclesiastical tribunals of the sixteenth century as exactly the same as usury. Dealings in "futures" were therefore relentlessly banned. Minions of the government spied upon the harvesters once the wheat was in the bins. The spectre of

[26] Avenel, Découvertes, p. 171.
[27] Relazione de Giovanni Soriano, p. 357.

speculation caused the authorities to enact severe measures against those who seemed to reserve more grain than they could use. It was forbidden to keep grain longer than two years unless for private consumption.[28] Such a move could only further paralyze activity and distribution. Moreover, when the wheat arrived in the market it could not be opened until a certain hour. Every purchaser had to prove that he bought for his exclusive use. The whip and even prison, besides heavy fines, awaited those who risked any commercial enterprise in grain.

The greatest restraint in the grain trade consisted in the difficulty of communication. Without a consideration of the roads of the time it is impossible to appreciate the barriers to internal commerce. "Le Guide de Chemins" published by St. Estienne (1553), described the great French routes. Though the kingdom spread some 576 miles from Calais to the Pyrennees, and 494 from Finisterre to the Vosges, and contains an area of over two hundred thousand square miles, the total length of the roads was about 15,625, as against half a million today.[29] Two thousand bridges of very bad construction spanned the numerous rivers. The roads were mostly in the natural state. The records show that only two leagues of the main artery, the Orléans-Paris highway, were paved—Orléans to Cercotte.[30] An ordinance of February 15, 1556, provided for the paving of four more leagues on the same road, between Toury and Artenay. Oaks were ordered planted along the routes in 1553 by Henry II. Possibly it was just as well that the order remained a dead letter, for the shade trees would have still further encouraged the robbers and bandits who infested the roads during the wars. The expenses of travel were just as costly as they were in the fifteenth century, so that the transportation of grain by land for great distances was unthinkable. A short trip burdened it with enormous charges. A hectolitre of wheat in transit from Amiens to

[28] Avenel, Paysans, p. 145.
[29] Levasseur, Commerce, vol. i, p. 185.
[30] The league, or lieue, varied from three to four miles.

Rouen, 130 kilometres, was taxed one-third of its value in port duties, brokerage, tolls, and customs.[31]

Navigable waterways, in spite of government orders, were nearly always obstructed by mills or encumbered with toll stations. Of the latter there were in 1562 no less than 120 on the Loire, the longest river in France.[32] As boats plied between the mouth at Nantes and Le Moine, 518 miles inland, the produce must be taxed every four miles. The Loire tolls alone netted over fifteen millions francs in 1570. Though royal edicts in the sixteenth century suppressed many toll houses along the rivers Garonne, Seine, Loire, and Rhone, the economic situation was not appreciably helped. Each boatload of salt in transit from Nantes to Moulins, on the Burgundian Loire, must pay four times its original value. The rate on sugar from Bordeaux to Montauban on the Garonne was two hundred per cent. Skins and spices were carried up the Rhone to Lyons at a still higher charge. In ordinary times at present Dakota wheat can be imported into Auvergne for one per cent of the cost.

Leonardo da Vinci, multifarious of talents, in his capacity as engineer taught the use of canals to the French, among whom were some of the new Lutheran sect. Following the death of the great painter-geologist in 1519, Adam de Craponne conceived the project of uniting the Saône and the Loire with a canal. Lyons, seated at the junction of the Saône and the Swiss Rhone, might have been reached from the upper Loire by a 25-mile canal. Digging began in 1558 but was terminated abruptly when King Henry was mortally wounded by the lance of Montgomery in the early summer of the following year. A 40-mile canal would have sufficed to connect the Seine and Saône (Rhone) systems, near Dijon, forming a north-to-south artery of trade. The Garonne basin in the southwest might even have been linked to that of the Rhine in the northeast boundary by three canals with a combined extent of less than one hun-

[31] Avenel, Découvertes, p. 171.
[32] Levasseur, Commerce, vol. i, p. 187.

dred miles, but we must consider this period without serious artificial waterways.

The surface of France may very properly be likened to that of England, with the distinction that while in the latter the mountainous tracts are in the north and west, in France they occur in the south and east. All the great rivers, save the Rhone, flow either from east to west or from south to north. This hydrographic uniformity of itself promoted the exchange of produce between any section of France. The navigable rivers of the kingdom traversed seven thousand kilometres (4330 miles), two-sevenths of the road mileage in 1558. The value of connecting canals was already apparent. Prominent among the agitators for such projects were the Calvinist coteries of government officials in those big towns which would profit from such a venture, notably Lyons, Orleans, and Montauban. Were Da Vinci alive today the fruition of his thought would stand revealed in a canal system of twenty-three thousand miles—four times the distance from Calais to the Mediterranean, but these dreams were unfulfilled in our period.

With such serious defects in the ways of communication and the means of transport grain could scarcely have traveled at all. So it happened that with two good crops in succession in a province, the price fell to nothing, while one or two bad seasons brought excessive prices. This double embarrassment occurred in the same region every few years, or during the same year between two regions only a little distance apart, for the simple reason that public opinion in those days practised protection on a plan exactly contrary to that of today.[33]

People were so preoccupied with the interest of the consumer that they were always afraid of starving, while they seemed to care little about the lowering of prices, which affected only the cultivator. Some of the city governments, like Nevers, Maçon, Nerac, and Caen, Pharaoh-like, stored up wheat for their citizens in the plentiful years. This

[33] Avenel, Paysans, p. 43.

hysterical protection extended to the coast provinces. Forts to keep off the Algerine pirates from Dauphiny and Languedoc, and Spanish, English, and Flemish privateers from Gascony, Saintonge, Poitou, Brittany, Normandy, and Picardy might be built on one severe condition: the overlords must promise King Henry that they would export no wheat by sea! Yet, unless the owner wanted to pay one-third the value in internal duties, the grain must be sent by water.

Other items difficult to catalogue swelled the expenses of the cultivator. The insatiable greed of neighboring provinces kept the grain from circulating freely. Though their products were somewhat diverse the adjoining divisions of Normandy and Brittany, of Berry and Burgundy, erected effective financial barriers to mutual intercourse. The governor of each province levied a private tax on the grain in transit through his domain. The coastal provinces might not send wheat abroad, the interior provinces were precluded from interstate commerce. Even intraprovincial commerce in cereals was prescribed in many cases. Worst of all, the merchant was often compelled to let his grain go according to a scale of prices fixed in accordance with the good pleasure of the authorities. This again was protection in conflict with the public interests valued by modern standards. Many provinces remained full of wheat and empty of money.

The high price of cereals caused the peasant to put a great part of his wealth in bread. Avenel has estimated bread as two-fifths of the workingman's diet.[34] Least of all the commodities had bread increased in price in the seven centuries prior to the sixteenth, yet it cost twice as much in Henry II's day as under President Poincaré. In a peasant home with an annual expenditure of 800 francs of food a rise of one-third in the price of bread meant an extra outlay of 110 francs. It varied from 15 per cent in well-to-do families of the working class to 90 per cent in very poor families. The rich ate white wheat bread. The Parisians ate

[34] Avenel, Déccuvertes, p. 168.

white bread only on patron saints' days. In good years the workman subsisted on "dogbread" of wheat and rye, rye, barley, millet, and buckwheat: in bad years, oat bread.[35] According to his financial need his bread ran the gamut of colors: white, grey, yellow, brown, and black. An old Provençal proverb points out that "the horses who plow the oats are not those who eat them." As formerly in Russia, Roumania, and Egypt, whose inhabitants had scarcely sufficient to eat, there were exported yearly millions of bushels of grain, so this absurd yet true condition held in old France. the average citizen groaned under both extremes of surfeit and need.

France has always stood first in wine production. Viticulture was introduced into Gaul (Marseilles) by way of Greece, and during the first century was confined to the Allabroges on the Rhine and to the Bituriges on the Gironde. In the middle ages wine was the usual French drink. The vine was found all over France even in those sections where today beer and cider are drunk. Climatic conditions alone prevented its cultivation in the departments stretching from Finisterre to Flanders. The traveler will recall that France is of a gently undulating character, so important for the proper exposure and ripening of the white, red, and black grape. Much of the soil of France is adapted to vineyards, being clayey, quartzose, graveled, and silicious. In contrast to the climbing vine system the cultivators used the dwarf plant method.

No branch of agriculture required more minute attention or paid so rich dividends. Cato's remark that wine is the most profitable production was amply borne out in France prior to 1560. With salt it was one of the favorite sources of government revenue. Fifteen millions yearly rolled into French coffers through the wine trade. The prices obtained overshadowed even the receipts from the Cyprus wines of Nicosia and Famagusta. Bordeaux as always was the chief distributing port, especially to those foreign and

[35] Baudrillart, Luxe, vol. iii, p. 440.

home regions where the mass was celebrated. Unlike wheat and the general cost of living the price of wine fell until 1600, a sign of agricultural progress. But wine composed but six per cent of the expenses of the working class. At the outbreak of the wars the beverage rose to 17 francs per hectolitre; in the centuries since it has decreased by 13 per cent.[36] Beer, soaring in price along with its ingredients of oats and barley, rose from five to eighteen francs the hectolitre by 1560, more than twice the present cost.[37] Flemish and Frisian beer in 1560 cost nine times as much as three years before. Cider varied from 1 franc 50 to 14 francs.

The main economic hardship was that the best white wine sold poorly if far from a town, while the cheapest brand brought too liberal prices if the consumers were near the place where it was raised. A worse plight was precipitated in 1560. To the dismay of many towns, which opposed the execution of the Edict of Amboise on the ground that wine and the vine were the only means of livelihood, a government octroi was laid for six years on all wines.[38] The rate was fixed at five livres for each measure of wine, a terrifying move in such troubled times.[39]

Vegetables and spices accounted for seven per cent of the total expenses of the workingman of 1560.[40] Arable land in France comprised only a little less than half the area of the kingdom, and gardening was circumscribed by the small variety of vegetables. It would be anachronism to speak of

[36] Avenel, Découvertes, p. 168.
[37] Avenel, Paysans, p. 202.
[38] Mémoires de Claude Haton, p. 331.
[39] The principal places producing wine were: (Auvergne) Thiers and Limagne; (Berry) Aubigne, Issoudun, Sancerre, Vierzon; (Blésois) St. Dié, Vineuil, le Grouets de Blois; (Burgundy) Auxerre, Beaune, Coulanges, Joigny, Irancy, Vermanton, Tonnerre; (Champagne), Aï, Avenay, Epernay; (Dauphiny) L'Hermitage; (Franche-Comté) Arbois; (Guyenne) Bordeaux, Chalisse, Grave, Médoc; (Ile-de-France) Suresne, Argenteuil, Rueil, St. Cloud, Soissons; (Languedoc) Frontignan, Gaillac, Limoux; (Nivernais) Pouilly and Charité; (Normandy) Cassis, la Ciotat, St. Laurent; (Touraine) Amboise, Azay, le Feron, Bléré, Bouchet, la Bourdaisière, Claveau-la-Folaine, Mailly, Mazières, Mt. Richard, Mt. Louis, Nazelles, Noissy, Landes, St. Avertin, Veret, Vernon, Vouvray. Avenel, Paysans, p. 209.
[40] Monteil, p. 159.

the artichoke, asparagus, tomato, melon, and eggplant in the reign of Francis II. Cabbage did not appear until the eighteenth century, nor did potatoes until the reign of Louis XVI. Certain vegetables have disappeared or lost their importance since 1560, such as hemp, poppy leaves, bovage leaves eaten as salads. Others, like hops, beets, and tobacco appeared for the first time.[41] Flour, peas, beans, and lentils were all prominent on peasant tables. At the period of the religious wars peas cost 12 francs the hectolitre in Languedoc, 15 francs in Orléannais, 26 in Dauphiny, and 39 in Flanders. Beans and peas were of those rare merchandises which simultaneously dropped in price and diminished in quantity. The ancient oils, appetizers for the salads of poppy and the meagre variety of other vegetables, cost one-third more than our olive oils and double the price of oils used by the working class in 1914.

Dairy products were especially expensive, though much cheaper than meat. Today butter and milk are ten per cent cheaper than four centuries ago. In the fifteenth century butter brought 49 to 60 centimes the kilo.[42] Under Charles VI and Charles VII the price was 1 franc 50, then down to half a franc in the time of Francis I. Under Charles IX it was up once more to 1 franc 25. The cows gave only a pound and a half of butter a week. Milk cost thrice as much from November 1 to May 1 as during the rest of the year, because the cattle were milked only half the year. The animals had the right to pasture, but very seldom the means to prosper, while to complicate conditions hay was expensive.

The abstinence of the Roman Catholics from meat during two hundred days in the year increased the cost of fish to fifty per cent more than nowadays. Interior provinces like Burgundy and Limousin were forced to consider sea fish a luxury. When an occasional mail courier drew rein in the inland villages, the citizens found in one saddlebag letters, in the other, fresh fish. The bourgeois ate salted fish, while

[41] Monteil, p. 159.
[42] Avenel, Paysans, p. 195.

the well-to-do bought river fish. The citizens ate only tencle, perch, and barbeau, while the poor used barbillons and grenouilles. In 1559 there were a great many brooks and small streams now long since dried up. The few canals in existence were also stocked with fish. Even with these sources the demand always exceeded the supply. Trout, carp, pike, salmon, and all other inland fish were much dearer than now. Whereas fresh salmon cost 25 francs the hectolitre, the salt and smoked variety might be had for three francs fifty.[43] Trout brought five francs. Huguenot sailors from Rochelle, St. Malo, and Boulogne were just opening up the Newfoundland and St. Pierre fishing grounds in the new world simultaneously with the efforts of the Dauphinese and Languedoc fisherman off the western and northern coasts of Moslem Mauretania. Unfortunately, it was not possible to transport sea fish to any distance, though the price was reasonable in the coast towns. In 1560 a lover of piscatorial dainties at Cherbourg or Bordeaux could buy four soles, two skates, two eels, two mackerel, a millet and a plaice for fifty cents. Cuttle and herring also were cheap, but fish accounted for but three per cent of the working man's expense.[44] Avenel cites the case of the millers' boys employed near the Atlantic and Mediterranean shores, who stipulated in their contracts that they should not be compelled to eat sea salmon more than twice a week, including holy days. The inland provinces were also discriminated against with reference to the oyster trade. Five dozen shelled oysters might be purchased for 51 centimes: in their shells 3 francs was charged for the same quantity. Oysters in barrels cost three times as much in the time of Francis II (5 francs the hundred), as in the fourteenth century; in shells, 9 francs 50, the same as in 1912.

Birds were often found on the tables of the poor in the sixteenth century, especially the swan, stork, rook, bittern, and cormorant. The upper classes ate with more relish a different variety. When Charles IX reached Amiens, in

[43] Avenel, Paysans, p. 204.
[44] Ibid., p. 204.

Picardy, on his epoch-making tour of the provinces, he was presented with a dozen turkeys, besides grey capons, peacocks, herons, pheasants, and quail.[45] France, however, was not sufficiently attractive as an aviary and preserve to suit the fastidious. Flanders contributed larks; Austria, partridges, hares and deer; Italy, quail; England, pheasants; Russia, reindeer. In 1914 the arrivals of game in France were only 1100 tons native and 450 imported, while the quantity of domestic poultry alone equalled 21,000 tons. A similar ratio would have existed in the sixteenth century, had the wishes of the citizens availed. Chickens were not plentiful, but eggs cost one-half as much as modern eggs. Before 1560 a dozen eggs were sold for less than the cost of one egg in the United States today. Fruits, as well as vegetables, improved in France after St. Louis and other French crusaders returned from their quests. From Rhodes, Cyprus and Tarsus came the cherry; from Armenia, the apricot; from Persia and Palestine, the peach and prune; figs, apples, pears, and sugar were also common in the sixteenth century.

Many revolts disturbed the various sections France as a result of the imposition of gabelles and other special taxes upon salt. The impost varied in different provinces, from simple to quadruple. The great number of partial exemptions by the government availed but little to assuage popular indignation at the unreasonable price of this necessary commodity. Up to the sixteenth century in France, even in Franche-Comté and Lorraine, almost the whole of the salt in commerce was produced from the evaporation of sea water, and the processes of refining remained rudimentary for a long time. In 1560 vast resources of springs and rock salt deposits lay undiscovered or unworked.

Firewood, in the comparative absence of important coal deposits in France, was rapidly increasing in cost. Though the artificial or ornamental plantations of the kingdom were much fewer in number than those of England, its natural

[45] Baudrillart, Luxe, vol. iii, p. 440.

forests were far more numerous. One-sixth of the surface of the country was wooded, with forests in almost every department. Lower Normandy, the Orléannais and the mountainous boundary of France on the side of Switzerland abounded in trees. Today the French forests represent a value of three billions of francs, but in 1551 there was a fine for cutting down trees except by the lord and his subjects for their own use.[46] No fuel might thus be purchased by the unwooded sections of France during frigid seasons such as the winter of 1562. At Gray, in Franche-Comté, a fine was levied on two poor men who cut down a tree which they thought was dead. A century before the peasants could have felled it for sale. The season of "pacage" (cutting) lasted in most forests only from March 15 to October 5. In some places the peasants revolted (1525–1579) because the wood of the forest fell entirely into the hands of ecclesiastics, who had not paid the overlord for it. The people of Jumièges and Braquetuit in Normandy maintained in a process of 1579 that the forest was common to them and to the abbey to whom it nominally seemed to belong: that by means of a sol per year and by family, they had then the rights of pasture, of firewood, and of the acorns for their swine.[47]

Wearing apparel is much cheaper today than it was in 1560. Changes in the mode increased the expense. There was more difference in the exterior dress of a contemporary of Louis XI and one of Charles VIII than between two citizens of the times of Napoleon and Poincaré. The workman spent a good share of his money on clothes. To get a woolen dress or suit in the time of the early Valois cost one hundred francs or one-eighth of his wages.[48] Very little linen was used because it was twice as expensive as today. Headgear now is more democratic and less expensive. In Francis II's reign a beaver hat, edged with silk or gold, cost one hundred francs (present money) while a felt

[46] Avenel, Paysans, p. 42.
[47] Avenel, Découvertes, p. 68.
[48] Ibid., p. 182.

hat, with pearls, was worth eighty dollars of modern coinage.[49]

Stockings were too expensive for any but the rich. Cloth goods were much the same as today. Shoes on the other hand were very cheap. Sabots cost only 14 to 38 centimes. Footwear of the middle and noble classes was just as inexpensive. At Romorantin in 1558 the "escarpins" of the soldiers were valued at only 1 franc 16. The workingman need spend only one-twentieth of his dress money on shoes. Towels were unknown, and bed clothes were little used in poor families.

M. Paul Lacroix writing with reference to the costume prevalent in France claims that a distinct separation between ancient and modern dress took place as early as the sixteenth century.[50] In fact our present fashions may be said to have taken their origin from about that time. It was during this century that men adopted clothes closely fitting to the body,—overcoats with tight sleeves, felt hats with more or less wide brim and closed boots and shoes. The women also wore closely fitting dresses with tight sleeves. When Henry of England had the famous meeting with Francis I in 1540 he was apparelled in "a garment of cloth-of-silver damask, ribbed with cloth-of-gold, as thick as might be; the garment was of such shape and make as was marvellous to behold."

The French king was attired in equal splendor. France was always ready to borrow from every quarter anything that pleased her, yet never failed to place her stamp upon whatever she adopted, so making any fashion essentially French. The nobles and courtiers of each country were careful to emulate their sovereigns in their attire, and in wearing several gorgeous costumes, all of them in the same style of fashion, every day. A man at court was not esteemed wealthy unless using thirty costumes after different patterns. In Henry's reign pride in all the estates

[49] Avenel, Paysans, p. 250.

[50] Lacroix, Paul, Moeurs, usages et costumes au moyen âge et à l'epoque de la Renaissance. Paris, 1871, p. 11.

grew with more wealth. The villagers wanted to dress like townsmen. The costume of the middle and the humble classes bore a decided general resemblance to the elaborate and costly attire of the dignified and wealthy of their contemporaries. They wore the same short close jerkin, the short doublet, often with loose sleeves, the short cloak, the flat round cap plainly made from simple materials, and the tight leggings and broad shoes with puffed upper hose. The high cost of living and dressing aggravated the economic situation, and made the French Reform doubly certain.

A terrible factor in the France of the sixteenth century was the bubonic plague. In the previous century it had frequently appeared in every part of Europe. Again in the period of the religious wars the pest recurred with grim persistence, but the populace was often more afraid of the headache than of the characteristic red eyes and swollen tongues. Sanitation and sewerage were foreign to that century. The environment for the development of bacteria outside the body was pitifully favorable. Marsh lands were never drained and decaying matter near the houses was piled high, so that the plague was ably seconded by its nearest ally, typhus fever. Nîmes experienced the plague thirty-three times in three hundred years, together with leprosy in 1558.[51] The number of Protestants in Orléans had been greatly diminished when Throckmorton, the English ambassador, was there as Coligny's guest. In May, 1561, the plague was ravaging Paris, Lyon, Dijon, Maçon, Sens, Troyes, Châlon, and Bray.[52] At Provins the town counsellors elected barbers, guards, and a gravedigger. Few of those smitten with this most rapidly fatal of diseases escaped. The Prince of Condé records that practically every village and town was afflicted by August, 1562.[53] Just after the fall of Rouen in October of the same eventful year, the plague was raging in the royal army. The same

[51] Delaborde, Comte J., Vie de Coligny, Paris, 1882, p. 120.
[52] Haton, Claude, Mémoires, 1563–1582. 2 vols., Paris, 1857; vol. i, p. 224.
[53] Mémoires de Condé, 1559–1610. 6 vols., London, 1743; vol. ii, p. 20.

malignant enemy conquered the English army in Havre, causing its surrender in July 28, 1563. In the streets the victims reeled like drunken men, often expiring in their tracks. During 1562 the weekly mortality averaged more than a thousand. Even the gravediggers died from the contagion. The year of St. Bartholomew's 50,000 died in the single city of Lyon. The provinces which suffered most were Bas-Languedoc, Provence, Lyonnais, Burgundy, Champagne, Ile-de-France, and Normandy. The west and southwest seemed exempt.[54] The infection followed the trade-routes, for Toulouse, Lyon, Châlons-sur-Marne, Chalons-sur-Saône, Maçon, Langre, Bourges, La Charité, Orléans, Tours, Moulins, Sens, Melun, Dijon, Troyes, Soisson, Beauvais, Pontoise, Paris, Rouen, Chateau-Thièrry, and the Norman ports suffered more than others.[55] The pestilence was introduced into Languedoc through Spain, and was at its height in July, 1554. Those exposed to infection carried white wands.[56]

Of social conditions poverty has by far the most powerful influence on the spread of plague. The pestilence is subject to the law of periodicity or definite outbreaks, whether appearing on the Euphrates, the Volga, or the Seine. In France the recurrence usually followed years of famine, and naturally the lower classes succumbed most readily. The victims of the upper classes were for the most part barber-surgeons, clergy, and officials whose occupations took them among the sick. Though there were only three years of exorbitant prices for grain and wine in Henry II's reign, drought and frosts often played havoc. In 1547 occurred terrible frosts, along with the plague.[57] The drought of 1557 was added to the alarm and grief over the suc-

[54] DeVic et Vaissette, Histoire Générale de Languedoc (new edition in course of publication), vol. xi, p. 447. Paris, 1733–45.
[55] Haton, vol. i, p. 332.
[56] Great Britain, Cal. St. P. For., No. 824, Nov. 20, 1580.
[57] Mandet, Histoire des Guerres civiles, politiques, et religieuses dans les montagnes du Velay pendant le 16e siècle. 7 vols., Le Puy, 1860, vol. I, p. 63.

cession of Philip II.[58] The earth produced very little. Eggs were 10 deniers apiece. The spring of 1562 augured well, and Haton remarked that the vines promised grapes and raisins more abundantly than for six years. In April and May the bunches were over a foot long, and hopes were high that the tuns would be filled. However, cold and continuous rains destroyed all the crops. Though there had been a warm spring the rains were colder than ice. On June 24 it rained and snowed and became so cold that the heaviest garments were of no avail outdoors. As a result only one-third the usual wine supply materialized and the wheat was ruined. The people, out of work and complaining, believed that "all this showed the ire of God, to which was added the contagious pests all over France."[59]

The possessors of soil in the sixteenth century became rich, while the proletariat became poor in an unheard-of fashion. This was partly due to the fact that wages were proportionate to the movement of the population or the extent of vacant land. Science had not yet broken the old equilibrium between the earth, population, and its products.[60] Not all Frenchmen collectively would have been less rich, but individually they would have been poorer, had France been peopled by only one million in 1560. Levasseur and Merimée assert that economically France could have supported twenty millions of population in the sixteenth century. In 1560 the Venetian ambassador said there were sixteen millions in France.[61] A Venetian syndicate interested in the country in 1566, more reliable than most calculators, estimated the population as between fifteen and sixteen millions.[62] During the wars the population began to decrease, after a rise since 1553.

The workable hectare of land rose in price from 475

[58] Felibien, Histoire de la ville de Paris. 5 vols., Paris, 1725; vol. ii, p. 1059.
[59] Haton, vol. i, p. 331.
[60] Avenel, Paysans, vol. viii, p. 8.
[61] Pigeonneau, p. 173.
[62] Relations des ambassadeurs Vénetiens. 15 vols., Paris, 1838; vol. iii, p. 149.

francs (1501–1525) to 723 francs (1551–1575). In 1560 the hectare ranged from 18 to 723 francs.[63] The gradation in revenue was from 30 centimes to 72 francs. Property did not depreciate so much in those provinces wholly Catholic or exclusively Protestant, where the fighting was least, like Languedoc. The mean hectare averaged: North (Ile-de-France, Picardy, Artois), 263 francs; Midi (Languedoc, Dauphiny, Venaissin), 268 francs; East (Lorraine, Champagne, Bourgogne), 333. In the center of France where the fighting was thickest (Orléans, Limousin, Berry, Auvergne) it fell to 200 francs.[64] In comparing the revenue from the hectare of ground to the price of the hectolitre of grain since 1500, grain had quintupled while the revenue of land was only two and a half times as great. The relative insecurity of exploitation affected especially the Calvinists and Lutherans, who in many districts received much the same treatment as the modern Armenian Christians in Turkey. A decade after the outbreak of the wars the maximum price of the hectare of ground was 3000 francs, the minimum, 13. Four hectares of the first and eighth arrondissements of Paris (near the Madeleine) were worth 160 francs in the reign of Francis I, 5600 in 1552, 606,000 in 1775 and 40,000,000 in 1900.[65]

In the fifteenth century at Paris some houses were falling into ruins, but with the sixteenth there was a change, not only in prices, but also in the houses to which they apply. The jump of the figures is almost brusque. The suburban trend was evident even in the middle of the sixteenth century. In 1550 there were so many empty houses in Paris that the king forbade the building of more in the suburbs, while the population was one-seventh the present census of 2,888,000. Much as the common people were disgusted over the high prices in 1560, the figures rose by leaps and bounds by 1600. A section of 14,000 houses in Paris valued at a fifth of a billion of francs in the preceding century, was

[63] Avenel, Histoire économique des prix, vol. ii, p. 889.
[64] Avenel, Histoire économique des prix, vol. ii, p. 340.
[65] Ibid., Découvertes, p. 118.

appraised at 1,482,000,000 francs in 1610.[66] Building lots which cost two francs the metre in the day of Henry II are sixty-five times as valuable in 1914.

Formerly the authorities of France gave attention to wages only to reduce them, the laws regularly being far more favorable to the employers than to the employed. In the history of wages is the history of four-fifths of Frenchmen four centuries ago, who at birth signed a pact with manual labor, and sold their lives in order to live. The fifteenth century had been most advantageous for wages, when the lands had been useless and fallen almost to nothing. The sixteenth century witnessed the triumph of landed proprietors and the rout of manual workers. The lowering of wages was not sudden, or the result of a catastrophe or public crash. It applied to all professions and proceeded insensibly like a retiring tide.[67]

The laborer of the sixteenth century had but half to live on as compared with his ancestor between 1400 and 1500.[68] The price of work rose 33 per cent, but the cost of living, 200 per cent! The relative values of precious metals remained triple ours of today. In 1560 there was thirty-six times as much silver as gold, thanks to Central and South American sources. Back in the fourteenth century living had been one-third of the cost of today; in the fifteenth, one-sixth. Then gold and silver brought it, in the sixteenth, up to one-fifth of the present cost. It has been estimated that a day's work under Aristophanes, in 400 B. C., brought half a franc (half a drachma), just as two thousand years later, under Louis XIII.[69] The day laborers in the towns received 3 francs 60 under Charles VIII, 2 francs 90 under Henry IV.[70] Deducting the multitudinous holidays the farm hand of 1500 averaged an earning of 306 francs per annum. By the time the religious wars were devastating the country his yearly income had fallen to 150 francs. Pro-

[66] Avenel, Découvertes, p. 118.
[67] Avenel, Paysans, p. 156.
[68] Avenel, Découvertes, p. 150.
[69] Ibid., p. 14.
[70] Avenel, Paysans, p. 25.

portionately to the number of hectares cultivated there were more hands in the country, because there was more need for its culture. Then, too, many of the harvesters and haymakers were often town weavers, who left the spinning wheel or shuttle for the fork or sickle, according to the seasons. From 1200 to 1500 the wages of the servant were based on 187 days' hard labor, maximum, and 150, minimum, with food.[71] The town servant's stipend faded from 282 francs in 1500 to 120 francs a century later. The rural servant who received 138 francs yearly under Francis I saw this wage dwindle to 73 francs at the close of the wars of religion. During the first half of the sixteenth century the carpenters averaged four francs, and the painters and masons 3 francs 60 daily.

Abuses in the function of the trade corporations threw France of the sixteenth century into the throes of industrial transformation, which progressed pari passu with the Reformation. The splendors of the Renaissance, the flourishing of art and the prosperity of industry should not give us a false impression as to the social conditions of the artisans of the period, nor disguise the progress of an evil in the ruining of the corporative institutions. The social situation of the workman in the sixteenth century was not enviable. The literature of the day was not interested in him. He scarcely appears in the romance of Rabelais or the Heptameron. France was not yet an industrial or commercial nation, for the great majority of the people were peasants, small proprietors, artisans, and small merchants, with the bourgeois and gens-de-robe forming the upper class. The economic revolution coincides with the Reformation, which in a great measure became the vehicle of its expression. Rumblings had been heard as early as the reign of Charles VII, but the reigns of Charles IX and Henry III saw the storm break. Especially were the guilds involved in the industrial upheaval. Industrial tyranny had long brooded over the guilds, which since the period of Charles

[71] Avenel, Paysans, p. 4.

VII had the tendency to fall into the hands of a few. Serious economic and political results ensued. The political control of the cities fell into the hands of a ring of the upper bourgeoisie and this oligarchy had gradually squeezed the lower classes out of all participation in the government.[72] As early as 1512 at Nevers and 1530 at Sens, the lower classes had been shut out of the council.

Capitalism, hastened by the increase of the precious metals, was precipitating a further economic revolution of even greater moment than the political transformation. The "gens de metier," whom we shall examine in a succeeding chapter, became a capitalist class, monopolizing the "hords" of the guilds and excluding others from the political ruling class.[73] The ancient guild was becoming a mercantile association conducted by a few wealthy families who regulated wages and fixed the terms of apprenticeship. In 1559 the apprentices in Paris and the provinces were not paid, and were bound by terms of from one to six years.[74] Cheap labor was obtained by increasing the number of apprentices, lengthening the terms of service, and employing raw workmen in competition with skilled labor. While the workman's lot became more and more unhappy it became more and more difficult to cease being a workman. The justice and good will of the master and the respect and obedience of the workman became the exception. It was more difficult than ever for the workman to become a master. Simple companions were being excluded in membership by sons and sons-in-law of masters. Besides, many new charges were added to the old obligations. The summer day for work lasted from 5 a. m. to 7 p. m.: the winter day, from 6 to 6.[75] The scabbard and playing card makers and glovers had an even longer day, from 4 a. m. to 9 p. m. Work might not be made up at night, for the bad lighting was conducive to poor goods. Moreover, the

[72] Thomson, Wars of Religion in France. Chicago, 1909, p. 217.
[73] Ibid., p. 218.
[74] Hauser, Ouvriers du temps passé. Paris, 1899, p. 26.
[75] Hauser, Ouvriers, p. 78.

multiplicity of holidays left only two hundred days when "oeuvres serviles" were allowed. Later it will be shown how the revolution of the fifteenth and sixteenth centuries were profitable to the peasant, though ruinous for the artisan.

The patriarchal regime had remained vigorous up to the sixteenth century. In it each family spun wool, and gave it to be woven to neighboring weavers.[76] The guilds which were perfecting during the period from 1250 onward only partly succeeded in monopolizing trade. There now followed a struggle between labor and capital, between organized and free labor.[77] The cost of living, the lowering of wages, and unfair treatment by the guilds caused the cleavage to grow sharper. A new class of "chambrelons" sprang up. This was composed of those poor and unapprenticed workmen who undertook to work in their own quarters. They saved shop fees by working in their own homes, and sold the results of their manual labor as best they could. Journeymen of this type even traversed parts of Flanders, Germany, and Spain while disposing of their goods. From 1457, when the guild masters first complained of this unapprenticed set, to 1559, this free work had reached the amazing figure of two-thirds of the production in France. Guilds with their strict regulations and money fees could not compete with the new system.

The Reform appeared as the first organized movement of discontent.[78] Thousands of downtrodden workmen were quick to allign themselves with the new movement, not merely for religious reasons, but because the Reform was precisely what they sought,—a protest. Moreover, there poured into France many artisans from Germany, where in the great industrial centers the small workmen had been even more squeezed out than in France, England, and Flanders. These simple cobblers, shoemakers, wool-carders, carpenters, and others wandered over France carrying "the

[76] Avenel, Découvertes, p. 182.
[77] Thompson, p. 218.
[78] Ibid., p. 219.

economic gospel of free labor and Lutheranism."[79] Before the outbreak of the first civil war Protestant recruits were drawn chiefly from wool-combers, joiners, dyers, cutlers, fullers, glazers, pewterers, shoemakers, weavers, hosiers, tailors, coopers, bookbinders, locksmiths, and other trades.

The guilds were becoming dangerous fires of agitation. The confréries were much run down and were accused of favoring monopolies and debaucheries.[80] Each "corps de métier" carried a banner under the patronage of the Virgin and of numerous saints who protected the work.[81] The center of the confréries was the chapels of the saint under whose protection it was. All edicts of dissolution were ineffective. During the sixteenth century the guilds were under governmental suspicion on account of their turbulent assemblies and the "bourgeois guard." By the time of the wars, royalty imposed more directly its authority over the trades in sanctioning their statutes and tracing their rules, while the weights and measures were simplified as far as possible. A little while before it had been quite different. The edict of 1540 placed them all under the watch of twenty horse and forty footmen.[82] In 1559 the "bourgeois guard" was replaced by a permanent body of footmen, who were paid sixteen sous apiece by the master of the town house and four sous parisis by the owner of faubourg houses, in return for keeping watch. On March 3, 1561, this was raised to twenty sous tournois and five sous for the suburbs. An ordinance of 1561 limited itself to saying that many of the confréreis must be used only for divine service, charity and instruction—proof of an effort to reform.[83]

Letters patent of February, 1562 read:[84] "In certain towns

[79] Thompson, p. 219.
[80] St. Leon, Martin, L'histoire des corporations de métiers dequis leurs origines jusqu'à leur suppression en 1791. Paris, 1897, p. 284.
[81] Capefigue, Histoire de la Réforme, la Ligue, et du règne de Henri IV. 3 vols., Paris, 1834; vol. i, p. 281.
[82] St. Léon, p. 284.
[83] Hauser, Ouvriers, p. 167.
[84] Ibid., p. 167.

of the kingdom, especially at Lyons, the guilds had been re-established; that under this pretext the trade people carried on Sundays and week days, by certain persons dressed in masks and other extravagant ways, i. e., by the kings and queens of the trade, the sacred bread decorated with banners diversely painted: they had drums and fifes followed by a great number of artisans, from the house of the head of the confreries to the church. Afterwards they returned in the same procession to the cabarets where the feast had been prepared." So Charles IX abolished the guilds, but in 1564 they had so little decreased that their banquets were again prohibited. Laplanche says there were 10,000 artisans in Paris, according to one merchant, who did not want their consciences changed to that of the cardinal Lorraine.[85]

Chancellor L'Hôpital himself drew up the famous ordinance of Orléans, aimed directly at restraint of the economic tyranny of the guilds, by establishing freer working conditions, and by lightening the burden of apprenticeship.[86] Both the religious and political Huguenots endeavored to effect the revision of the guild statutes as part of their program for reform at the Orléans States-General. The government attempted to stamp out the guilds, whether of religious character or workmen and patrons. Their hoards were ordered spent for hospitals or schools in the several towns, and the municipal officers were made responsible for the edict.[87] Royalty was literally compelling trade associations to be more altruistic. In their extremity the guilds gained the support of the state church by stimulating religious organization. The government in letters patent of February 5, 1562, and December 14, 1565, directly superintended the "confréries de métiers." It was not long, however, before the guilds were acting as nuclei of the famous local and provincial Roman Catholic leagues. Hauser points

[85] Laplanche, Regnier de, Histoire de l'estat de France . . . sous Henri II. 2 vols., Paris, 1836; vol. ii, p. 274.

[86] Isambert, Recueil général des anciennes lois françaises de 420 à 1789. 29 vols., Paris, 1822–27; vol. xiv, p. 63.

[87] Thompson, p. 221.

out that the labor party identified itself with the Protestants, but that the upper bourgeoisie, who dominated the guilds, adhered to Catholicism. At Rouen in 1560 the merchants "declared a lock-out against the workmen who attended Protestant preaching." Montluc in 1562 referred to the Huguenots as novices in organization, guided mainly by their pastors. If we except the example in Dauphiny the Protestants had no early societies similar to the local and provincial Roman Catholic leagues. The latter will be described in a succeeding chapter.

CHAPTER II

The Resources of the Huguenots

The vast political projects of Henry IV and of Richelieu really began with Coligny, the great Protestant. His thought was to avert civil war and guard against its recurrence by opposing to the great power of the house of Austria a united France. For the realization of this plan he relied on the enfranchised Low Countries. This great idea was taken up in due time by Henry IV, but meanwhile, just as Charles IX became mature enough to lend himself to the project, the horror of St. Bartholomew's Eve fell upon a frenzied France.

As to the political ideals of Coligny, that great patriot possessed decided notions concerning a French world-empire. He would submerge religious differences in founding a trans-oceanic domain. External expansion assured freedom of worship and a united France: internal dissensions meant annihilation of religion and foreign intervention, possibly outside domination. To superintend a program of Protestant economic, political, and religious expansion there was no one better suited than Admiral Coligny himself. Ordinances of 1549 and 1583 fixed the jurisdiction of the admiral of France as absolute judge of matters of war and merchandise on the sea.[1] Palandri says that after the treaty of Cateau-Cambrésis in 1558 patriotism was to be subordinated to fanaticism; co-religionnaire meant compatriot, despite nationalities and frontiers,[2] but certainly this spirit did not permeate Coligny and the leading French Protestants. They planned for a united France at home and for colonial frontiers which should expand to four continents.

[1] Levasseur, Commerce, vol. i, p. 194.

[2] Palandri Eletto, Les négociations politiques et religieuses entre la France et la Toscane, Paris, 1908, p. 84.

Theirs was no such policy as that of Henry II, who presented the paradox of aiding the Protestants of Germany against Charles V and crushing the Protestants at home. The colonies of Coligny failed, but mainly because the French government was unfavorable. The calibre of Huguenot refugees who crossed the sea was scarcely less notable than that of the element which emigrated to Germany, Switzerland, England, and Scandinavia. For their numbers the Protestants possessed proportionately more wealth and culture. Though a company under the ban and a despised sect, Coligny's colonists included nobles, chiefs in castles, gentlemen, captains, statesmen, and honest yeomanry. Simultaneously with the introduction by Henry II of the fiendish "Chambre ardente" in the "name of religion," a Havre mariner, de Teston, was designing an atlas, in 1550, which the Huguenot sailors were soon to use with wonderful results.[3] In 1555 the body of emigrants on a ship sailing from Havre was Protestant.[4] The Portuguese sphere of Brazil was the goal of an expedition launched the following year, but the doom of their prospects was pronounced when the renegade Huguenot Villegagnon, leader of the company, read a letter from the Cardinal of Lorraine, restoring him to the bosom of the church. Attempts undertaken in 1560 and 1563 succeeded better than the Florida fiasco of 1565, when the French were massacred by the Spaniards under Menendez. In 1561 Chantonnay, Philip's ambassador, warned the Catholics "on the subject of an armament of heretics mostly gentry, preparing at Dieppe against the Indies, with 10 galleys and 50 guns."[5] The Reform had first entered the port of Dieppe in 1557, when a bookseller who had gone to Geneva on business, returned with some copies of the scriptures. Most of the magistrates became Protestants, and the drapers and weavers accepted the doctrine most eagerly. After driv-

[3] Bourciez, p. 51.
[4] Blackburn, Admiral Coligny and the Rise of the Huguenots. 2 vols., Philadelphia, 1869; vol. ii, p. 67.
[5] Archives Nationales, Paris, K 1495, No. 4, 1561.

ing out the feast day procession of Charles of Lorraine, April 30, 1559, the town became openly Protestant.[6] John Knox preached there for six weeks, with great results for the new faith. Such were some of the evidences of the growing strength of Protestantism.

Levasseur classifies French industrial history into seven natural periods. (1) The Roman period found the artisan a slave of his college under imperial despotism. (2) The period of invasions saw the artisans dispersed, living like serfs on lands of lords or like monks in cloisters. (3) The period of feudalism and the crusades was an epoch of prosperity. The bourgeoisie was born, while the corps de métiers reformed on a new plan, with an eye to privilege and mutual protection. Industry and commerce flourished. (4) The period of the Hundred Years' War was one of cruel misery. The artisan tried to protect himself by multiplying associations and religious bonds. The King put the working classes more directly under his hand. (5) The period of the Renaissance and of the Ligue was one of brilliant development of art and industries, but all the abuses of the corporation were in full blast. The king did not triumph over the spirit of turbulent independence until Henry IV. (6) The period of Colbert found royalty superintending the work. (7) The period of the eighteenth century was that of economists.[7] Our period of 1559–1562 occurs during the fifth cycle, when there was brilliant development of art and industries, but the monopolies of corporations were in full control. The operations of the Huguenot merchant at home and abroad must be considered under those conditions.

The importance of the commercial class in the sixteenth century has been underestimated. It is true that the French were not essentially an industrial or commercial nation at that time. The maritime power of France was negligible along side that of Spain, England, and Venice. In the cities the upper classes of bourgeois and gens-de-robe naturally

[6] Vitet, Histoire de Dieppe. 2 vols., Paris, 1844; vol. i, p. 95.
[7] Levasseur, Classes Ouvrières, vol. i, p. v (preface).

overshadowed the small merchants and artisans.[8] Society was aristocratic and governed by the clergy and nobility, who possessed most of the wealth of the country. Above them, at the top of the social edifice was the king, gradually centering in himself the legal, administrative, and financial organization of France. But the aristocracy in 1559 had fallen on evil days. It was losing its opulence at the very time the Renaissance was fostering a love for luxury and gold from America was quintupling prices. France for thirty years had drunk too deeply from the intoxicating life of Italy—an atmosphere of restored paganism. The nobles clung frantically to the tatters of medieval feudalism, voicing their grievances at the Orléans and Poissy-Pontoise estates of 1560–1561. They protested against the encroachment on their rights by the peasantry, and certainly showed no scorn of merchants when they asked permission to engage in all commercial pursuits, without cancellation of feudal privileges. The new centralization in government was viewed with alarm. The peasants, on the other hand, were restless because they felt they could only climb up the economic and social ladder at the expense of the nobility.

With the economic and religious revolution was occurring a change in the manners of society which affected all classes. New world discoveries and the Italian wars of France were sponsor for a new internationalism. Returned soldiers and workmen from Italy, Germany, Switzerland, and the Low Countries were introducing new manners and customs.[9] Probably the citizen-merchant class was the most contented section of the community. All the changes of the previous half-century had played into their hands: Renaissance, discovery of America, expansion of trade, decline of nobility, and rise of prices. Further, the legal and administrative classes, under the new centralized royal power, were from the citizen ranks.[10] The guild or "corps de métier" was

[8] Thompson, p. 18.
[9] Ibid., p. 220.
[10] Fagniez, Documents relatifs à l'histoire de l'industrie en France. 2 vols., Paris, 1877, vol. ii, p. 55.

a civil person, a religious and charitable society, and as such influential. The municipal franchises of the bourgeoisie still had enough importance in 1561 to excite the solicitude of the royal power. "You should gain four of the principal citizens who have most power in the principal towns of France," said Catherine to Charles IX, "and also the principal merchants, for in that way you will control the elections."[11]

The great commercial fairs constituted one of the very greatest spheres of Protestant mercantile activity and propagandism. For a long period the fairs of Champagne in northern France enjoyed tremendous prestige. Each year in that province there were held successive fairs at Lagne, Bar, Troyes, and Provins, in each case of forty-eight days duration. Bruges finally succeeded Champagne in the estimation of Italian and German merchants. The north of France also boasted one of the oldest fairs, that of St. Denis at Paris. Here were gathered from the eleventh to the twenty-fifth of June year after year patrons from the whole Mediterranean basin. In the city proper all merchants were compelled to close their shops during the fortnight. Dealers in horses and cattle, money changers, and those selling according to weight were permitted to offer their specialties daily; other articles were sold at stated periods. Huguenot mariners were richly recompensed for bringing from the Levant such luxuries as rugs, pearls, porcelain, indigo, perfumes, silks, muslin, cotton goods, ivory, dyestuffs, sugar, camphor, aloes, rhubarb, and laudanum. When ordinances forbade the payment of any gold to the Moslems, French traders discovered other means to prevent the curtailment of their business. Increasing facility of communication witnessed the apogee of the fairs in the sixteenth century.

In 1559 the fairs at Bordeaux, the greatest wine port of France, had not yet been injured by the civil wars. The

[11] Buet, L'Amiral de Coligny et les Guerres de Religion au 16e siècle. Paris, 1884, p. 37.

annual dates were March 1 and October 15.[12] Tobacco was first introduced into France at Bordeaux by Jean Nicot, in 1560, and thereafter this product became one of the staples at the semi-annual fairs.[13] These markets were greatly assisted when five years later Charles IX made them free of taxation and control in return for a payment of 60,000 livres. Bordeaux boasted many factories of pins, paper, morocco, wool, cloth, silk, mixed goods, gold and silver cloth, and swords. It was also a great center for salted fish. Haddock were exported to Brittany, salt salmon to Ireland, herring to Normandy, England, Scotland, Ireland, and Flanders. Sardines and cod were imported from Normandy and Brittany.

Lyons, however, possessed the greatest of all French fairs, rivalling any in Europe. Four fairs were held each year. In the sixteenth century the city transacted business of more than two millions écus d'or per annum. This town of 120,000 souls held the truly wonderful record of 35 millions imports, and 65 millions exports yearly[14] (silver being then fifteen times in value of what it is now). Situated at the juncture of the Rhone and the Saône, it was the natural entrepôt for commerce from Italy and Switzerland and much from Spain, Flanders, and Germany. Fair merchants were compelled to reserve their places a year in advance. In 1450 Lyons had been made the monopoly center of the silk manufacture, and by 1536 silk operators had been relieved of all taxes and military service. While on the tour of the provinces in 1564 Charles IX was amazed at the wealth and commercial prosperity of Lyons.[15] Said the traveler Nicolay in 1573: "Lyons is the place of exchange which gives the law to all the European towns, to which flow people from all places, who have resorted there for the honesty and hospitality of the Lyonnais, and the gain ac-

[12] Levasseur, Commerce, vol. i, p. 189.
[13] Bachelier, Histoire du commerce de Bordeaux. Bordeaux, 1862, p. 111.
[14] Steyert, André, Nouvelle Histoire de Lyon et des provinces de Lyonnais. 3 vols., Lyon; vol. iii, p. 100.
[15] Négociations toscanes, vol. iii, p. 515.

customed to be found there."[16] The poet Charles Fontaine eulogized it thus:

> "Ou est la ville ayant tel bruit
> En echanges, foires, marchandises?
> Nulle mieux que Lyons ne bruit
> Soit les Anvers ou les Venise."

Before discussing the religious aspect of the Lyons fair, it may be said of its economic importance that the total exports and imports of the town (in 1560 one-twenty-fourth the present size of Paris), reached the unheard of figure of one hundred millions écus d'or. The wines and grain of Burgundy traveled only a short distance to Lyons. Silks and velvets were brought from Turin, Toulouse, and Paris; wool fabrics from nearly every province; clocks from Languedoc, Normandy, Auvergne, Rheims, and Abbeville; tapestries of high warp from Rouen, Auvergne, and Fellertin; sword blades from Vienna; cutlery from Rouen, Montauban, Langres, Thiers, Moulins, Falaise; mercury from Paris, Tours, Troyes, Caen, and Rouen; sword scabbards from Paris, Rouen, Troyes, Lyons, and Thiers. Gloves were imported to the fairs from Paris, Issoudun, Vendôme, Montpellier, and Rouen; pins from Puy, Nantes, and Rouen; saffron from Albigeois, Limoges, Rochefoucauld, and Cahors; verdigris from Montpellier; enamels from Limoges; hampers from Dauphiny and Provence; while prayer chaplets of agate, pearl, lapis-lazuli, porcelain, amber, coral, enamel, glass, and wood came from all Christian countries.[17]

The foreign countries of Europe contributed an extensive variety of goods. Germany sent gold, leather, iron, tallow, sulphur, wax, tar, cotton; Augsburg, 30,000 livres worth of fustians yearly; Hungary, Frisia, and Denmark sent horses. St. Gall sold cloth; Mayence, hams. Italy and the Levant exported fifteen millions yearly to Lyons, as follows: silk stuffs, velvet, cloth of gold and silver brocade, gold cloths,

[16] Levasseur, Commerce, vol. i, p. 189.
[17] Steyert, vol. iii, pp. 101 et seq.

camlets (of Angora goat hair), laces, arms de luxe, cloaks, theatre costumes, silk hats, ostrich plumes, straw hats, scarlet cloths, furs, porcelain vessels, marble, alabaster, enamel, Venice glass, Piedmont leather, carpets, articles of Turkish morocco leather, war horses, falcons, and ultramarine blues. Damascus and Corinth supplied rice, honey, and grapes. Smugglers introduced Venetian glass and Genoese silks (worth 200,000 livres), lingerie de luxe, and gold broidered shirts. Holland contributed cambrics, linen, and wool worth 900,000 livres besides cheeses. Flanders traded in tapestries, serges, carpets, lace, linen, armor-trappings; and Antwerp, spices (400,000 livres), and precious stones (half a million livres). England and her colonies sent gold and silver, tin and lead worth three million livres as well as coal, leather, and light cavalry horses. From Portugal there came yearly 800,000 livres in money, perfumes, spices, sugar, honey, wax, alum, dyes, sweetmeats, preserves, figs, dates, oranges, raisins, oils, and wines. The Lyons fairs supplied Spain with wheat, pastel, salt meat, linen, wool, paper, and hardware.[18] In return she shipped oranges, dried grapes, almonds, olive oils, cotton, silver and gold uncoined or ingots to the value of three millions. Raw silk smuggled into Lyons brought two million livres in one year. The values of other Spanish imports received at the fairs amounted to more than a million livres.

In addition to this commercial importance Lyons was the greatest Protestant city in France. Even Cardinal Granvella conceded that the principal citizens were Huguenots, who comprised at least one-fourth the population.[19] The city was radically Protestant on account of its proximity to Geneva, and the tendency was stimulated still more by the great discontent prevailing among the lower classes engaged in silk and other industries. Furthermore, Lyons was the capital of printing, and nearly all the printers, particularly

[18] Levasseur, Commerce, vol. i, p. 208.

[19] Papiers d'Etat du cardinal de Granvelle. 12 vo's., Bruxelles, 1877; vol. vii, p. 467.

the Germans, were favorable to the reform.[20] At least nine hundred homes in Lyons were suspected of Protestantism in 1560. Discontented with their social state, the working class offered a marvelous field for the propagation of Protestantism. The struggle between capital and labor, between the bourgeois aristocracy and the gens de métier, was making itself felt in 1560. It was taken up by the printer's trade where the occupation placed the workmen in intellectual relations with authors, home and foreign. Thus there was opened up a new horizon so that the first champions of the reform from the working class came from the printers' ranks. Though the bulk of the Lyonnais commerce was in the hands of 12,000 Italians, the latter did not oppose the reform. This is not surprising in view of the fact that they were mainly natives of north Italy, from Genoa, Milan, or Florence. Foreign Catholic merchants and artisans were none too kindly disposed toward their Catholic majesties, Francis II and Charles IX, who mulcted Lyons of loans more often than any other French city.[21] The presence of many Swiss and Germans in the town gave Jacques de Savoye, Duke de Nemours, the governor, great anxiety because of the large quantity of arms smuggled into the city under guise of merchandise.[22] Foreign soldiers disguised as merchants attended the Lyons fair in April, 1560. The hand of the Guises was evidently preparing for the inevitable in a city where many causes facilitated the reform. For a long time Lyons had combated the temporal domination of the archbishops. It did not covet the rich domain of the church, like the princes of the north, but even more resolutely than Germany, the town disliked ecclesiastical government.[23] The great numbers of strangers attending the fairs acted as effective Protestant missionaries in a cause already agreeable to the native.

Just as today, many of the prominent French bankers in

[20] Hauser, De l'humanisme de la réforme en France, in Revue Historique, vol. lxiv, p. 271.
[21] Great Britain, Cal. St. P. For., No. 619, Oct. 10, 1560.
[22] St. Sulpice, p. 266.
[23] Montfalcon, Histoire de Lyon. 9 vols.; vol. ii, p. 660.

1560 were of Huguenot persuasion. The Protestant war chest for many years was replenished through the ability of these men of finance to negotiate loans at home and abroad. The resources of the large numbers of the nobility and clergy who professed the reform between 1558 and 1562 were also at the disposal of the Protestant movement. To Lyons fell the honor of instituting the first French bank, in 1543. The system was introduced from Italy to replace the money changers, whose business in those days of diversified coinage was decidedly profitable. Six years after Lyons' innovation, Toulouse established a bank, in 1549,[24] followed by Rouen in 1556. Many Italian banking firms were invited to install branches in 1560. In the meantime the standards of money had improved.[25]

At the same time the right to strike coins was not a royal monopoly and it is interesting to note that the Protestants possessed a distinct money of their own. Independence and financial programs dictated such a procedure, but of its history only a little is known. It is to be deplored that material dealing with a practice which must have been very common is scarce. That mine of historical information, the annual Bulletin of French Protestantism, describes coins discovered in and about Orléans, the central stronghold of Protestantism, which bear the features of Prince Louis of Condé and the legend "Louis, Roi." Condé was really a king at Orléans. He ordered all the gold and

[24] St. Léon, Martin, L'Histoire des corporations de métiers depuis leurs origines jusqu'à leur suppression en 1791, p. 277.

[25] Levasseur, Classes Ouvrières, p. 37.

Until 1533 the great variety of moneys proved a real impediment. Under Francis I a reform was instituted. The standard in the sixteenth century in France was the livre tournois (20 sous, = 60 cents). It was not a piece of money but a value, or representation of a quantity of precious metal, varying from 98 grams of silver under St. Louis to 11 under Henry IV. Avenel considers the livre tournois of 1561 to 1572 equivalent to 3 francs 11 centimes, or 9 francs 30 today. Levasseur estimates it for the same period at 4 francs 84. In contrast to the livre of value was the gold coin, écu d'or, equivalent to exactly two livres in 1561, and varying during the wars of religion from 1 livre 16 sous to 2 livres 5. The extensive trade with England served to circulate the gold crown of 51 francs tournois and the "rose" nobles of 6 francs 12 sous.

silver from the churches to be brought there, while coins were struck from sacred vases and relics, and cannon were cast from church clocks.[26] At the outbreak of the first civil war the Protestants seemed to have plenty of money for immediate necessities, thanks to the riches of the churches of Orléans and Bourges and the Abbey of Marmoutier. The families which coined were those of Condé, Navarre, Porcien, Anjou, Nevers.[27] Damville, son of Montmorency, established a mint at Beziers in 1586. William of Joyeuse had mints at Toulouse and Narbonne. After their acceptance of Protestantism, the people of Montalban made their own money. When Sommerive, governor of Provence, drove the Protestants from his district, he found many new coins serving as money.[28] Many nobles, recent professors of the reform, were minting in their castles by the time of the close of the first war of religion.

Naturally the Protestants were no longer obliged to pay Papal or other foreign tribute. This released a magnificent sum for the home treasury. It is related by the Venetian ambassador in 1560 that the amount of money sent by France to Geneva was incredible.[29] Moreover, it was a superfluous requirement of the edict of January (1562) that any raising of money among the Huguenots was to be wholly voluntary and not in the form of assessment or imposition. Calvin never had to urge voluntary giving upon the French Protestants, who numbered, according to the estimate of Montesquieu in 1560, half a million out of a population of twenty millions.[30]

"Of the 17 departments contributing the deniers of the king, only three are free, while the others are in the hands

[26] Lettenhove, Les Huguenots et les Guex. 6 vols., Bruges, 1885; vol. i, p. 75. Weill, Le théories sur le pouvoir royal en France pendant les guerres de religion. Paris, 1892, p. 107.

[27] Tobiesen Duby, Monnaies des Prélats et des Barons de France. 2 vols.; vol. i, p. 329.

[28] Ruffi, Histoire de la ville de Marseille. 2 vols., Marseille, 1696; vol. i, p. 338.

[29] Relation des embassadeurs venetiens, p. 413.

[30] Montesquieu, Esprit des Lois. 2 vols., Geneva, 1748; vol. i, ch. xxiii; De la Barré-Duparcq, Histoire de Henri II, p. 55.

of the Huguenots or useless on account of obstacles in the highways," wrote the Catholic bishop of St. Croix, on June 1, 1562.[31] The Protestants let no money pass from the provinces under their control, even destroying the government registers in the towns which they took. Chantonnay, the Spanish ambassador, shrewdly commented that if the Roman Catholics were as active in this manner they would be better off.[32] In some quarters provisions were obtained by forced contributions from the Catholics. The Huguenots intercepted a portion of the dauphin's revenues, which accrued mainly from two widely separated provinces, Dauphiny and Brittany. The latter contributed 520,000 francs yearly. The gabelle of 50,000 crowns on salt and other royal rights in Rouen and Dieppe were diverted when those towns openly declared for Calvin. One writer claims that "Huguenots or robbers" intercepted 13,000 écus d'or sent by Philip to Catherine from Flanders in February, 1563.[33] Loans from Catholic Germany, Tuscany and Venice were also appropriated, evoking vitriolic denunciation from the Guises. One arrogant measure led to retaliatory tactics on the part of the Protestants. An arrêt of Parlement of August 5, 1562, ordered that "arrears of rents belonging to rebels shall not be paid them."[34] In answer to this decree Condé seized upon government receipts from the gabelle and other taxes of the king in all the villages and elections controlled by the Protestants, including even the moneys of the royal domain and revenues of the churches. The taille was imposed on all Huguenots in all towns under Protestant control to find money to pay the cavalry and to obtain other essentials. The priest Claude Haton confesses that the Protestants paid for everything they took (to eat); "not so with the Roman Catholics."[35] In contrast to the Huguenots' method, forced loans were imposed upon small mer-

[31] St. Croix, p. 171.
[32] Great Britain, K. 1497, No. 33, May 2, 1562.
[33] Revue historique, vol. i, p. 490.
[34] Mémoires de Condé, vol. i, p. 542.
[35] Mémoires de Claude Haton, vol. i, pp. 279, 444–5.

chants at the beginning of the second civil war, and even the peasantry were constrained to forced labor.

Financial negotiations between Elizabeth of England and the French Protestants proved tedious and disheartening. The Huguenots looked to England for a loan of 100,000 crowns, offering as security their leaders' notes, or else bonds of some of the most notable Reformed churches, as Lyons and Rouen. Guise sent Count de Roussy to England to discover Elizabeth's intentions and the military state of England.[36] Early in April, 1562, Condé had asked support from Elizabeth, after receiving assurances of her interest in March.[37] Beza remarks that if Elizabeth had said a few firm words in espousal of the Protestant cause and had expressed her firm purpose never to return to the religion of her bloody predecessor, she probably would have decided the French nobles who were wavering between the two religions. Possibly she was too much embroiled at home to be the most powerful ally the French Protestants could have. Possibly England could not break with Spain because of commerce with Holland and Flanders. Whatever the cause, she refused help to defend Rouen until too late. Two offers were presented to Condé and Coligny by the English queen. On condition that she should receive Havre, England would pay in Strasburg 70,000 crowns, besides granting three hostages to the count Palatine. Twenty days after receiving Havre 40,000 crowns were to be paid at Dieppe, and in twenty more days 30,000 crowns, to be employed by Condé upon the defense of Rouen, Dieppe, and the rest of Normandy. Havre was to be returned when Calais was restored to England and the advance of 140,000 crowns repaid. The Hampton Court Treaty of September 20, 1562, finally extracted the promise of 100,000 écus d'or from Elizabeth, who received Calais and Havre on condition of manning the latter with 3000 troops. In the last analysis, the niggardly policy of Elizabeth was fatal.[38]

[36] Bèze, T. de, Histoire ecclésiastique des Eglises Réformées. 3 vols., Antwerp, 1580; vol. i, p. 373.
[37] Great Britain, Cal. St. P. For., No. 374, July 27, 1562.
[38] Ibid., No. 289, Feb. 12, 1562.

In further consideration of the foreign sources of revenue, it is necessary to study the Huguenot ports and cities of commerce together with the elaborate trade routes exploited by the Protestants. Rouen was considered the second town in France by the Venetian ambassador. Even in 1535, there were two hundred ships in its harbor at one time. This great Seine port flourished in spite of custom duties amounting to one-third of the trade, and was rich in its four fairs and cloth manufactures. In contrast to Bordeaux, the Norman port had much wheat for export, but little wine.[39] Metals and lumber were imported from England, Spain, and even Finland and Normandy; skins from Germany and Scandinavia; salt fish from England, Denmark, and Holland; wines and oil from the Italian peninsula; salt and spices from Brittany and Poitou; wines, honey, and wax from Aquitaine; almonds, pepper, and spices from Italy. The exports consisted of cloth, lumber, guano, worked iron, coal, grain, salt, and cider of pears and apples.

Dieppe traded with Spain, Portugal, and Africa, and claimed the navigator, Cousin, who touched the Amazon in 1488. Boulogne's trade was mainly with England and Antwerp. Harfleur was only a fisher village at the beginning of the sixteenth century, but in 1520 Francis I made it a seaport (Havre-de-Grâce) and forever exempted it from gabelles and tailles. Honfleur, across the bay, was noted for its fishing. St. Malo, in Brittany, did an important trading business with Spain during the sixteenth century. La Rochelle exported wine and salt. The Protestants of this port armed 29 "terre-neuviers" between August 27, 1561, and March 6, 1563.[40]

Bordeaux was the greatest wine port. All countries celebrating the mass had representatives at this Garonne city. Dried fruits, grains, oils, and arms were also sent out, while wool, leather, beef, cloth, and salt were being brought in. Captain Lassalle, a Huguenot, suggested that eight warships

[39] Relations . . . vénetiens, vol. i, p. 45.
[40] Lehr, H., Protestants d'autrefois: vie et institutions militaires. Paris, 1901, p. 95.

be constantly kept on the Guyenne coast.[41] Toulouse and Agen would supply one ship each of 500, 200, and 100 tons. The principal ports of the sixteenth century were on small rivers, the ships registering a small tonnage. Artillery, he said, could be secured from the metal clocks dismantled at Bordeaux. To guard the entrance to the large rivers, Lassalle suggested a floating battery-platform holding five hundred men.

Narbonne as a port was not important after the fifteenth century, while Montpellier declined just before the period of wars of religion. Bayonne secured horses, silks, and spices from Spain. The Basques were splendid sailors, and their villages included many Huguenots. Marseilles exported wood, wine, cloth, wool, oil, carpets, saffron, soap, and iron. Her imports included spices, silks, sugar, leather, oils, wheat, ostrich plumes, and coral from Africa, and from the Levant, gum, figs, aromatics, sponges, and Cyprus wines. Orléans, inland, was a great trading center. In November, 1560, the king imposed upon the Protestant stronghold, "ce nombril du royaume," a tax of 10,000 francs[42] and demanded 100,000 more with which to pay his troops.[43] The chief officials were notoriously Protestant. The reform seems to have entered particularly those towns that had an almost ecclesiastical complexion.

Dijon, on the other hand, was a great commercial town on the Savoyard frontier, with many nationalities in its working and commercial classes. The Geneva influence was paramount, and the first Protestants there came from among the artisans.

From these ports and towns were despatched the expeditions with which Coligny hoped to build a colonial empire. In Brazil, Florida, Madagascar, Canada, Africa, and the Indies, the Protestants played a preponderant part. Stu-

[41] Archives historiques du départment de la Gironde. 35 vols., Bordeaux, 1859 et seq.; vol. i, p. 120.

[42] Aumale, duc D', Histoire des Princes de Condé pendant les XVIe et XVIIe siècles. 2 vols., Paris, 1863–4; vol. i, p. 104.

[43] Great Britain, Cal. St. P. For., No. 726, Nov. 18, 1560.

dents, diplomats ,soldiers, doctors, merchants, and workmen, fleeing abroad to escape persecution at home, were fitting into the unselfish plans of the great Huguenot admiral. The latter had been declared judge of war and merchandise on the sea in 1549, just as commerce was making great forward strides.[44] Courts and chambers of commerce were instituted by Charles IX in 1563, at a time when customs duties were becoming a regular instrument of governmental finance and police, but influences were already at work to cripple the trade of the Huguenots. The ordinances of 1552 and 1567 prohibited the import into France of cloth of gold, silver, silk, and cloth, while the exportation of wool and "chanvre" was forbidden "without special permission of the king" (that is, of the Guises). The customs in Protestant Normandy were equivalent to one-third of the value, so that the peasants were forced to leave Picardy and Normandy on account of the imposts.[45]

Protestant expeditions established spheres of influence in North America, the Indies, the Levant, north and northwest Africa, Spain, England, and Scandinavia. The religious and commercial program actuating every sincere Huguenot was simply expressed by an average draper, quoted by Laplanche:[46] "But in all affairs in which those of the religion try luck with us, I consider them brothers and good friends. I know of a good number of our trade, who before they were separated from our religion were as honest people as it is possible to find. I begin with the third estate. The merchants traffic with foreign nations, gain the friendship of kings, find out news, enterprises, and deportment of the same, and acquire experience in several things. Silver and gold come from that. While a gendarme hazards his life once in a while, the merchants risk theirs ceaselessly. The wisest and most learned in virtue and prudence were once merchants, like Solon and Plato."

So vast was the project of Coligny and his followers that

[44] Levasseur, Commerce, vol. i, p. 194.
[45] Relations . . . vénetiens, vol. i, p. 407.
[46] Laplanche, vol. ii, p. 239.

Montaigne was impelled to write: "J'ai peur que nous ayons les yeux plus grandes que le ventre, et plus de curiosité que de capacité.[47] Yet, with all this extended horizon, Africa was easily the cynosure of the Protestant advance. The Barbary states, opposite Marseilles, first appealed to the French. Two merchants of that town, Carlin Didier and Thomas Sinches, began to traffic with the coast tribes. They obtained the Sultan's consent to establish coral fisheries near the isle of Tabarca, in 1560, immediately following the treaty of Cateau-Cambrésis. They then founded an exchange station and coral fishing twelve leagues east of Bône, the "Bastion de France."[48] The coral of Algeria was known in antiquity. Ezekiel refers to it in describing the commerce of Tyre. In Rome it was worn as an amulet to keep off diseases and lightning. There had been coral fishing all during the middle ages by Christians off Algeria and Tunisia, the best species being obtainable off the rocks of Morsa-el-Kharaz.[49] By many it was preferred to the Venetian, Neapolitan, Sicilian, and Ceutan.

French merchants at Algiers imported oil and olives from Tunis; dried beef and butter from Bône; dates and garments for the Moors from Constantine; dried fruits from Numidia; cheeses from Majorca; different colored mantles from Tlemsen; gold, silver, honey, and sugar from Fez and Tetuan.[50] From Europe they introduced cloths of striking colors, carved woods and tables, silks and brocades, saffron, cottons, furs, quicksilver from Istria, iron work, and trinkets. The best medium of exchange between the Arabs and French was firearms, in which trade the Protestant element did not heed the papal bulls which forbade the sending of arms to Africa. Constantine, in north central Algeria, not finally wrested from the Arabs until 1837, was a great commercial center in the sixteenth century. It ex-

[47] Levasseur, Commerce, vol. i, chap. iii–iv.
[48] La Primaudaie, La Commerce et le navigation de l'Algérie avant la conquête française. 2 vols., Paris, 1865; vol. ii, p. 1.
[49] Boutin, Anciennes Relations commerciales de la France avec Barbarie. Paris, 1902, p. 285.
[50] La Primaudaie, p. 190.

ported alum, resin, figs, dates, leather, fine wood, table cloths, bed spreads, tunics, soaps, horses, perfumed woods. Gold and precious stones were brought from the famous gorge of the Rummel, which today is spanned by a bridge second in height only to that at Victoria Falls. Other native products included silk stuffs, spices, cotton, essences, arms, bernous, carpets, fruits, and tin at the same time. It is safe to say that the Protestants seldom indulged in the most lucrative of all African trades, that in slaves.

The provinces of Dauphiny and Provence sent many traders to Bougie, another Algerian coast port. This town was noted for its leather, wool, oils, and wax, but was strictly ruled by the Mohammedans. While the muezzins called from the minarets the invitation to prayer each Friday, the foreign shops had to be closed with the French inside. True to the Koran, the Moslems vexed their merchant guests as much as possible, but in spite of the law the Arabs of Bougie liked the wine from Marseilles and Bordeaux. Rigorous duties were imposed upon the merchants to the extent of one-tenth the value of exports and imports. Agreements were entered into from time to time and the Mohammedans liked the "treaties," for every renewal meant new presents. On the other hand Moorish corsairs constantly cruised off Dauphiny and Provence, on the lookout for slaves. Roman Catholic captives were preferred, for the Algerines were under the impression that the confession rendered them more faithful and obedient. Some masters even required that their slaves go to mass.[51] At the same time French slaves were cheaper, for the emirs never knew when the French king might withdraw them by treaty, although the corsairs only observed the agreements when they pleased.

Mas-Latrie gives a similar list of the exports and imports of French north Africa.[52] Slaves, salt fish, horns, leather, wheat, barks, sugar, wax, cloth, tinctoral sub-

[51] La Primaudaie, p. 196.

[52] De Mas-Latrie, Traités de Paix et Commerce avec les Arabes au Moyen Age, vol. i, p. 397.

stances, herbs, basket work, salt, metals, fruit, carpets, went to be sold in France. Mauretania received arms, birds-of-chase, money, perfume, mercury, hardware, wood, metal, precious metals, dyes, wines, cereals, medicines, glasses, spices, textiles, lacquer, jewels. The opportunities of the Huguenot merchants were therefore numerous and lucrative.

The foreign trade of the Protestants in France penetrated also into North and South America. Even Malaysia was visited as early as 1527.[53] Brazil, as we have seen, had been the site of the Protestant expedition under the traitor Villegagnon. From the stupendous territory of the Amazon the traders took skins, glassware, spices, parrots, rubber, and a splendid quality of cotton. The present French sphere of Guiana was anticipated when indigo, dyes, and pepper were obtained from the north coast of South America. The Spanish monopoly in the fabulously rich land of the Incas was threatened when the French trading vessels touched Peru and Chile, furnishing gold, salt, skins, and silver. Canada, a prolific source, was neglected during the wars except by fishers of cod and dealers in skins.

In the Levant the French political and commercial influences in Moslem states was predominant in the sixteenth century. Urged by the great Huguenot admiral, the mariners of France penetrated to the Aegean, the Black, and the Red seas. Always favored as a universal language, French vied with Arabic in the Levantine bazaars. The Lion of St. Mark of Venice and the pennants of Genoa were not better known in Greece, Turkey, the Barbary States, and the Aegean islands than the flag of France. Relations with Turkey were close. Francis I had concluded several treaties with the Sublime Porte, in order to secure his aid against Charles V of Germany. Enemies of France and Francis have maliciously hinted that had not the differences been so great, the French monarch would have embraced Islam, if only to further his political aims. The contest continued with others,[54] and it was only natural that

[53] Levasseur, Commerce, vol. i, chap. iv.
[54] Lettenhove, Les Huguenots et les Gueux, p. 10.

Henry II should continue to thwart the plans of Spain. The demonstration off the Naples coast by the Turks in 1558 was obviously the result of an arrangement with France, yet in the same year the treaty of Cateau-Cambrésis left out of consideration entirely the Sultan Soliman, and that ruler might well feel that he was simply a pawn in European politics. To an ambassador of Henry II, he sent this message: "Write your master that if it is difficult for old friends to become enemies it is less so for old enemies to become faithful friends."[55] The death of the king ended the official French treaties with the Porte. In 1563 a French envoy to Constantinople was four years overdue. Here was the opportunity of the Huguenots. Skillfully they emphasized to the sultan the difference between Catholics and Huguenots, between the respective foreign policies of the Guises and court favorites, and of Coligny. The admiral very probably grasped the opportunity and allayed Moslem dissatisfaction by installing French consuls of Protestant persuasion in the ports of the Levant.

French consulships to the Orient date from 1557.[56] The roots of the consular institution go back to the second half of the middle ages. In the commercial towns of Spain, France, and Italy the merchants were in the habit of appointing by election one or more of their fellow-merchants as arbitrators in commercial disputes, who were known as "Juges consuls" or "Consuls marchands."[57] After the crusades Spanish, French, and Italian merchants settled in the Levant, built factories, and introduced the institution of consuls, the merchants belonging to the same nation electing their own consul. The functions of these consuls became, moreover, gradually more extended through treaties, called "capitulations," between the home states of the merchants and the Moslem monarchs on whose territories these merchants had settled.[58] Finally the power of consuls included

[55] St. Priest, L'ambassade de France en Turquie, p. 42.
[56] Ibid., p. 282.
[57] Oppenheim, International Law, vol. i, p. 482.
[58] Sir Travers Twiss, The Law of Nations, vol. i, secs. 253–263.

the whole civil and criminal jurisdiction over, and protection of, the privileges, the life, and the property of their countrymen. The institution of consuls spread to the west during the century preceding the French religious wars. Soon after the period of Coligny permanent legations were responsible for the decline of the importance of the consular office. In European states the functions of the latter now shrank into supervision of the commerce and navigation of their home countries. In Mohammedan states, however, consuls not only retained their original jurisdiction, but by treaties and custom secured exterritoriality, inviolability, ceremonial honors, and miscellaneous rights. Their position in non-Christian states was from every angle exceptional, not agreeing with early or modern principles of international law otherwise universally acknowledged. This was naturally necessary since the ideas of justice of Moslem states were far from approximating the Christian ideas; the foreigner's life, honor, and goods were constantly in jeopardy without the intervention of the consul in the native courts.

In 1568 Bodin wrote: "French merchants have shops at Alexandria, Cairo, Beirut, Tripoli, and are credited at Fez and Morocco the same as Spaniards.[59] The Barbary States and Egypt comprised only a portion of the Mohammedan market exploited by the Protestants under the surveillance of Coligny. The rich field of Asia Minor was entered from the north through the Black Sea ports of Trebizond and Samsun, from the west through the commodious harbor of Smyrna, from the south by way of Adalia, Tarsus, and Mersina. From the days of the crusaders French merchants had frequented the bazaars of Damascus, the oldest city in the world. The elaborate products of Syria were exchanged for French wheat, salt, fish, wool, cloth, and wines. From Cyprus the western sailors took the wines of Famagusta. The Aegean islands of Lemnos, Mitylene, Chios, Samos, and Rhodes were regular ports of call. The

[59] Levasseur, Commerce, vol. i, p. 204.

Turkish lands of the Mediterranean border supplied the Protestants with Damascene blades, steel, granulated metals, brass, iron, wire, flint, tinplate, and white lead—all valuable assets in the wars of religion. The Huguenot vessels also imported from the Levant needles, Angora camlets, crockery, spikenard, verdigris, ambergris, quicksilver, cork, quinquina, tartar, tutty, spirits, furs, linen, cloth, dyed woods, camphor, tortoise shell, syrup, coralwork, almonds, and plums.[60]

Not only the Mediterranean border of Africa, but the remoter parts as well formed a magnet for the early Protestants. Ten years after Luther nailed up the theses at Wittenburg we find record of the French at Madagascar, which now belongs to France. Even at Sumatra and other smaller islands of the Malaysian archipelago there were French mariners only thirty-five years after the discovery of America. As the result of the foresight and expansion policy of Coligny, France in 1915 has in Africa one of the mightiest empires of any age. The French sailor-merchants exploited not only the north coast, from Morocco to Egypt, but the Protestants soon pressed beyond the fringe. Cape Town, 6000 miles from Tunis, and the 4000-mile east-to-west parallel between Capes Guardafui and Verde were soon charted by the aides of Coligny. The magnificent distances attempted by the explorers and traders would have terrified their fellows in France. Consider the broad northern half of the supercontinent. The traveler mounts a mehari camel, from time immemorial the "desert express." The day's journey will average fifty miles. Six weeks are spent on the trip from Algiers due south to the mouth of the Niger. Eight weeks are consumed in the journey from the town of Dakar, at Cape Verde, the westernmost point of the continent, due east to the western edge of Darfur, the extreme boundary of the Egyptian Sudan. The trade route from Tangier, opposite Gibraltar, southeast to Ubanghi-Shari, the very center of the continent, can not be traveled in less than

[60] St. Priest, p. 327.

sixty-two days, though equivalent to the distance from New York to Seattle. Huge kingdoms of the Sudan awaited in 1560, as now, a mercantile wedge. To the uninitiated it is staggering to know that the area of the ten primary Sudanese divisions extends over two million square miles. Beginning in the east we find Kordofan, the size of England; Darfur, of France; Wadai, of Italy and Ireland; Bagirmi, of Spain; Kanem, of Greece and Denmark; Adamawa, of European Turkey; Bornu, of Portugal; Sokoto, of Japan; Gando, of Scotland and Ireland; Nupe, of Bulgaria.[61] Fate decreed that the Huguenots, exiles from their home shores, should lay the foundation of an enormous colonial domain in Africa. Today the Sahara is a French sphere, as large as the United States of America. Morocco, Algeria, and Tunisia are equivalent to the Middle and South Atlantic states, besides Ohio and Kentucky. The last named state is only one-twenty-fifth the size of French West Africa. The French Congo is eight times as large as Illinois, while two states like Michigan could be carved from the Ivory coast.

What were the incentives to trade in territory which even three and a half centuries after Condé and Coligny is entitled the "Dark Continent"? To enumerate exports from France to west and central Africa would be to reiterate the list of staples which the Huguenots carried to all lands of the Mediterranean basin and north Europe. The gold of Ophir and the lure of Ethiopia and Abyssinia, the possible home of the queen of Sheba, were powerful attractions. Moreover, the ostracized Protestants had very real ideas of revivifying the remnant of the Christian church along the north and northeast borders of Africa. In the year 200 nine hundred churches had flourished along the African margins of the Red and Mediterranean Seas. Even Arabia as far as Muscat was inoculated with the new doctrine. Meropius, a Tyrian savant, was responsible in 320 for the penetration of Christianity into Abyssinia, which today most

[61] H. Karl W. Kumm, The Sudan, London, 1907, p. 63.

distinctly of any African kingdom reveals traces of that pioneer effort in the form of the Coptic church.[62] The dominion of Mohammed rose in the seventh century, and the native churches, without the bulwark of a gospel in the vernacular, speedily succumbed before the Koran and the sword of Islam. The Coptic elements in Algeria, Egypt, Nubia, and Abyssinia formed the nucleus around which the Huguenots hoped to build strong Protestant communities.

For the moment, however, we are more concerned with their mercantile prowess. Levasseur says that the French went to the Guinea coast for powder of gold, ivory, and gums.[63] Senegambia and the fertile Sudanese kingdoms contributed then, as now, a wealth of vegetable products to the mother country. Maize, said by Santa Rosa de Viterbo to have been introduced by the Arabs into Spain in the thirteenth century and thence by slave dealers into West Africa, grew to the height of five or six feet. From it the natives baked bread and brewed a kind of sour beer. Millet, one of the earliest bread-making grains known, has always been a tropical African product. Cultivated and "hunger" rice was exported from equatorial Africa. According to a statement contained in a manuscript belonging to the Bibliothèque Nationale in Paris, the use of coffee was known at a period so remote as 875 A. D. A parchment of 1566 credited to an Arab sheik stated that a knowledge of coffee was first brought into Arabia from Abyssinia about the beginning of the fifteenth century. The Moslems of Arabia and West Africa were not unanimously in favor of the new beverage. Many used it as an antisoporific during the strenuous abnegation of the annual month of Ramadan. Others held it to be an intoxicant, and in consequence a violation of the Koran. The priests were fiercely hostile because the coffee-houses exerted a depressing influence upon attendance at the mosques. The coffee bought by the French in the western Sudan was the equal of the Javanese

[62] Frederic Perry Noble, The Redemption of Africa, vol. i, p. 25.
[63] Levasseur, Commerce, vol. i, p. 208.

and Cingalese brands, and second only to the famous Mocha of the Arabian Yemen.

Cotton has grown wild in the Sudan for many centuries. Arab slave dealers introduced it from India, where it had been used in domestic manufactures five centuries before the Christian era, into Egypt and then West Africa. In 1560 Guicciardini, in a very full list which he gives of the different articles annually imported into and exported from Antwerp, then the greatest commercial mart in Europe, mentions cottons among the goods obtained from Venice and Genoa. Their sailors had brought it from Africa and Arabia. We know that Protestant refugees from France carried cotton manufacture to England at the close of the sixteenth century. The Huguenot traders found in Africa the leading species of cotton, and the French Protestants became admittedly leaders in the European cloth industry. Their best African cotton was obtained from the region of Lake Chad.

Guinea corn, one of the Sudanese staples, was sent to France after the December harvests. Ground nuts were cultivated everywhere and exported to France with and without the husks. The oils extracted from them took the place of olive oil, though the latter had been introduced into all Africa from Palestine in Biblical times. The chief condiment which contributed to the characteristic gastronomy of France was pepper. Ashanti pepper, although bearing the name of the Gold Coast colony, has always occurred most abundantly in the country of the Niam-Niam ("great eaters"), a more or less cannibal race in north central Africa. This brand differs from black pepper in being smaller and less wrinkled, but has the same pungency, due to a resin. It was imported from the Grain Coast (modern Liberia and Sierra Leone) by merchants of Rouen and Dieppe—later two strongly Protestant towns—as early as 1364. Ebony wood was another article of export to France, as it was to the Orient in the days of Herodotus.[64]

[64] Herodotus, Bk. iii, chap. 97.

Two other commodities which were taken from Africa by the Protestant sailors were rubber and palm oil. Twenty-one varieties of trees are available in the Sudan from which rubber can be obtained,[65] and some have always abounded in tropical Africa, particularly in the Senegal and Congo basins. The product was already known for Herrera, on the second trip with Columbus, mentions it in Hayti,[66] while Torquemada in a work of 1615 describes the trees found in Mexico.[67] Oil from the palms of French Madagascar and West Africa must have been sent to the mother country at an early date. For centuries the utility of palms to inhabitants of the tropics had been noteworthy. They furnished shelter, clothing, food, fiber, sugar, timber, fuel, building material, dyes, starch, oil, wax, wine, resin, and many minor products.

The oldest trade routes in Africa were created for traffic in salt. Herodotus tells us of the caravan trails connecting the salt oases of the Libyan desert.[68] In the time of Coligny, twenty centuries later, and even today, the Sahara caravan trade is largely a traffic in that product. In 1560 the Protestants who entered the Sudan and eastern Africa found cakes of salt being used as currency, just as it had been in Abyssinia in the days of Marco Polo. One writer states that in Timbuctoo and Kano, in 1560, a camel load of salt (200 kilograms) was worth eighty-four ducats.[69] Timbuctoo, over a thousand miles from the Atlantic by way of the Senegal and Niger systems, was at the converging point of the main trade routes from the Gulf of Guinea and from the Mediterranean across the western Sahara. The Huguenots sent out by Coligny traded at Timbuctoo at a time when it was the capital of the short lived Sonrhai empire and the chief centre of Moslem culture for the nations of the western Sudan. Salt was the great staple of

[65] Kumm, p. 166.
[66] Herrera, Historia, Bk. iii, chap. iv.
[67] Torquemada, De la Monarquia Indiana. Madrid, 1723; vol. ii, p. 663.
[68] Herodotus, Bk. iv, chap. 181.
[69] La Primaudaie, p. 196.

trade. With this commodity and cowry shells, an ancient and modern African currency, the natives secured products of European manufacture. Salt was always welcomed by the French Protestants, for the home supplies of the Vosges and the Pyrenees were dominated by the Roman Catholic Guises of Lorraine and by Philip of Spain, respectively. Kano, the other important Sudanese trade centre, lay eight hundred miles by caravan route southeast of Timbuctoo, and half that distance west of Lake Chad.

Of French trade with European nations in the middle of the sixteenth century the most significant part was with Spain. Besides Castile, Aragon, Navarre, Naples, Sicily, Sardinia, Milanais, Roussillon and Franche-Comté, and the Netherlands, Spain had under its jurisdiction Oran, the islands of Madeira, Canary, St. Helena, Fernando Po, and Anno Bom; Mexico, Peru, New Grenada, Chile, Paraguay, Cuba, la Plata, Domingo, Martinique, Guadalope, Jamaica, and the Philippines. In 1557 France and Spain were the two great powers of the age: France excelled in land forces, while Spain boasted the larger navy.[70] Then, on St. Lawrence's Day, 1557, the town of St. Quentin was captured by the Spainards, and the event commemorated by the inception of the gloomy and labyrinthian palace of the Escorial, outside Madrid. The capture of St. Quentin opened for France a period of forty years subserviency to Spain.[71] Many patriots excoriated the signers of the humiliating treaty of Cateau-Cambrésis, concluded in 1559. By the terms of peace Francis gave Marienbourg, Thionville, Damvilliers, and Montmédy in exchange for St. Quentin, Ham, Catelet, and Therouanne. It gave without price Bouvigny and Bouillon to the bishop of Liège, while Spain retained Hesdin. In Italy, France evacuated Milanais, Montferrat, Corsica, Montalcino, Sienna, Savoy, Bresse, Bugey, and all of Piedmont except five towns.[72] Calais remained French.

[70] Baschet, La diplomatie vénetienne, p. 238.
[71] Whitehead, Gaspard de Coligny. London, 1904, p. 61.
[72] Ruble, Baron de, Traité de Cateau-Cambrésis. Paris, 1889, pp. 27, 196.

Another stipulation was that Philip and Henry II should obtain from the Pope the convocation of a universal council. This was to crush them, said the Protestants.

In spite of the new subservience of France to her neighbor, Spain offered a very promising field for Huguenot trade. The decadence of agriculture and industry in Spain and Portugal was marked. Farming declined on account of decreasing population, devastation by troops, and the emigration caused by the inquisition. For example, in 1553 the kingdom of Navarre had but 154,000 inhabitants.[73] The decay of industry was attributable to the high price of work, increased imports, the prohibition against selling manufactures abroad, the prejudice against the mechanical arts, and most of all, to the new infusion of wealth from the colonies. Galleons of Philip II made him the richest in gold of any monarch, but he left the crown charged with debts and embarrassed in a thousand ways.[74] The new influx of gold and silver had made Spain neglect her ancient industries. Portugal was so enervated from the same cause that the kingdom, far from profiting by the sacrifices of Vasco de Gama and Albuquerque, actually was annexed by Philip in 1580. Moreover, the disastrous expedition led by the duke of Medina-Coeli against Dragut in North Africa in 1559, the year of the first war of religion in France, exerted a depressing effect upon Spanish industry. Into this new field flocked many French workmen, especially from Auvergne and Limousin. The fact that numbers of the best artisans of France, the Huguenots, fled abroad to escape persecution, did not deter them from venturing into the home of the Inquisition. In Aragon and Navarre nearly all the carpenters, turners, stonecutters, masons, vinedressers, drivers, saddlers, rope-makers, harness-makers, and wheelwrights were French.[75] The Moors had introduced into Spain silk, rice, cotton and sugar, while their canals for

[73] Weiss, L'Espagne depuis la règne de Philippe II, vol. i, p. 21.
[74] Baschet, Diplomatie, p. 238.
[75] Levasseur, Commerce, vol. i, p. 208.

inland trade antedated those in France constructed under the direction of da Vinci. Much of the cotton, olive oil, oranges, almonds, dried grapes, spices, confitures exported to Bordeaux, Bayonne, and Toulouse by Spain was prepared by Frenchmen. Spain procured wheat, salt meat, pastel, linen, wool, paper, and hardware from France.[76] Carcassone and Perpignan furnished fine cloths. Spanish silks ceased to figure in the French importations about 1560.

France had been tributary to Venice for glass and cloth. To the cloth of Tuscany, however, succeeded that of Languedoc, Picardy, and Normandy. All that France had to oppose to Italian, Spanish, and Flemish industries at the beginning of the sixteenth century were some silk factories at Lyons, Nîmes, and Tours; glass factories at Argonne and in Burgundy and Agenois; fine sculptured furniture at Paris, Rouen, and Tours; and admirable enamels at Limoges.[77] Her artists were rivals of the Italians in the trade without being their equals. In 1500 there were no industrial workmen comparable to those at Rome, Florence, Milan, and Venice. By 1560 the Huguenot artisans would have to be included in this category. Paris had approached Venice in printing with eight hundred publishing houses while Lyons boasted quite as many. Silk and glass factories were being founded at Lyons.[78] Although their country was to be dependent upon Italy for many years for scarlet cloth and articles de luxe, the French dyers turned out 600,000 pieces in 1560.

Flanders sent to the Huguenots armor, trappings, cotton, serges, linen, carpets, morocco leather, and lace.[79] Alsace-Lorraine, just as today, traded more with France than beyond the Rhine. The formidable Protestant cavalry depended upon Germany and the Low Countries for war steeds. The latter country exported a tremendous amount of salt herrings to France. French wine-casks filled with

[76] Levasseur, Commerce, vol. i, p. 208.
[77] Pigeonneau, vol. ii, p. 57.
[78] Baudrillart, Luxe, vol. iii, p. 440.
[79] Levasseur, Commerce, p. 205.

Bibles, arms, and gold were smuggled from Switzerland through Catholic provinces. The three Scandinavian kingdoms bought from their French co-religionists safran, salt, pastel, and wine. Linen cloth, wine, and dried prunes were included in French exports to the British Isles.

The politics of protection in France became clearly defined for the first time about 1560, and Protestant manufactures and skilled labor were efficacious in emancipating France from industrial dependence upon foreign countries. At the outbreak of the first war of religion there was a sensible decline in importations. By 1560 the government realized that new sumptuary laws should accompany the new policy of protection. In the reign of Henry II pride in all the estates grew with the acquisition of wealth. The love for luxury created by the Renaissance did not harmonize with the economic straits described in a previous chapter. Villagers wished to dress like townsmen, the latter like gentlemen, and so on. At the epoch of the religious wars, it was lamented that the villagers wore colored cloths and sumptuous habits, instead of dressing according "to their degree of laborers and vine-trimmers."[80] Taxes might wait, as long as their tables contained many varieties of viands and fowl. "The laborer wants to make a gentleman of his son," wrote Palissy. Accordingly, the government made luxuries no less burdensome than imports. An ordinance of 1561 forbade under penalty of fine all foreign perfumes, and gilding on lead, iron, wood, enamels or jewelry. A rule of April, 1561, dealt with embroideries, lace, and silk robes. The ordinance of January, 1563, prohibited the wearing of vertegrades of more than one ell,[81] while one of 1567 forbade garments of velvet and silks and the use of pearls, unless in bracelets, by the bourgeois.[82] There was a rapid succession of eight sumptuary laws between 1543 and 1570.

The effect of piracy upon the Huguenot trade remains

[80] Baudrillart, Luxe, vol. iii, p. 248.
[81] 54 inches in France.
[82] Pigeonneau, vol. ii, p. 173.

to be examined. By treaty of 1535 France secured from the Porte exclusive rights to coral and deepsea fishing off the Moslem coasts. The half dozen articles referred to individual liberty and responsibility, religious liberty and protection, inviolability of domicile, exemption from all taxes, and interdiction from slavery. It is almost superfluous to state that the Barbary corsairs observed the treaties only as they pleased. Protestant mariners did not suffer as much as Catholic, for the pirates in their quest for slaves were imbued with the notion that the religion of Rome and faithful servants were synonymous. But trade in the Mediterranean was not as badly paralyzed as in the seas of Flanders, France, and England. During the second period of the religious wars the sea was no safer than the land. Possibly on account of a tacit agreement, there were few examples of the civil conflict of French vessels at sea. Rather did the corsairs of La Rochelle attack Spanish and Portuguese boats, while the vessels of Brittany preyed on English commerce. The thousands of piratical acts did not cease until the treaty of Troyes of April 11, 1564, whereby England accepted 120,000 gold crowns for Havre.[83] On French soil the Hundred Years' War was being reproduced by the Spanish and German soldiers of Philip and Guise.

[83] Ruble, Traité de Cateau-Cambrésis, pp. 193–194.

CHAPTER III

The Organization of the Calvinists

The ecclesiastical and political organizations of Calvinism were identical. The unit of each was the congregation. The neighboring churches or congregations were grouped according to number and convenience into colloquies, or classes, which met from two to four times each year. The colloquies of each province comprised the "Synods," while the national synod[1] was composed of all the provinces. The congregations, synods, and colloquies constituted both taxation units and military "cadres."[2] The temple was the center of the Protestant community, but unfortunately none of these are extant and they live only in descriptions. The most elaborate example of Huguenot edifices was the sumptuous temple erected by Coligny at Dieppe. Reared in two months as a facsimile of the Coliseum it took Vieilleville three days and nights to demolish it.[3]

The grand lines of political division followed the historic provincial boundaries of France, although smaller provinces and parts of the larger ones, such as Languedoc and Guyenne, were associated. The first national synod convening in Paris in 1559, divided France into 16 Protestant provinces,[4] but this administrative partition was effective for

[1] Discipline of Reformed churches in France Received and Enacted by their First National Synod at Paris in 1554, chap. 7, publ. in Quick, Synodicon in Gallia reformata, 2 vols., London, 1682.

[2] Relations . . . vénetiens, vol. ii, p. 115.

[3] Floquet, Histoire du Parlement de Normandie, 7 vols., Rouen, 1840–49; vol. ii, p. 331.

[4] The Protestant provinces of France were as follows: (1) Ile-de-France, Chartrain, Picardy, Champagne, Brie; (2) Normandy; (3) Brittany; (4) Berry, Orléans, Dunois, Blésois, Nivernais, Bourbonnais, La Manche; (5) Anjou, Touraine, Loudunois, Maine, Vendôme, Perche; (6) Upper and Lower Poitou; (7) Saintonge, Aunis, La Rochelle, Angoumois; (8) Lower Guyenne, Périgord, Gascony, Limousin; (9) Upper and Lower Vivarais, Velay and Le Fôret;

only four years, however, for the first civil war demonstrated the weakness of the system. Several of the provinces contained too few Protestants, so in 1563 the map was charted into nine ecclesiastical divisions. Brittany added Anjou, Maine, and Touraine, formerly an independent province. Chartrain was detached from Ile-de-France and annexed to Orléans. All the country watered by the Charente was knitted together by combining Upper and Lower Poitou with Saintonge, Aunis, and Angoumois. The Burgundian division absorbed the small province of Vivarais. The most interesting consolidation occurred in the south of France where the formation of the huge province of Languedoc entailed the obliteration of the former divisions of Provence, Dauphiny, and the Cevennes. The only original ones unchanged were Normandy, Béarn, and Lower Guyenne. After all eliminations, the sixteen geographical divisions were reduced to nine: (1) Ile-de-France; (2) Normandy; (3) Brittany; (4) Orléans; (5) Poitou-Saintonge; (6) Lower Guyenne; (7) Languedoc; (8) Burgundy; (9) Béarn.

The official beginning of the Protestant church occurred at Orléans, in 1557. The center of France, with its great commercial towns, enjoying almost unlimited municipal privileges, had been in the habit of governing itself, and had frequently manfiested almost republican tendencies. It was to be expected, therefore, that Orléans, the Protestant "nombril de royaume," would be among the first to adopt the machinery of Calvin's admirable institution, still a model today—the democratic republic. Near the close of the year 1558, fifteen months after the constitution of the church at Orléans, several pastors at Poitiers were the first to speak of the utility of a conference of faith and discipline. Accordingly, the first National Synod of these Protestants

(10) Lower Languedoc, including Nimes, Montpellier and Beziers; (11) Upper Languedoc, Upper Guyenne, Armagnac, and Upper Auvergne, Toulouse, Carcassone, Quercy, Rouergue; (12) Burgundy, Lyonnais, Beaujolais, Bresse, Gex, Lower Auvergne; (13) Provence; (14) Dauphiny and Orange; (15) Béarn; (16) Cevennes and Gevaudan. Discipline, chap. 8, canon 15.

convened at Paris May 26, 1559.[5] At this constituent assembly, under the direction of Morel, the Ecclesiastical Discipline and the Confession of Faith were prepared,[6] but only eleven churches were represented at the Faubourg St. Germain, so perilous were the times.[7] Delegates from only six of the sixteen ecclesiastical divisions constituted at the same synod were successful in reaching Catholic Paris in time to fulfill their double mission of establishing a discipline and adopting a confession of faith. Pursuant to the desires of their constituencies, pastoral and lay delegates of Paris, Orléans, Dieppe, St. Lô, Angers, Tours, Chatellerault, Poitiers, Saintes, St. Jean d'Angely, and Morennes transacted the business of the First National Synod.

Each province established a synod which named deputies to the national synod, in which twice a year all ministers of the provinces assisted. Colloquies of pastors and deacons were also held. Consistories, or particular counsels, charged with watching the behavior in each church comprised four elders, two deacons, a secretary, and a treasurer. The western provinces of Angoumois, Aunis and Saintonge were among the pioneers in establishing the synod. In church matters no church had any primacy or jurisdiction over another.[8] Ministers brought with them to local colloquies or provincial synods one or two elders chosen from their consistories.[9] Elders who were deputies of churches had an equal power of voting with the pastors.[10] The authority of a provincial synod was subordinate to that of the national synod, and whatever had been decreed by provincial synods for the government of churches in their province had to be brought before the national synod.[11]

[5] Crottet, Histoire des Eglises Réformées en Saintonge. Bordeaux, 1843, p. 36.
[6] de Bèze, Histoire ecclesiastique des Eglises Réformés, vol. i, pp. 201–220.
[7] Bersier, Eugène, Coligny avant les Guerres de Religion. Paris, 1884, p. 150.
[8] Quick, chap. 6, canon 1.
[9] Ibid., chap. 8, canon 2.
[10] Ibid., chap. 8, canon 8.
[11] Ibid., chap. 8, canons 9, 14.

One of the few sidelights upon early ecclesiastical organization is the order on distribution of alms of the Protestant church of Paris to the poor of that city.[12] Under date of December 10, 1561, are six provisions: (1) there shall be a bureau of eight notable citizens, assisted by four inspectors from the consistory (changed monthly) and deacons; (2) the said bureau shall be elected by the people before the service; (3) for alms there shall be twelve boxes, with a key; (4) deacons, six each from the town and university, shall pass the boxes at each service; (6) no other clerks shall officiate besides the eight citizens, the deacons, and the inspector.

The administration of the sacrament was gratuitous in practically all of the 2150 Protestant churches of 1560. In the Parisian faubourgs, however, the rich and the poor were expected to pay twenty and seven sols, respectively, at the communion of the Lord's Supper, the sum to be employed for the needs of the new religion.[13] A prohibition was the rejoinder of Antoine of Bourbon, King of Navarre, who claimed that the money should go for war and threatened to hang the Calvinist pastors.

The strong elements in the Protestant organization were its simplicity and the universal vigilance, from provincial chiefs to simple pastors. In 1559 Correro, Venetian ambassador at the court of Henry II, wrote to the Doge: "If our priests were half so energetic, of a certainty christianity would be in no danger in this country."[14] A slight digression may suffice to impress the startling contrast between the priest and the pastor of 1559.

Indictments of the clergy of the state church were not confined to one sect. "Isn't it a very ridiculous thing," asked Chancellor Jean Gerson of the ultra-Catholic University of Paris, "that a simoniacal, avaricious, lying, exacting, lewd, proud, pompous father, in a word, a demon, pretends to have the power to unite and disunite heaven and

[12] Condé, vol. ii, p. 535.
[13] St. Croix, p. 121; March 31, 1562.
[14] Relations . . . vénetiens, vol. ii, p. 115.

earth?"[15] Claude Haton cites a piece of verse found upon a Roman Catholic priest in Mount St. Victor: "Notre prescheur, au lieu de prescher l'Evangile, ne fait rien que rotter l'aspre guerre civile. Feu ardent, sang humain son estomac vomit."[16] The rabidly anti-Calvinist Parlement of Paris found it necessary in August, 1560, to issue a decree ordering all bishops and curates to reside at their churches, the former being prohibited from henceforth proceeding in the matter of religion against anyone except Calvinist preachers or persons in whose houses Huguenot meetings were held.[17] One historian, commenting upon his own church, recorded that "until the end of the war the benefices were filled with soldiers, laymen, male and female favorites. There were households in the bishops' houses and even in the abbeys." The clergy often stooped to distortion of the truth. The Jesuits and mendicant friars diffused the rumor that Calvinists had confessed to eating children.[18] Pamphlets disseminated among the credulous vague reports of the strangling by the heretics of old men and women.[19] Catholicism was the highest form of faith, for consider "their great men for the past 1600 years." What verdict is rendered by the two representative Protestant historians, Laplanche and Condé? The former calls it the duty of the king to correct the abuses of the priests, the most unlearned and rude since Christ's time, "though some of them studied 20 years." They were "rich, poor in spirit, revelling day and night."[20] Their mercenary spirit led them to charge eight écus for baptisms, to sell pardons and absolutions, and even prayers and cemetery lots. Ten livres was a funeral fee. They were perfumed like priests of Venus while their homes vied with courtiers'. Condé records that as many as nine

[15] Henne, Histoire du règne de Charles V. en Belgique. 10 vols., Brussels and Leipzig, 1858; vol. iv, p. 275.

[16] Haton, vol. i, p. 157; Bibl. Imperiale (Paris) MS., No. 359.

[17] Baudrillart, Alfred, L'Eglise Catholique, la Renaissance, le Protestantisme. London, 1908, p. 124.

[18] Castelnau, Mémoires, 1559–70, p. 20.

[19] Capefigue, Histoire de la Réforme, de la Ligue, et du Règne de Henri IV, vol. ii, p. 99.

[20] Laplanche, vol. ii, p. 66.

dimes (tithes) were extracted from the people in one year for church and government expenses. "The priests speak only of dimes." On August 23, 1560, the same historian witnessed that there were "forty lazy bishops in Paris" instead of in their dioceses.[21] They had sold their benefices to "cooks, barbers, and lackeys." The priests were hateful to the people on account of their debauchery, greed, and ignorance. The edict of July, a sop to the priests, was anachronistic and absurd, for at a critical juncture it had re-enacted several severe penalties against conventicles. In July, 1561, the prelates broke the rule of Philip le Long, passed in 1319, that ecclesiastics should not enter the Council or Parlement.[22] An ordinance of the king of April 22, 1561, held that ecclesiastics should dress modestly, discarding silks and other superfluous luxuries.[23] So ludicrous were the dress and actions of many of the clergy that the young son of Queen Catherine actually gave a masquerade on November 15, 1561, in which he appeared in a mitre. The bishop of St. Croix in his memoirs deplores the ridicule thus heaped upon the clergy.[24]

In vivid contrast to that portion of the ecclesiastics were those priests who wavered for a time between the two currents of Protestantism and Catholicism. It is well known that the Reform was often the work of the Roman clergy. Suspected of heresy as early as 1542 the convent of the Cordeliers provoked public censure from the ultra-Catholic Sorbonne in 1540. Such types were exceptionally superior to the rank and file of the clergy of 1560.

The mental and moral preparation of the Protestant preacher was very thorough. Examination before the colloquy preceded the election of pastors, three of the seven examiners being from the candidate's home synod.[25] There being no age limit, youths of nineteen and twenty years be-

[21] Condé, vol. i, p. 542.
[22] Ibid., vol. ii, p. 342.
[23] Ibid., vol. ii, p. 343.
[24] St. Croix, p. 5.
[25] Félice, Paul de, Les Protestants d'autrefois, vie intérieure des églises, moeurs et usages. Paris, 1898, p. 2.

came eligible. Within forty-eight hours the candidate must prepare two sermons, in French and Latin; besides, there were three trial sermons at his future church. Ministers were assigned to special churches.[26] These were erected upon one principle—seat the most in the least space. For this reason there were no lateral chapels.[27] In the Huguenot temples there were no images or crosses, no pew rents. The consistory building, sometimes used for teaching, stood about one hundred feet from the temple, behind which was the cemetery. Communion was celebated eight times a year. As to outward appearance, the Protestant ministers usually wore long beards; not a singularity, for, although the Sorbonne decided against beards in the Roman church, in 1561, even the popes did not shave. Beards in other lines of life were attacked by the press.[28]

With no tribute to pay to Rome, and gratuitous administration of the sacraments, the Protestants could found schools and hospitals. This was not a new idea, but Luther was the first to organize schools for the people.[29] They were the logical consequence of the fundamentals of the Reform. The Calvinist theory of education was, however, in advance of the age. The Protestant nobles of the States-General of 1560 asked the King to levy contributions on church revenues for reasonable support of teachers in every town for the instruction of the needy youth, and, moreover, to require all parents under penalty to send their children to school. The demands of the nobility were not regarded and there was a long eclipse in the cause of public primary instruction. The primary school is the child of Protestantism which associated knowledge with faith.

The "petits écoles" of 1559 were very numerous, although there is little account thereof.[30] They were the equivalent

[26] Félice, Vie interieure, p. 13.
[27] Félice, Les Protestants d'autrefois: les temples. Paris, 1896, vol. i, p. 121.
[28] Quicherat, J., Histoire du Costume en France. Paris, 1875, p. 369.
[29] Compayré, Gabriel, Histoire critique des Doctrines de l'Education en France depuis le 16e siècle, p. 113.
[30] Félice, Vie intérieure, p. 87.

of the modern primary schools. Childhood, said the Calvinist, is like an empty vase, in that it conserves the odor of the first liquid poured in it. At the baptism, in the temple, a Biblical rather than a classical name was conferred upon the infant. At the age of five, the child became familiar with Beza's Petit Cathechism, and began to memorize. At eight, there were four hours of Latin daily; at nine, arithmetic; at ten, history, taught by conventional method, and geography, with a globe; at twelve, geometry.[31] Luther always recommended mathematical studies and was partial to history, but did not advocate the liberal arts.

There is no account of the instruction of girls, though the Reform called for it. Only private tutoring is mentioned in our period, 1559 to 1562, although as early as 1541 there were girls' schools in Geneva. There seem to have been mixed schools in France under the Reform before separate ones came into vogue. The Reform undoubtedly provoked the intellectual emancipation of sixteenth century womanhood. In the recent past there had been special trades for women, operating under royal charters, such as the making of ribbons, hats, embroideries. Widows were allowed to keep their husbands' workshops as long as they should remain widows. In the mixed trades women had less rights. Comparative salaries, says Hauser, in "Works of Women," were probably three-fourths of a man's pay in the fourteenth century, and about one-half in the sixteenth. In addition to the gates of industry, the portals of Protestant education were now thrown open to the women of France. There was need of this for in the middle of the sixteenth century the Jews of France were more enlightened than the Christians.

Spontaneity, free thought, and free inquiry constituted the basis of Protestantism. By its success in developing these qualities, the new religion imposed still greater efforts upon the Roman church. As is natural for innovators, the thought of the teachers of the century was marked by en-

[31] Félice, Vie intérieure, p. 54.

thusiasm rather than by precision.[32] They were more zealous in pointing out the end to be attained than exact in determining the means to be employed.

No account of the ecclesiastical and educational organization of the Reform would be complete without mention of the Protestant press. Printing had been introduced into France between 1483 and 1500, and Protestantism in many instances started with pamphlet reading.[33] Calvin organized the societies of colportage of Protestant books, and in Montpellier where the Reform dated from 1554, the first martyr was a colporteur.[34] The "paper war" found the Protestants distinguished by the fertility and prolixity of the press, for the use of which the declarations, confessions of faith, forms of prayer, protests, and the letters of Condé were principally edited by Beza, at the great literary center of Orléans.[35] In 1562 Beza finished Marot's psalter and during the same year twenty-six different editions of the Psalms were published by the Calvinists. Of these Geneva printed nine, Paris seven, and St. Lô one, besides five others without a name. Fourteen editions were released in 1563, with ten more in the following year.[36] Lyons, at the gateway to Switzerland, was the capital of printing, and nearly all its printers, especially the Germans, were favorable to the Reform. Discontented with the social state, they offered a marvelous field for Protestantism. The Protestant press threw into circulation thousands of Greek, Latin, Italian, Spanish, Belgian, German, Gascon, Basque, and Perigordian works.[37] Restrictive measures immediately appeared. Letters of the king to Parlement of August 16, 1561, forbade the printing of any work without the permission of the King and Parlement. A letter of the Catholic envoy

[32] Compayré, p. 84.
[33] Buet, Charles, L'amiral de Coligny. Paris, 1884, p. 37.
[34] Corbière, Histoire de l'Église réformée de Montpellier. Montpellier, 1861, p. 10.
[35] Aumale, Condé, p. 107.
[36] Baird, H. M., Theodore Beza. New York and London, 1899, p. 281.
[37] Chasles, P., Etudes sur le 16e siècle, Paris, 1848, p. 219.

St. Croix, of March 26, 1562, depicts the capture by a lieutenant of the king of a barque load of books from Geneva concealed in wine casks.[38] It was futile, however, to attempt to check the infractions of the embargo by the constituencies of 2150 Protestant churches.

The political organization of the Protestants was effected through the medium of an association, a form of organization of which there are many examples, both Catholic and Protestant, during this troubled period. The nucleus of the Catholic leagues, after which the Protestant organizations were partly patterned, seems to have been the local guilds. These were closely connected with the body of tradesmen, each trade having its patron saint and banner, as well as fixed places and days of meeting.[39] The south of France was far more aggressive than the north, and, to the disquietude of the government, many anti-Protestant associations were formed in more than one-half of the provinces. The earliest seems to have been that of Bordeaux, in 1560: this was the germ of the Roman Catholic league which later expanded over Bordelais and Gascony. The Parisians manifested their prejudice in an organized military form as early as 1562. On May 2 of that year the Parlement of Paris passed an ordinance directing the échevins and all loyal Catholics in each quarter of the city to organize under arms.[40] Leagues were formed at Aix in Provence in November, 1562, and at Agen-on-Garonne in Gascony on February 4, 1563.[41] Cardinals Armagnac and Strozzi were sponsors of the famous Catholic League of Toulouse, launched on the third of March, 1563,[42] which D'Aubigné called the prototype of all the leagues afterward formed in France.[43] Ten days later the League of Cadillac in Guyenne

[38] Condé, vol. ii, p. 435.

[39] For history and descriptions see, among others, St. Léon, 267; Ouin-Lacroix, L'Histoire des anciennes corporations d'arts et métiers de Rouen. 8 vols., Rouen, 1850; vol. i, p. 520.

[40] Popelinière, vol. viii, p. 499.

[41] Monluc, Blaise de, Commentaires et lettres, 1521–76. A. de Rublé. 5 vols., Paris, 1864–72; vol. iv, p. 190.

[42] Devic et Vaissete, vol. v, p. 249.

[43] D'Aubigné, H. M., Histoire de la Réformation du 16e siècle. 5 vols., Paris, 1877–8; vol. ii, p. 137.

came into existence as a result of the efforts of Candalle, Montluc's lieutenant in the Bordeaux region.[44]

In its sixth article the Edict of Pacification on March 19, 1563, forbade the formation of any new leagues and ordered the dissolution of those already existing.[45] The provision was a dead letter. After the first war many leagues, particularly those of Toulouse, Provence, and Agen were well organized. On March 31, six days before the edict was promulgated, Catherine sharply rebuked the red-handed Montluc for the inception of new organizations in Guyenne.[46] This blood-thirsty captain had been nicknamed "Brûle-Banc" because of the devastation wreaked upon Protestant communities by fire and sword. In April, 1563, a weak Catholic association sprang up in the Rouennais and lower Ile-de-France, while leagues were started in some of the Angevin and Maine towns.[47] What made the league of Agen, in Guyenne, so peculiarly formidable was the fact that it was organized and continued without the knowledge or consent of the crown. After August, 1564, it was called the league of Guyenne. North of the Loire there were to be no considerable associations of Catholics until 1568.

One of the very earliest forms of Protestant organization can be traced to Lower Guyenne, which was constituted an ecclesiastical province under the dispensations of 1559 and 1563. Especially at Nérac Montluc early experienced a strong combination of the Huguenots. In Guyenne the intensity of the democratic, revolutionary character of Protestantism was partly due to the memory of the revolt of 1548 and its merciless supression.[48] In 1559 the Catholic jurisconsult des Autels said that the "rebels" were organized into three divisions: those who covered themselves with the mantle of religion; those who desired to be reformers

[44] Commentaire de Montluc, vol. iv, p. 214.
[45] Isambert, vol. xiv, p. 145.
[46] Great Britain, Cal. St. P. For., No. 1000.
[47] Mourin, La réforme et la ligue en Anjou. Angers, 1856, p. 21.
[48] Revue historique, XCVII (1908), p. 341, note 6.

of the police; those who preached the benefits of liberty.[49] In the south of France there were other organized Huguenot agitations by June, 1561. At Montpellier, in Languedoc the Protestant movement in September had taken the form of a definite league, with the sweeping motto: "No mass, no more than at Geneva."[50] The operations of this league were so thorough that many Catholics were about to emigrate to Spanish Catalonia.

The association formed at Orléans on the eleventh of April, 1652, presents characteristics typical of contemporaneous Protestant organizations. The preamble of its instrument of government disclaimed any private motives on the part of those who were parties to the association, and asserted that the sole purpose was to liberate the King from "captivity" and punish the insolence and tyranny of the disloyal and of the enemies of the church. Idolatry, violence, blasphemy, and robbery were forbidden within the territory of the association, in order that all might know that it had the "fear of God before it." The association was to expire at the king's majority.[51] Its rules were as much a body of military regulations for the discipline of the army as they were a political pact. There was, however, little of the politico-military character of the Roman Catholic leagues about it. In fact, with the exception of the Huguenot association in Dauphiny, there is no early example exactly similar to the leagues in the Catholic provinces. After the treaty of Amboise, March 19, 1563, the Protestant association of Languedoc maintained its organization, raised money, and levied troops.[52] When the government required the razing of the walls of Huguenot strongholds, like St. Lô, Orléans, and Montauban, the Protestant leagues resisted. In spite of this, not until after the Bayonne episode of 1565 do we find a solid federation of Reformed

[49] Weill, George, Les théories sur le pouvoir royal en France pendant les guerres de religion. Paris, 1891, p. 36.
[50] Archives Nationales, K. 1495, No. 47, June 19, 1561.
[51] Great Britain, Cal. St. P. For., No. 1003.
[52] Ibid., No. 896.

churches: the first crucial test of Protestant organization was made at the beginning of the Second Civil War. The consensus of opinion of authorities is that not until after 1572 did the Protestant organization reach a high point of military and political development.

Correro, the Venetian ambassador at the court of Henry III, wrote in 1569 that there were three classes of Protestants: the great, the bourgeois, and the gens du peuple. The first division, he claimed, were Protestants in order to supplant their enemies; the second, to enrich themselves; the last, because they had been led by false opinions.[53] It was characteristic of the Latin Catholics to attribute the Huguenots' change of heart to mercenary motives. Modern historians are almost unanimous in recording that the political Huguenots took arms against the authority of monarchs and pseudo-regents, and that the religious Huguenots rose against the authority of the mediaeval church. One student of the period classes the political Huguenots into separate groups: (1) monarchists, associated with Elizabeth of England, who desired to make Louis of Condé king of France; (2) the democratic faction, which aspired to a republic, the ultimate ideal of Calvin.[54] After a thorough study of the sources concerning the political organization of the Protestants it is the opinion of the writer that the Huguenot state cannot be thus divided, but was a mixture of the popular and the aristocratic elements. It was a republic within the monarchy.

The aristocratic element in the Huguenot party triumphed over the "Geneva party" of stern Protestants as a sequel to the treaty of Amboise, March 19, 1563.[55] By the terms of the latter, Condé was to succeed to the position of the late King of Navarre; the new religion was to be protected in all towns, except Paris; the Huguenot army should be paid by the central government; in every bailiwick the

[53] Relations . . . vénetiens, vol. ii, p. 113.
[54] Sichel, Catherine de Medicis and the French Reformation, p. 105.
[55] Capefigue, Catherine de Medicis, p. 260.

king was to appoint one town where the gospel might be preached; all gentlemen holding fiefs in mean justice might have preaching in their homes; all nobles enjoying high justice should be permitted to have preaching on their estates; property confiscated from either church was to be restored.[56]

The military system of the Protestant organizations deserves particular consideration, for the Huguenots developed institutions which produced soldiers of another temper from those of the royalist armies. These associations gathered rapidly and from 1562 formed a general and permanent organization. The militia was constituted like a church, though one might think it was more of an army than a congregation.[57] The tactical unit of infantry in the sixteenth century was the "bande" or "enseigne." In 1560 such a company contained two hundred or less, but within a few years this number was reduced to seventy or eighty. The strength of the Catholic company was maintained at the larger figure, including two sergeants, six corporals, two drummers, one fife, and one quartermaster.[58] Each local Protestant church furnished an "enseigne," or infantry company. Sometimes the consistories of a district united to form a company. Some towns, like Castres, near Bordeaux, contributed three; others, as Rochelle, a dozen. Symmetry was sacrificed to conditions.

Companies of the same colloquy were grouped into a regional regiment, although united only administratively. All the colloquies of the same province combined to form an army corps, having at its head a permanent staff. All army corps were united under central authority, so that nearly all the elements of present day military institutions were then present. This territorial organization did not include cavalry, artillery, and foreign auxiliaries. Of the infantry Coligny said that the Protestants could put 200,000

[56] Isambert, vol. xiv, p. 135. Thompson, p. 191.
[57] Lettenhove, p. 31.
[58] Archives Nationales, K. 1496, No. 112.

in the field. His opponent Montluc exclaimed, with an oath: "What churches are these which turn out captains?"[59]

The Turkish envoy who was an eyewitness of the battle of Dreux declared in his admiration: "If my master had 6000 horsemen like those whitecoats (Huguenots) he would be master of the world!"[60] In this particular battle the Protestants did have excellent cavalry. Often the "grand army," which in full force was 25,000, either lacked light horse and dragoons, or was supported by horsemen badly mounted and equipped, without cohesion. Often the cavalry was divided into cornets of one hundred, attached to no regiments whatsoever. The Huguenot cavalry company included one trumpeter, one sergeant-major, and two quartermasters. The light pistoleers could do little against the heavy reiters, partly due to the fact that the Protestant organization lacked the cuirasse, or breast-plate. In contrast to this branch of the Huguenot service, the strength of the Catholic army lay in the cavalry, a condition attributable to several causes. On the one hand the German and Swiss mercenaries had been for centuries available as infantry, and on the other the French feudal nobility had hated to see arms in the hands of common people and peasants.

At the outbreak of hostilities most of the artillery was in Catholic hands. Those cities in which the Protestants predominated quickly built walls at their own expense, but only a few of the churches possessed arsenals or cannon foundries. As soon as a central arsenal was established, however, cannons, falconets, and culverins were soon stiffening the Huguenot lines. The falconets were especially effective notwithstanding that the diameter of the bore was only four and one quarter inches. As a whole the ordnance was very diverse in form, length, and calibre, but had the same sized gun carriage, "monuments of proved solidity and fantastic weight." Spanish and Breton ships with cargoes

[59] Commentaires de Blaise de Montluc, vol. i, p. 228.

[60] Blackburn, Admiral Coligny and the Rise of the Huguenots, vol. ii, p. 67.

of metals were often intercepted by the Huguenot cruisers, in order that the Protestant foundries might not lack material for ordnance. One Catholic envoy avers that on May 14, 1562, the Protestants tore off the roof of the Rouen Cathedral to obtain lead for bullets.[61] References to the artillery in action are scant, yet by a clever manouver on the twenty-first of April, 1562, nine days after the prince of Condé formally assumed command of the Huguenot forces, cannons were brought upstream to Orléans from Tours, at the juncture of the Loire and the Cher.[62]

There were always two sections in the Huguenot camps, the "bataille" and the "avant-garde." The advance guard consisted of arquebusiers while the main body and rear-guard was hedged with pikes. Not serried ranks but liberty of movement was the order. At the sound of the bugle mobilization took place with great celerity. At the outset Coligny was handicapped in forming an army because there was no "cadre" or framework with which to start, the majority of the permanent forces being in Catholic hands. Yet by the period of Dreux he could assemble in four weeks 8000 horse and 25,000 infantry, a feat the king could not perform in less than four months.[63] Even in the most anti-Protestant city of France mobilization of Huguenots occurred upon such a scale that at the citizens' request there was enacted on May 2, 1562, an ordinance of the King taking away the arms of all in Paris who belonged to the Reform.[64] By the first of June there were 24,000 infantry in the capital to fight for the Queen.[65] Most of the Huguenot regiments were temporary and were paid off at the end of a campaign, although there existed always an "old guard."

One reason for Huguenot mercantile superiority lay in the fact that although the artisans of both religions left their

[61] St. Croix, p. 167.
[62] Whitehead, Gaspard de Coligny, p. 101.
[63] Lettenhove, p. 31.
[64] Condé, vol. iii, p. 419.
[65] St. Croix, p. 171.

trades at the outbreak of hostilities, the number who resumed their normal vocation was overwhelmingly Protestant. As early as September 7, 1560, Condé had observed that "foreign soldiers return to their trades after each war, but not so with the French (royalists)."[66]

The field discipline of the Huguenots was severe. The chief innovation was public prayer, led by one of the officer-chaplains. No dice, cards, women, or blasphemy were to be found in the train of the armies of Condé and Coligny. Theft and debauchery were severely punished. There was a corresponding and probably resultant advance in the ethics of warfare of the opposing armies. On the nineteenth of August, 1562, appeared a royal edict, recorded in the Archives Nationales, on the conduct of the army.[67] "No soldiers, foot or cavalry, shall supply themselves with any arms or horses not belonging to them, on pain of death. Those found pillaging or robbing under whatever pretext, shall be punished by the arms they carry, or as the council shall dictate. The said soldiers shall pay their hosts for their entertainment according to a scale given out by the commissary. They are forbidden to start quarrels and monopolies on penalty of death. The soldiers shall not abandon their ensign without permission of said court and of their captains."

The Protestant soldiers dressed as they pleased. It was customary, but not compulsory, to wear the chief's livery. Probably because it was the color of Condé, the soldiers wore white cassocks. After Vassy all Huguenot cavalry did likewise, while their horses were caparisoned in white. The officers of the mounted service dressed in white velvet; on their iron corselet was the heraldic scarf of white, and on the helmet the legendary white plume. The standard bearer always carried a flag of white. Red was Navarre's color, while the Huguenots of the duke of Deux-Ponts (Zweibrücken) wore yellow and black.[68] Because the gay

[66] Condé, Sept. 7, 1560.
[67] Archives Nationales, K. 1496, No. 112.
[68] Lehr, p. 10.

colors of feudal days had not yet been supplanted by the neutral tints of modern warfare, the comparative casualties were much higher in 1560.

The Protestant military leaders were usually men of letters and high culture, brave, but thinkers as well. Lanoue regrets the diminution of nobles in the officers' corps in the later civil wars. Cadets of foremost houses of France were among the rank and file, but the captains and lieutenants were often soldiers of fortune. Monluc was the only one who ever spoke of the Huguenot leaders and soldiers as mediocre. His opinion was based upon one incident only.[69] Aside from their greatest chiefs the Protestants had the counsel of old veterans of the Italian wars.

The meagre accounts of the Huguenot military budget state that the army (or church) was divided into twenty-four groups, with six chiefs each, paying each year a tribute of 800,000 francs, of which 100,000 went to the Queen of Navarre, and 40,000 to Coligny.[70] Although there is no direct evidence as to the Huguenot scale of wages, an idea of their salaries may be obtained by examining the royalist pay roll. By the month captains of cavalry received one hundred livres tournois, cavalry sergeant-majors and cornets, fifty; each horseman and quartermaster, sixteen; trumpeters, twelve. Captains of infantry were paid one hundren livres; lieutenants, fifty; ensigns, thirty; sergeants, twenty; corporals, eighteen; drummers, fifers and quartermasters, twelve each. The cuirassiers received ten livres per month. Visored arquebusiers were paid ten, unvisored, eight. Unarmored pikemen obtained a pittance of one livre.[71] Eight thousand Gascons, the best foot soldiers of the royalist army, received without qualification four hundred livres apiece each year. The Protestant reiters were paid fifteen florins monthly, while the stipends of colonel, lieutenant, and ensign were respectively 250, 95 and 75 florins. The British Record Office estimated the wages and

[69] Monluc, p. 364.
[70] Lettenhove, p. 31.
[71] Archives Nationales, K. 1496, No. 112.

appointments of 4000 reiters and officers each month at 122,048 livres tournois or 81,532 florins. To each four reiters was assigned at thirty florins monthly, a carriage with four horses. The total expense of the 4000 reiters for four months, including the levy, amounted to 569,792 livres or 379,861 florins. Lansquenets, or German foot soldiers, were levied at an outlay of a crown per month. An ensign of three hundred men cost the Huguenots each month 3500 livres. The fund necessary to satisfy this entire foreign branch of the service was the quivalent of 395,000 livres or 263,337 florins every four months. At one period the French army relinquished 80,000 francs in order that their allies, the German reiters, might receive their wages.[72] The dilatory tactics of the English queen were responsible for this shortage. Nor was the Catholic army immune from financial embarrassment. On the twelfth of December, 1562, President Leguier informed the Parlement of Paris that Francis of Guise had told him there were owing the soldiers fifteen months' wages.[73] One week later occurred the crucial battle of Dreux.

One final word concerns the military organization of the towns captured by the Protestants. These places were linked together so as to form a chain between Orléans, the "Protestant Rome," and the provinces where the Huguenots were strongest, notably Gascony, Dauphiny, and Languedoc.

[72] Blackburn, vol. ii, p. 67.
[73] Condé, Dec. 12, 1562.

CHAPTER IV

The Reform at Its Height

The progress of the pacific Reform may best be traced through the series of royal edicts issued during the five years preceding the first war of religion. The edict of Paris (1549), of Fontainebleau (1550), and of Chateaubriand (1551) made the Protestants subject to both ecclesiastical and secular tribunals.[1] The Edict of Compiègne of July 24, 1557, sentenced to death any one who publicly or secretly professed other than the Catholic religion. The whole reign of Henry II saw war without and persecution of the Protestants within. Diane de Poitiers, Lorraine, St. André, and Constable Montmorency, the four favorites of this king, who was "of soft spirit, little judgment and easily led 'par le nez,'" continually persuaded him that religion was the enemy of all monarchy. Tavanes declared that it tended to democracy.[2] The Cardinal Lorraine possessed the king's conscience, while Diane was a sorceress who hated the Protestants. "Not a drop of justice fell on France during her twelve years (1547–1559) except by stealth," said the Huguenots.[3] This favorite also convinced the monarch that the means of covering all vices was the extermination of Rome's enemies, and thereupon began the activities of the Chambre Ardente, before the creation of which heresy had been dealt with by the regular courts. In June, 1559, the month before the death of Henry II, the edict of Ecouan provided for the execution of all heretics, without the least reprieve or mitigation.[4]

Henry was mortally wounded in the tournament given in

[1] Thompson, p. 10.
[2] Tavannes, vol. ii, p. 111.
[3] Blackburn, vol. i, p. 35.
[4] Castelnau, Bk. i, chap. iii.

the double celebration of the nuptials of his daughter Elizabeth and Philip II of Spain, and of Henry's sister Marguerite and the duke of Savoy. As the point of Montgomery's splintered lance penetrated the right eye of the King, the spectators recalled the previous omens of Henry's death. Marshall Vieilleville had had sombre presentiments. De Thou quotes an astrologer. Carloix records that Henry, as he fell, said that he "had unjustly afflicted those people over there," meaning prominent Huguenots who had been executed.[5] Others noted in his death chamber the presence of a suggestive and accusing tapestry of Saul on the Damascus road. The Huguenots considered Henry's death as a judgment of God.[6] Moreover, persons of the communion of Rome also viewed the fatal accident as a retribution, although upon different grounds. Henry was accused by the Catholic writer Pasquier of being proclaimed "protecteur de la liberté germanique"; that is, heresy, the "profound cause of the civil war."

Four months after the accession of the young King Francis, a new edict of November, 1559, ordained that all those who attended conventicles or participated in any secret assemblies, should be put to death and their homes razed, never to be rebuilt. Letters-patent to this effect were handed to the head of the Châtelet prison and judges were appointed by Charles of Lorraine to decide without appeal. The priests even resorted to erecting images of the Virgin at intersections of thoroughfares in order that "unbelievers" might be apprehended.

On March 27, 1560, the celebrated Michel de l'Hôpital was appointed to the chancellorship to succeed Olivier, who until the day of his death had been a tool of the Guises. The accession of this great statesman paved the way for the edict of Romorantin, in May, 1560. According to this instrument the legal processes dealing with religion were transferred from the courts of parlement and lay tribunals to

[5] D'Aubigné, Histoire de la Réformation, vol. i, p. 237.
[6] Great Britain, Cal. St. P. For., No. 899, June 30, 1559.

ecclesiastical judges. This legislation meant that accused persons need no longer fear the death penalty, for sentences might be delayed through appeals from the acts of bishops to archbishops and even to Rome. In consequence many of those who had fled from France returned, among them pastors from Switzerland and England, and many of the 1400 families who had sought refuge in Geneva during the reign of Henry II.[7] This number was appreciably augmented one month after the death of the second Francis when there appeared under the seal of the new king, Charles IX, January 7, 1561, a liberal Declaration of Toleration.[8]

A tentative Edict of July, 1561, was promulgated when it became apparent that the convening of the Colloquy of Poissy, wherein the religious issue was to be discussed by both sects, was being postponed. This ordinance, while seeming to pronounce judgment, really evaded the question at issue.[9] Similar to the edict of Romorantin of May, 1560, it gave the established church full jurisdiction of heresy, the severest punishment for which was to be banishment. False accusers were to be punished in like manner as the accused, had the latter really been guilty. Under this edict Protestant assemblies flourished.

The most decisive decree was that of 1562, generally known as the Edict of January. This, the "first promulgation of liberty of conscience," was the first ordinance that permitted the exercise of the Protestant religion in public.[10] It was L'Hôpital's last stake: if it failed, civil war. The new edict accorded to the Reform—(1) the right to hold public reunions for worship; (2) to raise money for necessary expenses and for the poor by voluntary offerings; (3) to maintain their consistorial and synodical organization and to enjoy the regular exercise of this three-fold right under the protection of superior authority.[11] Upon these three

[7] Levasseur, Emile, La Population française, vol. i, p. 190.
[8] Opera Calvini, vol. xviii, p. 337. Isambert, vol. xiv, p. 31.
[9] Thompson, p. 104.
[10] Dargaud, Histoire de la liberté réligieuse. 4 vols., Paris, 1879; vol. ii, p. 89.
[11] Delaborde, Vie de Coligny, p. 1.

points there were several restrictions. It was forbidden to build temples in the towns or their environs (art. 1). Any assembly with preaching as the object could not be held day or night in the towns (art. 2). Assemblies outside the walls could only be held by day without arms (art. 3), and if noblemen were not present (art. 5), only under the watch of royal officers (art. 6). Ministers were to swear to preach no doctrine contrary to the pure word of God (art. 10) according to the Nicean agreement, and might not go by force from village to village without the consent of the lords, curates, and vicars. As for the finances, alms and charities should not be made by imposition, but voluntarily. Unless a royal officer were present, there might be no meeting of any consistorial or synodical organization. Article 4 forbade all magistrates, judges, and others to molest the Reformed assemblies, but at the same time all pastors were advised not to use invectives in their sermons (art. 2). Acceptance of the conditions followed. The Parlement of Rouen was the first to register the edict, on January 27. Bordeaux and Toulouse ratified on February 6; Paris, one month later. Dijon, normally with the Huguenot tendencies, would not register, owing to the influence of Aumale and Tavannes.

From the edict of January were deduced the two distinct grounds upon which liberty of conscience might be demanded. One view, coincident with that of Locke, held that the state owes to all creeds which do not infringe public order equal protection, because no creed is self-evident, and therefore no right to be enforced. The second theory was that the relation between men's consciences and God is exempt by its very nature from all legislative control. Unfortunately neither of these principles was widely recognized in the sixteenth century. Coligny and L'Hôpital advanced the view that the French Protestants asked toleration not in the name of conscience and religious liberty, but because they were Christians accepting the Nicean and Apostles' creeds. One writer suggests that had this theory

been accepted two different religions would have existed in France—very different from religious liberty.[12]

In France, situated between the northern Protestant and the southern Catholic countries, the population was so heterogeneous in character and origin, that it would seem as if that should be the nation which the great religious movement of the sixteenth century would divide and distract above all others. But notwithstanding the presence of both tendencies in the country it was not until 1559, when the Reformation had triumphed in Germany, England, Scotland, Switzerland, Denmark, and Sweden, that it crystallized in France. Teutonic independence, under the form of religious Protestantism, undid the Roman Catholic yoke, upset Germany, and invaded France. Francis I and Henry VIII, in a corrupt and depraved age, were first responsible for the disputes on religion. France, where the new doctrine was first taught, was the last in which it proved the occasion of social turmoil and political division. In the twelfth century France had headed the crusades; in the thirteenth, the most brilliant intellects were found in her universities; the fourteenth found her monarchs triumphing over the Popes. In the fifteenth century France had stood out successfully for the rights of the church at large against the claims of Rome at Basle, Pisa, and Constance. In the sixteenth, however, as one writer points out, it was not the French who discovered the telescope, rounded the Cape of Good Hope, or gave an Erasmus to literature, or a da Vinci, Cardan, or Copernicus to science.[13]

Why did France, where the new doctrine was first taught, proceed so slowly in the great religious movement? Unlike some other nations, France found no political or ecclesiastical assistance with which to help her advance. Then, as now, the French church was not groaning under the same shackles as elsewhere. The French spirit of independence allayed any fears that the Vatican might attempt to divert

[12] Bersier, p. 292.

[13] Hanna, William, The Wars of the Huguenots. London, 1871, p. 1.

Gallic finances into Italian channels. The state and church of France had not the same causes for quarrel with the Pope as some other nations. In France there was less material for the reformers to work on. Their activity was viewed by the established church as a denial and demolition of her proud authority. The royal power of Francis II and Charles IX was in conflict with the growing municipal freedom of the towns which it desired to curb and, with the feudal independence of the nobles, which it wished to obliterate. The Reform, a product of liberty, extended aid to both these enemies of royalty, and therefore drew down its revenge.

In 1500 the Valois had been absolute. The beliefs of Luther contained nothing dangerous for civil government. The adherents of Calvin were instructed to obey God and the magistrates. Calvinism itself would not have imperiled royalty. The sovereignty of the people, however, was the doctrinal notion of the Protestants, while the history of the times presented a series of weak sovereigns versus virile reformers. Yet opinions differ as to motives. Lettenhove, a Catholic, maintained that the Protestant conspiracy was essentially feudal at the outset. He thought he noted a double character: "anti-national," rejected by the people, and "criminal," sustained by foreigners.[14] Weill, in his theories upon the royal power, insists that the Catholics desired to rid France of her bad kings and to convene the States-General, but with those objects insisted upon the respect due the church.[15] The statement is indeed open to serious question that in reform projects the Protestants tended to aristocracy and the Catholics to democracy. La Boëtie asked why millions of men submitted to the will of one, often the weakest in the kingdom. As a matter of fact the union of church and state in France was so firm that it was thought impossible to infringe upon one without the other. Therefore the Valois thought to defend both by fighting the Protestants.

[14] Lettenhove, p. 25.
[15] Weill, p. 1.

Broadly speaking, the Catholic church, royalty, and the universities were immediately responsible for the climax of the pacific and martial Reform. The great religious movement of the sixteenth century had for its object the emancipation of human conscience from ecclesiastical authority. For generations there had persisted the need for a reform of the ecclesiastical discipline, but the abuses, in spite of Popes and councils, obstinately clung. In France the States-General of Orléans demanded the urgent reform of the clergy, the convocation of a church council, the suppression of tribute to Rome, the gratuitous administration of the sacraments, and the foundation of schools and hospitals with the money of the clergy.[16] Incompetence in spiritual and temporal government was characteristic of the established church of the century. Rome was more concerned with art and politics. In the essentials of science, perfection of man, human liberty, the dignity of the family, political economy and prosperity, literature, useful knowledge, and several of the fine arts, Catholicism was helping but little.

The errors of royalty by commission and omission, in so far as they affected the Reform, have been considered in the first chapter. The accession of a boy to the throne in 1559, the humiliating treaty of Cateau-Cambrésis, and the enormous debts left by Henry II, all combined to favor the propagation of new thoughts. A third cause is to be found in the universities. Many historians claim that the Reform in France began in these institutions. It is true that the first to hail the new doctrines were the lettered classes. Among the artisans of the towns and villages, however, the new faith effected the greatest and purest progress. As a matter of fact, Protestant universities introduced two great ideas of political and religious liberty,[17] yet Morin in his "Dictionnaire de Scholastique" charges that the Huguenot retarded the march of human progress and stopped the scientific revolution inaugurated by those Catholic geniuses Co-

[16] Barré-Duparcq, Histoire de Charles IX, Paris, 1875, p. 33.
[17] Stocquart, E., Le mariage des protestants. Brussels, 1903, p. 120.

pernicus and Columbus![18] History records that the Reform caused even the Roman See to improve in science and morals.

Beza called Orléans University one of the three fountains of the Reform, while Rublé referred to that institution as the "arsenal" of the new movement,[19] and well they might, for Lutheranism had been powerful at Orléans as early as 1528, when Olivétan, a comrade of Beza, was expelled for heresy. The celebrated Wolmar was one of the Protestant professors. The university was widely known for Roman law while Canon law had gradually become a field for study and controversy on religious matters. The Orléans seat of learning was in full splendor in the sixteenth century. The questions which were agitating Europe were right in its midst. Ten "nations" or republics were formed from the various student nationalities, including hundreds of German, Swiss, and Flemish students who introduced the germs of Protestantism and deemed it an honor to "spread them in the households" of the college town.[20] There are several definite instances to show that although dormitories existed many students overflowed into the homes of the townsmen, there to further the new creed of their native lands. Similarly, the "martinets" or externes of the University of Paris did not reside in any college or pension, but in the homes of the citizens.[21]

As early as 1531 the new religion was evoking restrictive measures. In that year Francis I compelled all candidates for the doctorate to present certificates of orthodoxy before the Parlement of Paris. The ten "nations" of students, comprised largely of groups of nationals from northern Protestant countries, were reduced to four: Germany, Ile-de-France, Picardy and Champagne, and Normandy. Since there were many Protestant students from Burgundy, Sain-

[18] Buet, p. 37.
[19] Lacombe, Catherine de Medicis entre Guise et Condé, Paris, 1899, p. 32.
[20] Lacombe, p. 27.
[21] Crevier, Histoire de l'Université de Paris, 7 vols., Paris, 1761; vol. vi, p. 33.

tonge, Poitou, and Rochelle, the intent of the reduction in the number of "nations" is obvious.[22] It is needless to explain that mutinous students of all Catholic localities fanned the flames against the Protestants.

The Venetian ambassador, Jean Michiel, wrote in 1561 that the University of Paris was frequented by twenty thousand students, mostly poor.[23] The best subjects were theology, Greek, Latin and French letters, in addition to philosophy and mathematics. Many doctors and jurisconsults were counted among the university graduates. The foreign minister comments upon the low salaries and the great obligations of the professors. The "externes" of the university lived in the homes of the Parisians, and were not under the professor's care after the lessons were over, but the Procureur-General wanted it enjoined upon principals and masters of colleges, upon penalty of losing their privileges, to hold their students both in and out of the university. The new religious liberty which had been introduced by the native and foreign "nations" was beginning to annoy the Guises. When the novel spirit commenced to permeate the monasteries of St. Germain de Prés and St. Croix, and to presage the desertion from the Catholic ranks of whole convents and consistories in and around the rabid capital, injunctions were secured to prevent the monks from assisting in university processions.[24] In a university far larger than any American college, it would seem impossible to keep the students exempt from religious divisions, yet an edict of the Parlement of Paris of July 9, 1562, ordered all members of the university to make confession of the Roman Catholic faith.[25] The first civil war had then been raging for months.

At Valence University there were from 1555 to 1563 two great Reform professors, Cujas and Loriol in law. The Protestant students met openly for the first time on Sunday,

[22] Aldeguier, Histoire de Toulouse. 4 vols., Toulouse; vol. i, p. 396.
[23] Relations . . . vénetiens, vol. i, p. 263.
[24] Crevier, vol. vi, p. 80.
[25] Condé, vol. iii, p. 524.

March 31, 1560, at 8 a.m. and 2 p.m., in the Cordeliers church.[26] The Calvinists among the professors and students at Toulouse University became so strong that they threatened to overthrow the government with the help of Montauban, than which no name in Huguenot annals shines more brightly. Monluc discovered the plot, however, on June 24, 1562, and the history of the civil wars produced no greater ferocity than that exhibited towards one another by the civilian populations of Catholic Toulouse and Protestant Montauban. If the Romanists were savages, the Montaubanese passed motions that all who were destined to "idolatry" were worthy of being burned.[27] Of all the seats of learning in France the universities at Orléans, Bourges, and Toulouse were classed by Beza as the chief places in which the Reform had its inception. The church of the Huguenots at Orléans, in 1557, and many others in university towns, were directly due to Lutheran students and the influence of professors of civil law and humanism.[28]

The progress of the reform may be profitably considered according to the accessions from the ranks of the various classes, the nobility, the clergy, and the third estate. Until 1555 the converts to Protestantism in France had mainly been drawn from the middle classes—tradesmen, artists, lawyers, doctors, teachers, and other thinking people. Between 1515 and 1555 the only nobles professing the Reform were Farel, Berquin, de Coct, Gaudet and Margaret of Navarre.[29] Some have thought that the greatest Protestant leaders, outside of Condé, were ladies. Condé's wife and mother-in-law probably came over to the Reform in 1558. The Huguenots made their supreme attempt to capture France at the colloquy of Poissy, in the summer of 1561. In the previous May Chantonnay reported to his imperial

[26] Arnaud, Histoire des Protestants du Dauphiné. 3 vols., Paris, 1875, p. 1.
[27] Le Bret, Histoire de Montauban. 2 vols., Montauban, 1668; vol. ii, p. 34.
[28] Bulletin de la Societé de protestantisme française. 60 vols., Paris; vol. xxxviii, p. 86.
[29] Blackburn, Coligny, vol. i, p. 15.

master at Madrid a statement of the Prince Roche-sur-yon that a majority of the nobility were Protestant.[30] The Venetian ambassador Michiel wrote to the Doge in the same year to the effect that especially the nobles not over forty years of age were being "contaminated."[31] Weill bears witness that up to 1561 converts had not been made among the nobles.[32] In Crespin's "Histoire des Martyrs" for the preceding forty years there appear the names of only three nobles and two country people. At the epoch of the Poissy and Pontoise colloquies, however, the court was being won over to the new religion, and by 1562 the Reformed churches found themselves ready for the contest, because of the accession of a great many nobles, mostly fresh recruits. The plot of Jacques de Savoie, duc de Nemours, to kidnap the young duke of Orléans, and the success of Coligny in allaying opposition to Catherine de Medicis at the Estates of Pontoise, may well have served to win over some of the nobility to the Reform.

With two hundred names of Knights of the Order, privy councilors, captains, and military leaders, the Protestant party appeared predominantly aristocratic. Thenceforth the Huguenot annals were to be adorned with such names as Condé, Roman, Andelot Portien, Coligny, Rochefoucauld, Chartres, Genlis, Senarpont, Prenne, Montgomery, Sombise, La Noue, Morny, Chalons, Fouquières, La Fayette, Morvillier, Bouchavannes, Puygreffier, Du Viger, Mouvans, St. Aubun, La Suze, Duras, Teligny, Dummartin, Esternas, St. Remy, Briquemault, Bussy, and St. Foye. In the words of the Venetian representative in Paris, "heresy had corrupted almost all the nobility and a great part of the French people. Without doubt heresy had its root and germ among the powerful; this was because of the plot of the Bourbons against Guise. The Bourbons used religion as a means to crush Guise."[33] To the Italian mind the chancellor

[30] Archives Nationales, K. 1494, No. 83, May 1, 1561.
[31] Relations . . . vénetiens, vol. i, p. 409.
[32] Weill, p. 62.
[33] Relations . . . vénetiens, vol. ii, p. 55.

L'Hôpital was the head, and Condé the workman. The latter was called the "capitaine muet" of the university students who were accused of complicity in the Amboise conspiracy.

The court at Paris, or wherever the king shifted his headquarters in order to elude his creditors, was not alone in contributing converts among the first estate. Philip of Spain was informed by his henchmen at the French court that many of the nobles of Languedoc, Provence, Lyonnais, and Auvergne, provinces of the Rhone river valley, had gone over to the Reform.[34] Andelot, the brother of Coligny, had accepted Protestant doctrines in 1557, and along with pastor Carmel repaired to his estates in Brittany. In Nantes, the Breton city celebrated for its edict of toleration of 1598, the Reform counted many people of letters and several members of Parlement as early as 1559. In Brittany and Picardy all the nobles and three-fourths of the men of letters were Protestant by 1562.[35] Soon Andelot was endeavoring to consolidate the new churches in Brittany. The governor of Guyenne shocked the Guises by declaring for the Reform. As a result of the Protestant public preaching in Valence and Montelimart many lords left the Catholic party. Chief among these was the nephew of Cardinal Tournon, Sire de Montbrun, who endeavored to prevail upon all his vassals to join the Huguenots. Clermont, lieutenant-governor of Dauphiny, was removed on account of his leniency towards the new faith. In rural feudal districts conversion was mainly due to the influence of Protestant gentlemen-farmers, often retired bourgeois, who purchased the country estates of the older nobility who had been bankrupted by the Italian and Flemish wars, or preferred to live at court.

The nobles at the Protestant stronghold of Orléans were emphatic in their response to the articles of peace sent by King Charles IX on May 15, 1562. Seven items were insisted upon. The January Edict should be observed. The

[34] Archives Nationales, K. 1495, No. 58, Aug. 1, 1561.
[35] Benoit, Elie, Histoire de l'Edit de Nantes. Delft, 1693, p. 19.

Guises must return to Lorraine. Protestant temples were to be permitted. The royal government was named to supplant the Guises. All things done in council during the king's captivity should be declared void. The troops of Antoine of Navarre must be disbanded. Upon the foreign soldiers of the Guises an immediate check was to be put.[36] Recognizing the increasing strength of the Protestant nobles, the Parlement of Paris on the thirteenth of July, 1562, issued a proclamation enjoining all royal officers to make profession of their faith in the Roman Catholic religion upon penalty of forfeiting their positions.[37]

Society in the towns, which for a long time had not governed themselves, was aristocratic and controlled by the nobility and clergy. The nobles and gentlemen dominated the major portion of rural lands, and dictated public conduct from medieval fortified castles. More often, however, they were at war or at court. The nobles alone constituted the regular cavalry, which in the sixteenth century was the principal arm of the service.[38] Accordingly the nobility wielded great power in the state and the acquisition by the Huguenots of two hundred such adherents and their connections had tremendous military and political significance.

The second source of accession to the ranks of the Protestants was the clergy. The upper ecclesiastics had great riches and ranked as great lords, while the lower clergy were very poor. Noting the agitation among the classes, the Italian Michiel in 1561 averred that the contagion of Protestantism was spreading even to priests, monks, bishops, and convents, of which few were free from the "pest."[39] Even in Provence, Dauphiny, and Normandy, which claimed the greatest number of Catholics of the provinces, "all except those who fear loss of life and property are profoundly affected." He adds that the prisons were being emptied, doubtless in order to swell the riots against the Huguenots.

[36] Condé, vol. iii, p. 375.
[37] Ibid., vol. iii, p. 524.
[38] Thompson, p. 18.
[39] Relations . . . vénetiens, vol. i, p. 409.

Guyenne, except Bordeaux, was badly "infected," while the priests, friars, nuns, bishops, and prelates were deserting the established church in Touraine, Poitou, Gascony, Normandy, Dauphiny, Languedoc, and Provence.[40] Among the former priests who became Huguenot ministers were Marlorat and Barelles, pastors at Rouen and Toulouse, respectively.[41] Whole convents came into the movement. The Cordeliers and Dominicans at Die, Milhaud, and St. Foye in Agenois early in May, 1562, gave their convent to the Reform.[42] Preachers from Geneva seemed to act as magnets to many of the thoughtful priests. Psalms were sung at the court. The discussions permitted between the doctors of the Sorbonne and priests with the Protestants upon such subjects as images, baptism, mass, imposition of hands, and the Eucharist often terminated in conversion to the new faith. These individual cases persisted in spite of the fact that the Sorbonne let it be freely understood that it would never obey any order issued to the injury of the Catholic religion, even should the crown change its faith. Numerous priests were dissatisfied over the granting of bishoprics and abbeys to sectaries, often foreign, rather than to good Catholics. Others, observing the disinclination of the government to punish certain tumults on account of religion, as well as the early favor of Navarre and the grandees at court, declared openly for Protestantism.

The people of France, according to Caesar, had always distinguished themselves above the rest of Europe in religious zeal, so now in both Catholic and Protestant, a glowing earnestness seemed to characterize the church member of the sixteenth century. One reason for the enthusiasm on the side of Protestantism among the common people was the fact that the Huguenot ministers preached in French and avoided the mysterious Latin. After the sermon, service was continued with prayer and singing of psalms in French rhyme, with vocal and instrumental music in which

[40] Archives de la Gironde, vol. xiii, p. 132; vol. xvii, p. 256.
[41] Floquet, Histoire du Parlement de Normandie, vol. ii, p. 307.
[42] Arnaud, Dauphiné, p. 114.

the congregation joined. But the attraction was not universal, for, although the French third estate contributed largely to the 2150 Protestant congregations, the peasants remained strongly Catholic. The primary reason for this was social and on the whole the peasant was contented. The economic changes of the fifteenth and sixteenth centuries were disastrous to the artisan, but reacted in favor of agriculture. Economists tell us that the rent paid to the landlord, immutably fixed in the twelfth and thirteenth centuries, represented under the new values of money a light burden, while the decline in the value of silver enhanced the nominal worth of the products of the soil. Land values were falling rapidly at the very time when the French gentry, ceasing to be an aristocracy of gentlemen-farmers and becoming a court-nobility, were forced to dispose of their estates in order to meet their expenses. When any nobleman, from Lorraine to Navarre, desired to sell at any price a portion of his estate, there was inevitably in that particular section a countryman who had been hoarding for years and now consummated the life-long wish to become a land owner. The reigns of Louis XII and Francis I marked an era of genuine prosperity for the peasants of France. When this condition is contrasted with the state of the German peasant, who at the period of the revolt of 1525 was relapsing into servitude, one may readily see why there was not in France a violent religious and social upheaval. Economic conditions did indeed become more acute for the peasantry, with the accession of Henry II in 1547, but not nearly so crucial as for the artisans and others of the common people. We do not find the peasants fleeing abroad, as did many workmen, in order to escape persecution. Wherever the Reform took effect among the peasantry it can be traced to a quiet movement in the hearts of men.

How did the component groups of the parties in the civil war compare? On the Catholic side were the clergy and the Romish masses, Queen Catherine, veteran warriors, bril-

liant courtiers, able statesmen, shrewd diplomats, keen lawyers, distinguished courtiers, and Spain and Rome. In the Protestant ranks was a scorned sect, a "company under the ban, a crowd of malcontents,"[43] yet including nobles, owners of castles, military captains, gentlemen, discerning statesmen, freeholders, and several celebrated women.

The heads of the king's party were cognizant of the wars in foreign countries on account of religion, but the common people mostly knew nothing of them and could never believe that there was such a great number of Protestants in France. Estimates as to the proportion of Catholics and Protestants in the sixteenth century were widely divergent. Merimée accounts for one million and a half Huguenots, with proportionately more wealth, soldiers, and generals than the opposite communion.[44] The bishop St. Croix, who on October 16, 1561, upon the occasion of his tour of France, reported to his Italian colleagues that he had found no images or crosses broken, wrote that the "most clear headed and circumspect in France assure me that there is at most only one-eighth of France whose sentiments are not Catholic."[45] His statement of January 7, 1562, expressed the sentiment that the kingdom was upon the point of final ruin with no escape. Giving testimony as to the overwhelming number of heretics in France, the Catholic bishop of Viterbo was so sure of the wrack and ruin of the nation that he obtained his recall to Italy, as early as the middle of May, 1561.[46] A remonstrance of 1562 to the Pope reiterated that one-fourth of France was separated from the communion of Rome.[47] A Venetian source of March 14, 1562, said that there were 600,000 Huguenots in France.[48] King Charles IX's remonstrance to the Pope called atten-

[43] Blackburn, vol. i, p. 186.
[44] Merimée, Prosper, Chronique du règne de Charles IX. Paris, 1856, p. 8.
[45] St. Croix, vol. i, p. 14.
[46] Baird, Beza, p. 127; Great Britain, Cal. St. P. For., May 17, 1561.
[47] Cal. St. P. For., No. 1453 (1562).
[48] Ibid., No. 935.

tion to the fact that one-quarter of the kingdom was Protestant.[49] The reader must remember that there were one hundred and forty episcopal towns in France, each as "full as possible."[50] Paris in 1559 had 450,000 population. Lettenhove remarks that the Protestants were most numerous in central France, and that it was there that the assemblies most multiplied.[51] The Venetian ambassador estimated that scarcely one-third were heretical in 1567.[52] With contemporaries so wide apart in their enumerations the investigator is obliged to be cautious with estimates.

Beza recorded 2150 Protestant churches. Orléans had 7000 members. Normandy boasted 305 pastors, Provence sixty. The average congregation, however, must have been much smaller than those in the Huguenot strongholds of Orléanais, Normandy, and Provence. Montluc put the population of France at sixteen millions. Had there been 1,600,000 Protestants, or one-tenth of the inhabitants, each of the 2150 churches would have averaged 750 members. Thompson considers that less than half this number would be closer to the truth, with not one over three-quarters of a million before the massacre of St. Bartholomew.[53]

A few figures upon the provinces and towns are available. Suriano wrote on April 17, 1561, "there is not one single province uncontaminated."[54] Coligny told the king in 1560 that there were 50,000 Protestants in Normandy.[55] Dijon was two-thirds Lutheran, according to an échevin of the city in 1554. Eight years later two thousand of them were expelled by Tavannes. In the southwest Bordeaux had 7000 Protestants and two ministers within the inner walls, in 1561.[56] Toulouse, upstream from Bordeaux and Montauban on the Garonne, possessed a strong contingent of

[49] Condé, vol. ii, p. 812.
[50] Suriano, p. 363.
[51] Lettenhove, p. 73.
[52] Relations . . . vénetiens, vol. ii, p. 121.
[53] Thompson, p. 231.
[54] Great Britain, Cal. St. P. Ven., 272.
[55] Floquet, vol. ii, p. 318.
[56] Devienne (C.), Histoire de la ville de Bordeaux. Bordeaux, 1771, p. 132.

20,000. Often audiences of 10,000 would greet the pastor at the suburban services, while five thousand more was not an unusual assemblage in the city temple. Even in the little town of Anduze, at the entrance of the Cevennes, three thousand Huguenots would assemble at the service during the year 1560. In the coast town of Dieppe in Picardy two thousand met once a day.[57]

The pacific reform reached its high water mark in France and Béarn early in 1560. Between that time and the outbreak of the civil war there were conflicts between the two parties which need to be considered in connection with the whole story of French Protestantism, for the previous thirty years had also witnessed a series of attempts to crush it by violence. The period after 1560 is the martyrdom of the Huguenot church. Holland alone surpassed France in the number of victims, and both were quite in contrast to the cases of England and Scotland, where the pilgrim may stand by every stake. In France a generation of the purity of Protestantism, free from political alliances and fixed creeds and forms of worship, may be said to have terminated in 1560, to be followed by a fierce struggle for supremacy.

Among causes for conflict the images in the churches seemed especially to incite the ire of the Huguenots. Throckmorton reported the first instance of the year 1560 on February 27. Writing to Queen Elizabeth he said that "idols had been cast out of the churches throughout Aquitaine, and the same procedure would speedily be instituted in Provence."[58] Chantonnay informed the duke of Sessa on March 24 that some insurgents at St. Malo had killed certain public officials and prevented an execution. The following day the cardinal Bourbon on his way to Rouen passed a grove where two thousand Calvinists were listening to a sermon. A riot ensued when a priest and a clerk called them Lutherans. Two days later the preacher was burned

[57] Great Britain, Cal. St. P. For., No. 857, Jan. 1, 1561.
[58] Ibid., For., No. 779.

at the stake.[59] On the fourteenth of April the ambassador at Paris from Venice wrote home that the insurgents in Provence "have stripped the churches and mutilated the images."[60] In Dauphiny the achievements of Montbrun, a convert of Beza, made him famous. Early in May the Huguenots became masters of Provence, by the admission of the Italians. It was reported that "very free sermons have been delivered in the churches of Bayonne," in Navarre,[61] and the bishop of Agen wrote that the inhabitants of that city were in a state of furious insurrection. On May 11, 1560, Calvin wrote from Geneva to the French Protestants that he had not communicated with them for six months on account of his deep sorrow that the Reform should have taken up arms. The peace of Amboise had marked the triumph of the aristocratic element of the Protestants whose interests were identified with their political purposes and feudal position, over the Geneva party.

The Pope's delegate left Avignon on the thirteenth of August, 1560, in "disgust at the license" of the Dauphinese Calvinists.[62] In the middle of October the people of Amboise and Tours stormed the prisons and released all those confined as agitators on account of religion.[63] The valley of the Loire seems to have been the storm center of these provincial uprisings. On account of a personal affront, Guise had taken an aversion to Tours and suggested that the king punish that town.

April, 1561, was signalized by Huguenot outbreaks at Pontoise and Beauvais in Picardy, at Angers and Le Mans in Poitou. Southern France was also disturbed. Chantonnay wrote of the organized character of the Huguenot agitations, especially at Toulouse, in June. By September the Protestants of Montpellier in Languedoc had formed a league with the motto: "No mass, no more than at Ge-

[59] Archives Nationales, K. 1493, No. 45.
[60] Great Britain, Cal. St. P. Ven., No. 146.
[61] Négociations toscanes, vol. iii, p. 419.
[62] Cal. St. P. For., No. 416.
[63] Ibid., Ven., No. 200.

neva,"[64] and in December, 1561, riots occurred in Troyes, Orleans, Meaux, Vendome, Auxerre, Bourges, Lyons, Angers, Tours, Rouen, and Bazas.[65]

The year 1562 was ushered in with many misgivings as to the feasibility of maintaining a state of peace in the kingdom. Like a thunder clap came the massacre of Vassy on the first of March. Manifestations of Huguenot activity before the actual outbreak of war were ominous. In Paris five hundred cavalry of Condé's retinue accompanied the Huguenot preacher to service daily, according to Bishop St. Croix.[66] Nineteen days after the massacre Chantonnay informed the Spanish king that the nobles of Guyenne were complaining of the insolence of the heretics.[67] On Sunday, May 3, 1562, thirty-six Catholic churches in Rouen were sacked by the Protestants. Worship in the Norman towns of Havre, Rouen, Caen, and Bayeux, and in Dieppe in Picardy was suspended for six months.[68] Condé testifies that by May 23 there was not a recollection of the mass in Poitou and Dauphiny. The Catholics of the latter province and of Lyons fled to Savoy on the sixth of June.[69] Lyons had abolished mass on the first day of the same month. In October, 1562, the Huguenots of Rouen, under truce, demanded liberty of preaching and the permission to live according to their religion. Furthermore, they requested that the Edict of January be observed, and that they might preach freely in the cities all over France. The terms had included only worship outside the walls. In the counter proposals to Condé the Huguenots were to be allowed to practice their religion peaceably in their homes, but public worship not to be permitted even outside the towns. Political conditions caused a break in the negotiations, but on December 9 there were recorded the three articles proposed by Condé while he was besieging Paris. They foreshad-

[64] Archives Nationales, K. 1495, No. 47, June 19, 1561.
[65] Haton, vol. i, pp. 195–198.
[66] St. Croix, p. 94, March 19, 1562.
[67] Archives Nationales, K. 1497, No. 16, March 20, 1562.
[68] Floquet, vol. ii, p. 390.
[69] Condé, vol. ii, p. 20.

owed the outlines of future edicts of toleration, such as those of Amboise, Longjumeau, and Bergerac. First, there was to be liberty of conscience with free exercise of religion where demanded; secondly, security of life and property for all; thirdly, a free council to be summoned within six months, or if that were not feasible, a general assembly of the realm. As later modified the articles provided (1) that Calvinist preaching should be allowed in the suburbs of frontier towns, or in certain designated places; (2) that it should obtain only in those localities where it had been practised at the outbreak of hostilities; (3) exception to be made that it should be lawful for all gentlemen and nobles to have private services in their own homes; (4) that all persons dwelling in sections where preaching was not permitted should be allowed to proceed to the nearest towns for the exercise of religion without molestation. In reply the royal government stipulated that Paris and environs should be excepted, and that Lyons was not to be considered a frontier town.[70] In the following February of 1563 Poitou, Guyenne, La Rochelle, and Picardy rebelled again.[71]

The response to the Huguenot outbreaks was made with pen, tongue, and sword. Some of the Catholic writers instituted a literary crusade against the new faith. It was insinuated that the upper classes, especially the nobles, had left the established church because they were of a race of born sceptics. The new worship was destined to failure, for the reason that the religion of the higher strata of society was not often that of the lower. No leader dominated the rest, nor was there unity among the Protestant leaders. Writing a little later Pasquier declares that the "new religion first harassed, then lodged itself among us with furious insolence."[72] He condemns theoretically the legality of wars of religion, but does not condemn war un-

[70] Great Britain, Cal. St. P. For., No. 1219, Dec. 9, 1562; Beza, vol. ii, p. 121.

[71] Cal. St. For., No. 395, March 3, 1563.

[72] Les Oeuvres d'Estienne Pasquier. 2 vols., Paris, 1723; vol. ii, p. 451.

dertaken with purely religious motives. Henry II is blamed for being proclaimed "protecteur de la liberté germanique" —that is, heresy—which he calls the profound cause of the civil wars. God punished France for protecting heresy abroad. The proper means of banishing the new sect would have been administrative and judicial persecution, less bloody than war but more effective in the long run. In this connection a Catholic eye witness of the struggle asserts that the wars were the judgment of God, just when France purposed to be most at ease.[73] Upon the principle that foreign wars are the best antidote for domestic divisions, the Huguenots, in order to attain full liberty of conscience, rendered themselves formidable by calling in the assistance of the Protestants of the Empire.

Reaction against violence was bound to ensue and a modern Catholic writer is doubtless correct in assuming that it would be difficult for the Reform to combat the embellished cathedrals, the patron saints, and the gold mitres of his church, all of which appealed to the imagination of the people. They might well ask if these were barbarians or Moslems who destroyed the images.[74] One of the Venetian ambassadors wrote home that it seemed a paradox to say that the war of 1561–1563 was useful to the king, but that such was the case, for when the Protestants began to pillage the poor people exclaimed: "Where have they seen that Christ commanded to steal and kill?"[75] Yet this should be compared with the record of the Catholic bishop who on February 28, 1562 (the day before the Vassy massacre), wrote that the Protestants "complain that they are treated like Jews and wish his majesty's permission to carry arms for defence."[76] Condé had previously remarked that the king was acting like a good doctor who recognized the malady without knowing the cause. "Sickness of spirit is not cured like that of the body."[77] It was true in France that

[73] Castelnau, vol. i, p. 30.
[74] Capefigue, Histoire de la Réforme, p. 271.
[75] Relations . . . vénetiens, vol. ii, p. 119.
[76] St. Croix, p. 64.
[77] Condé, vol. i, p. 542.

the activity of society was the inverse of the activity of the state. The progress of liberty in the heart of nations always corresponds to the weight of the yoke on their necks. "When the tyranny is an idea it is heavier than a sceptre, causing a more energetic revolt," wrote Dargaud. All France was full of libels and invectives, of responses and replies. The Huguenot historian Laplanche marvelled that the roots of Catholicism were not torn up by the torrent of writing and pamphlets.

The violent means undertaken by the Catholics prior to the civil wars to stamp out the Reform contributed greatly to its success. A few instances must suffice. On May 1, 1561, there occurred a rising in Arles against the Protestant minister.[78] The following day the Parlement of Toulouse issued an arrêt repressing all assemblies, congregations, and the carrying of arms,[79] and horrible punishments were meted out in that town. A Roman Catholic writer admits that the capitouls displayed no human traits,[80] and according to the records at the city hall they vied for honors of inhumanity. Bloody Montluc was astounded at the bloodier Parlement of Toulouse, yet though the Garonne ran crimson, a year later there were 20,000 Huguenots in the town. In Valence La Mothe-Gondrin beheaded Duval, a Protestant pastor and ex-Carmelite.[81] So great was the hatred against the Protestants in Marseilles that on some mornings many would be found hanged in different sections of the city. The king in letters patent said that he had never intended to include Marseilles in the Edict in favor of the Huguenots, and that he desired no public or secret preaching in that metropolis.[82] Partly in retaliation the Earl of Warwick turned all the people out of the towns on the Norman coast and seized the Catholic shipping after peace had been signed, believing that Charles IX could not raise an arma-

[78] Archives Nationales, K. 1494, No. 83.
[79] K. 1495, No. 35.
[80] Aldeguier, p. 396.
[81] Arnaud, Dauphiné, p. 55.
[82] Ruffi, Histoire de la ville de Marseilles, vol. i, p. 338.

ment.[83] The social results were profound. In 1562 husbandry was almost entirely neglected in France, while the poor people fled from their homes rather than be exposed to both enemies. Trades and the mechanical arts were abandoned, for merchants and tradesmen closed their shops and joined the armies. Justice could not be administered, since force and violence reigned. Yet the number of Protestants continued for a time to increase.

The planting of the Protestant churches remains for consideration. The Romorantin edict of May, 1560, and the supplementary decree of August drew back into France many of those who had left the country. Some of these were ministers who gave new life to the party. Between 1555 and 1566 Geneva sent one hundred pastors, among them William Farel, who returned to Gap in November of 1561 after an absence of thirty-eight years.[84] In the king's council, convened at Fontainebleau on August 20, 1560, the Huguenots demanded churches of their own. Admiral Coligny presented petitions, one to the king, the other to his mother, in which the sovereigns were requested to grant two places of worship in two parts of France for greater convenience, in order that private congregations might assemble without molestation.[85] After the death of Francis II on December 5, 1560, a great number of refugees returned from Germany. The declaration of toleration by Charles IX, which followed on January 7, 1561, was so liberal an edict that Paris soon abounded with Huguenot preachers. Philip of Spain was informed on the ninth of March that there was secret preaching at Fontainebleau and in the woods around.[86] On April 13 the Bishop of Valence preached before the queen with the proposal that the Bible should be read by every one in his own language and the Psalms chanted.[87] Nine days later the Spanish ambas-

[83] Castelnau, vol. v, p. 248.
[84] Arnaud, Dauphiné, p. 81.
[85] Great Britain, Cal. St. P. Ven., No. 195, Aug. 30, 1560.
[86] Archives Nationales, K. 1494, No. 32.
[87] Condé, vol. ii, p. 3.

sador Chantonnay bluntly informed Catherine that some of the bishops of the established church should not be allowed to reside in their parishes simply because they could not compete with the regular ministers of the Huguenots. Through the deputies of the churches dispersed throughout the realms of France the Protestants presented on June 11, 1561, a request to the king,[88] in which they declared that the reports of their refusing to pay taxes were false, and begged to be permitted to build churches. The response was to the effect that the July edict of Romorantin was to obtain until the Colloquy of Poissy, set for the summer of 1561. Directly after the colloquy even the Catholics admitted that the Reform was making great progress. Chantonnay wrote to the duke of Parma that "Beza preached yesterday the most abominable sermon ever made, and the people flocked in by the doors and the windows with marvellous eagerness."[89] On the last day of August he confessed to de Tisnacq that the Huguenot preachers there had more assurance than the priests. The request made by the deputies of the new religion to have temples, probably at St. Germain en Laye, was handed in on January 22, 1562, five days subsequent to the famous edict of toleration. Two months later matters had gone so far that there was a remonstrance by the Catholics against placards placed in public view on Parisian street corners by the Huguenots.[90]

In which province did the Huguenot movement spread most rapidly? The gospel showed its first fruits and power in the seaboard provinces. Lower Poitou and Normandy were the chief Protestant provinces. Poitou, with its towns of Moncontour, Chatellerault, La Roche-sur-Yon, Poitiers, Niort and Lusignan, had the most adherents and began the agitation for a book of discipline. Normandy, for its size, was probably the most Protestant province, for there Calvinism not only obtained in the ports and "good" towns,

[88] Archives Nationales, K. 1495, No. 42.
[89] Bersier, Coligny, p. 267.
[90] Condé, vol. iii, p. 100.

but in the country areas as well.[91] The coast trade with England and Holland undoubtedly explains Protestantism in Lower Normandy, but the reasons of its prevalence on an extensive scale in the rural portion are quite obscure. The next to the southwest was Brittany, where Andelot, Coligny's brother, was endeavoring to consolidate the Huguenot development. Adjoining Brittany and Poitou was the little division of Aunis, where the Reform was introduced by several who had been in Brazil with Villegagnon. Here also lay Saintonge, in whose cities of Brouage, Saintes, and St. Jean d'Angely preaching was taking place. Just across the border, in the inland province of Angoumois, was Cognac, whose Protestant church was formed November 1, 1558. As to Guyenne, on the coast of the Bay of Biscay, Montluc said that in this large province Huguenotism was prevalent among the peasants.[92] Within its confines were located the important subdivisions of Perigord, Quercy, and Rouergue. The governor of Guyenne had joined the ranks of the Huguenots, along with Bouillon of Normandy and other nobles who came out openly at the death of Henry II. In Gascony there were evidences of the penetration of Protestantism into the country districts to the extent that four hundred churches had the liberty of preaching without fear of punishment.[93] The adjacent province of Béarn was rapidly won to the new religion. The seaboard provinces in general were peopled by brave and hardy people, though naturally addicted to luxury and excess. As a result of the religious movement, however, the artist Palissy reported that "banquets and superfluities of coiffure ceased: there were fewer scandals and murders, and less licentious songs and debauched men at the inns."[94]

Provence on the Mediterranean and Dauphiny on its northern border were Huguenot strongholds. Both provinces fattened on the commerce from Italy through the

[91] Crottet, p. 28.
[92] Commentaires et lettres de Montluc, vol. iv, p. 115.
[93] Archives Nationales, K. 1495, No. 49, July 1, 1561.
[94] Crottet, p. 65.

Alpine passes and cleared through Lyons, the capital of Calvinist printing in France. Upper Languedoc included the divisions of Cevennes, Vivarais, and Velay. The piety of the Protestant Cevennes and other hill countries of the south of France was phenomenal in the sight of foreigners. No stretch of the imagination could have classified the citizens of Vivarais, north of the Cevennes, as devoted to the crown and Roman Catholicism.[95] Their neighbors of Velay who were Huguenots met in the open with butchers, masons, or tavern keepers as preachers.[96]

In Lyonnais and Forez, just west of the frontier of Savoy, there were few great lords to impose their domination. The nobility was poor and there were few great families. Barring Lyons the inhabitants were stanch Catholics. Lyons for a long time had fought the temporal domination of its archbishops and, more resolutely even than Germany, disliked ecclesiastical government. Altogether the city offered a marvelous field for the Reform, and might have been the capital of surgery as well as of printing had not Rome imposed obstacles. Owing to the restrictions in the profession there were only five surgeons in Lyons to fight the plague in 1564, although it had the oldest and best hospital in Europe at the time. Protestants were not allowed at first to be pharmacists, but this prohibition was removed after they began to practise at Poitiers and Niort in Poitou. Ramus said it cost 881 livres in 1561 to have a doctor or surgeon.[97] Notwithstanding the many obstructions the number of Protestants increased. Lyons and the Dauphiny constituted one ecclesiastical province and the churches held four provincial synods in 1561, beginning at the former town on April 13. The second and third synods were held on the last day of July and the eighth of September. At the fourth synod (November 25) the new churches of Macon, Châlon, Beaune, and Buxy, in Burgundy, and all of those in the Comtat-Venaissin, including Avignon, were incorpor-

[95] Steyert, vol. iii, p. 118.
[96] Mandet, Velay, p. 27.
[97] Duparcq, Charles IX, p. 9.

ated.[98] There are evidences of the penetration of Protestantism into country districts elsewhere, as in Orléannais, Nivernais, Blésois, the diocese of Nîmes, and even in isolated portions of Champagne in northern France. The ecclesiastical department of Champagne and Brie included Troyes, Chalon, Melun, Auxerre, Chaumont, Mezieres, Reims, Sens, Langres, Sedan, and Meaux.[99]

Fragmentary traces of churches are also found other than those which have been previously described. St. Lô, Dieppe, and Caen, in Normandy, dared to have public preaching. The movement in Tours awakened the resentment of the Duke of Guise.[100] Of Orléans Minister Faget wrote Calvin on December 15, 1558, that everything was prospering. In Paris the consecration of a child was the occasion of the establishment of the first Protestant church.[101] As early as September, 1555, M. de la Ferrière, from Maine, moved the election of Jean Maçon (de Launay) as a minister, though the candidate was but twenty-four years of age.[102] The chancellor, L'Hôpital, later permitted public preaching in the Porte St. Antoine.[103] The mother of the Prince of Porcien opened her palace to religious assemblies, while the guild halls of the city were free to Calvin's preachers. Beza stated that after the Edict of Romorantin the Reformers met in barns at Montpellier, Rouen, Nîmes, Meaux, Auxerre, Castres, and outside the walls at Angers, Sens, Bordeaux, Bourges, Grenoble, and towns in Brittany and Normandy.[104] The new church at Lanjon had Morel as pastor. Otrand was minister at Pons. The remarkable Charles Léopard began at Arvert, in Saintonge, in February, 1560. At St. Just nearly everyone abjured the Roman church and new edifices sprang up in the neighborhood.

[98] Capefigue, Histoire de la Réforme, p. 94.
[99] Blackburn, vol. i, p. 86.
[100] Laplanche, vol. i, p. 234.
[101] Lacombe, p. 19.
[102] Blackburn, vol. i, p. 86.
[103] Merki, L'Amiral de Coligny, la maison Châtillon et la révolte protestante. Paris, 1909, p. 256.
[104] Beza, vol. i, p. 600.

particularly at Marennes.[105] The first church at Nîmes was planted by Mauget, in 1560. Audiences, who were compelled to meet in the daytime, averaged four thousand in number.[106] There is an account of a sermon in the same town delivered on the sixth of October, 1560, by Vinet, a remarkable orator of fifty years. Die adopted the Reform en masse, to become effective on May 1, 1562. This was in emulation of Milhaud and St. Foye, in Agenois.[107]

Suriano wrote to Venice that "thirty cursed sects" had sprung up, who argued that the king's authority did not extend to their conscience. He lamented that even in the States-General speeches against the Catholics were allowed. France in his opinion was approaching a popular state like the Swiss republic, on account of the new doctrine. "Le sujet n'est pas obligé d'obeir à son prince, lorsqu'il commande de choses qui ne sont point contenues dans l'Evangile."[108] Indeed, in church polity the Protestants were carrying the change further than the Reformers elsewhere in Europe. In England and Germany the Protestants still adhered to many of the institutions of the medieval church, retaining episcopates and inferior clergy as deacons, archdeacons, canons, curates, besides clinging to the vestments, ornaments, and canonical habits.

As to names for the reformers there has been some confusion. Among the thirty sects mentioned by Suriano it has been a common error to identify "Huguenot" with "Vaudois," but there seems to have been no historical connection between the two. The Vaudois were almost a memory when the term "Huguenot" was first applied by the Comte de Caylus. In the despatch written on November 18, 1560, by this colonel of legionaries of Languedoc sent to chastise the rebels we read: "Il n'y a plus de ces seditieux huguenaulx rassemblees dans les Cevennes."[109]

[105] Crottet, p. 42.
[106] Corbière, Histoire de l'Eglise réformée de Montpellier, p. 10.
[107] Arnaud, Dauphiné, p. 114.
[108] Suriano, p. 378.
[109] Devic et Vaissete, Languedoc, vol. xi, p. 347.

Among various explanations of the origin of the name the Catholic Davila asserted that the Calvinists in Tours met near Hugo's gate; hence, "Huguenots."[110] Whatever the origin it was a nickname applied by the Romanists, yet the latter in great numbers thought their own name "Catholic" fatal to Christianity. Under this title had not Germany broken away under Leo X; England, under Clement VII; France, under Pius IV? The death of the latter pope, five weeks after Henry II, was welcomed as a deliverance both by Romans and foreigners. Of great talents, he ruled in an extremely critical period. Even the term "catholique-ment" in the various edicts entailed endless controversy and confusion.

The high water mark of the French Reformation was reached in the terms of the peace of Amboise, March 19, 1563. Condé was to succeed Navarre. The Reform was to be permitted everywhere save in Paris. The king was to appoint one town in each bailiwick where religion might be preached. All gentlemen holding fiefs might have preaching in their homes, while nobles enjoying high justice could have preaching on their estates. Property confiscated from either church should be restored.[111]

[110] Davila (Henrico C.), Historia de las guerras civiles de Francia. Madrid, 1651, p. 64. The word "Huguenot" is thought by others to be a corruption of "Eidgenossen," confederates.

[111] Isambert, vol. xiv, p. 135.

CHAPTER V

Friends and Foes at Home and Abroad

The wars of religion in France present a most complete instance of the intersection of home and foreign influences. This condition was largely attributable to the increasing means of expeditious communication, among which the least observable but the most potent was the royal mail. Louis XI ascending the throne just one century before the outbreak of the first war of religion, had established royal postmen. The astute policy of this monarch included land or sea supremacy in the eastern Mediterranean, despite the handicap of Moslem domination of Constantinople. At the advent of Louis' son, Charles VIII, France boasted 230 relays of mail carriers. In 1495, the very year during which Charles entered Naples without opposition, the mail service was extended to Rome. The Duc de Bourbon, writing from Paris to the Italian metropolis on the 15th of December, 1494, received a reply four weeks later on the 12th of January.[1] An ordinance pertinent to our subject is that of Francis II, May 29, 1560, concerning the mails.[2] It ordered that the route to Dauphiny, a Mediterranean province, should be by way of Lyons, Grenoble, and Villeneuve. It fixed the wages and number of carriers thus: thirty-six on the route from Paris to Bordeaux; twenty-four, Paris to Metz; eighteen, Lyons to Marseilles; seventeen each, Bordeaux to St. Jean de Luz, Paris to Navarre, Blois to Nantes, Boulogne to Paris; nine, Paris to Peronne. These royal carriers were just beginning to be entrusted with the mail of individuals. Until the middle of the century messengers of universities or of merchant corporations carried

[1] Foville, La Transformation des Moyens de Transport, p. 184.
[2] Limoges, p. 416.

private mail.[3] Fourteen years after the first war of religion the edict of 1576 regulated the departures and fixed the prices of letters and their answers, and charged fifteen deniers for a package of more than one ounce. The effect of the improved means of communication upon the spread of the Reform can scarcely be exaggerated.

One of the foreign countries with which the Huguenots were in correspondence was Flanders where some of the foremost friends of the Reform were to be found. The similarity between the Flemish movement and the progress of the political Protestants is very close. The connection between politics and religion in France and the Low Countries was reciprocal. The regent of Flanders and Granvella, the Spanish ambassador, implored Philip II to come to the Netherlands in order to crush the heretics, but the monarch pleaded ignorance of the language and poverty. Meanwhile the Orange party practised so successfully with Margaret of Parma that the regent inclined toward conciliation instead of coercion. She proposed to convoke the States-General in order to remedy the evils, a program which the nobles enthusiastically advocated. The latter demanded the recall of Granvella, who was presently ordered to Madrid. Granvella, in order to suppress heresy in its two most active centers, proposed to imitate the method used at Paris, by exacting a profession of faith, together with a pledge to observe the laws, of all citizens who desired to remain in the city. Recalcitrants were to be disarmed, compelled to sell their property, one-third of which must be confiscated for municipal and military expenses, and then banished.[4] The prince of Orange protested vehemently.

In 1563 the activity of the French Protestants in Flanders became a matter of serious apprehension to the Roman Catholics. Demonstrations at Tournay and Valenciennes became so bold in May, 1563, that it took six companies

[3] Pigeonneau, p. 76.

[4] Gachard, Correspondance de Philippe II sur les Pays Bas. 4 vols., Brussels, 1848–1859; vol. i, p. 277. Philip to Alva, Dec. 14, 1563.

of infantry to keep the Huguenots overawed. The latter city was the most aggressive in the province and was proud of the largest number of converts.[5] Brussels, too, boasted a great church. The Protestants were especially numerous in the Walloon provinces, where there were many ministers from England and Geneva. By November, 1563, it could be seen that a common purpose actuated the important provinces of Flanders, Artois, Holland, Utrecht, and Zeeland. Chantonnay cautioned Margaret of Parma to be on her guard against the combination of Dutch rebels and French Protestants.[6]

Adjacent to Flanders lay the three bishoprics which were early famous for their interest in the new faith. The laxness of episcopal discipline in the first half of the sixteenth century contributed to this spirit, and finally led to a Catholic reaction. Philip of Spain was anxious to see France despoiled of Metz. On December 9, 1561, the English correspondent recorded that there was some anxiety in France lest the German Empire might seize the Bishoprics.[7] Ferdinand, however, in addition to activities in Turkish and Muscovite quarters, was at odds with the Pope over the Council of Trent, and was friendly towards France. Metz inclined more towards Calvinism than to Lutheranism; under French domination it passed definitely over to Calvinism. Vieilleville, the governor, was moderate in his policy, and granted the Protestants a church in the interior of the town. During the first Civil War the Metz Protestants remained quiet, but soon after Farel visited the city for the third time and stirred up its religious activity. Charles, cardinal of Lorraine, suppressed Huguenot preaching in the diocese and closed the church, and upon Charles IX's tour of the provinces in 1564 the building was demolished. One of the motives for the support of the Protestant cause by John Casimir, prince palatine, was the promise offered by the Huguenots that he would be given the government of

[5] Papiers d'état du cardinal Granvelle, vol. vii, p. 270.
[6] Archives Nationales, K. 1497, Nos. 30, 33.
[7] Great Britain, Cal. St. P. For., No. 712.

Metz. Another bishopric was Trèves-on-Moselle, eighty-six miles south of Cologne. The see of Trèves, which claims to include the oldest town in modern Germany, had appeared as an archbishopric in the ninth century. Among its most powerful archbishops who attained considerable temporal power was Richard von Greiffenklau, who as early as 1531 distinguished himself by his opposition to the incipient Reformation. Even the cardinal of Lorraine, however, was unable to cope with the influence upon the Trevarans of ministers from Switzerland and Champagne.[8] In the bishopric of Strasburg the Reform found ready acceptance, its foremost champion there being Martin Bucer. During the ensuing period of religious dissension the city was skillfully piloted by the "stadtmeister" Jacob Sturm. The church at Strasburg was included in the important Schmalkalden League of Protestant churches, organized in 1531, and the period intervening before the first war of religion saw the Strasburg congregation rise superior to persecution.

The three Scandinavian countries were early bulwarks of Protestantism and, like the other neighbors of France to the northeast, supplied ministers and money to the Reform movement. The Danes proposed that a French prince should marry the sister of King Christian III, while they hoped to induce the sovereign himself to become the fiancé of Mary Stuart.[9] Protestantism would have profited by these arrangements, for the father of the Danish king, Frederick I of the house of Oldenburg, had accepted the Protestant faith in the year 1525.

The conditions which neutralized Protestant England's position in relation to the French Reform have been discussed in an earlier chapter. Looking elsewhere both friendly and hostile sentiments might be found in Switzerland and Ger-

[8] British Quarterly Review, July, 1875: article "Augusta Treverorum," by E. A. Freeman.

[9] La Place, P. de, Commentaires de l'état de la religion et de la république sous Henri II, François II et Charles IX. Paris, 1565, p. 122.

many. The term "neutral" could more reasonably be applied to the latter. In 1499 the Swiss had practically renounced their allegiance to the emperor, the temporal chief of the world according to medieval theory. In the sixteenth century a great number of them did the same by the world's spiritual chief, the pope. The scene of the revolt was Zurich and the leader Ulrich Zwingli was both a political and a religious reformer. He was ardently in favor of securing for Bern and Zurich the chief power in the confederation, because of their importance and size, and can be considered the founder of Swiss neutrality toward other states. At the famous meeting at Marburg in October, 1529, Zwingli tried to come to an agreement with Luther on the subject of the eucharist but failed, and the gulf between the Swiss and German Reformations was widened. Just before the first war of religion in France the Counter Reformation, or reaction in favor of the old faith, began to make itself felt in the confederation. Cardinal Charles Borromeo, whose dispatches have been quoted previously, lent his efforts to that effect upon entering upon his archbishopric of Milan in 1560. Besides this nephew of Pope Pius IV, Ludwig Pfyffer, commander-in-chief of the Swiss mercenaries in France from 1562 to 1570, accomplished so much towards the religious reaction at home that he was termed the "Swiss King."

In 1559 the Swiss cantons numbered thirteen. The seven Catholic members were Uri, Schwyz, Unterwalden, Zug, Lucerne, Freiburg, and Soleure. On the side of the Reform were Zurich, Glarus, Basel, Appenzell, Schaffhausen, and Bern, which alone was thirty times as large as the smallest Catholic canton and quadruple the size of the largest. On the 29th of April, 1562, the Huguenots endeavored to persuade the Protestant cantons to prevent the Catholic states from supporting the Duke of Guise.[10] The Bernese told Condé that they, among other Protestant cantons, would not suffer the levying of any soldiers to fight

[10] Great Britain, Cal. St. P. Ven., No. 285.

against the Protestants. On the other hand, the Papist cantons, at a meeting of the Swiss Diet on May 22, 1562, at Soleure not five miles from the Bernese border, offered to send 6000 infantry to the aid of Charles IX.[11] One group of states promised fifteen ensigns, who arrived at Blois on August seventh, after using the Franche-Comté route, but other cantons of Catholic persuasion balked at assisting France, pleading penury. The fact that Bern acted as a natural barrier between Paris and all the Catholic cantons except Freiburg was an element of great weight. The troops of the solid east central group of five Papal cantons had to make a wide detour, no less than did the auxiliaries of the five widely scattered smaller Protestant states.

The leading Protestant princes of Germany included the elector of Saxony, the margraves of Baden and Brandenburg, the landgraves of Hesse and Thuringia, the Count Palatine, the prince of Anhalt, and the dukes of Wurtemburg, Mecklenberg Holstein, and Zweibrücken.[12] All were Lutheran except the Calvinist Count Palatine and the landgrave of Thuringia. Confirmation of stories of grave differences between the two Protestant denominations in Germany, circulated chiefly by the Guisards, is lacking. In border towns of both countries theological disputes were inevitable. Castelnau reported a brawl in Frankfort between the Lutherans and Calvinists, both of whose assemblies happened to be in session there.[13] The German princes tried to prevent soldiers leaving for France. Wurtemberg allowed none by way of Montbéliard, while Strasburg forbade enlistments under heavy penalties. The bishops of the Rhine kept quiet. Hesse stopped cavalry recruiting. Only Lorraine and the three bishoprics permitted unimpeded enlistments. Roggendorf was a famous pro-Guise recruiter. The turncoat Navarre on April 8, 1562, engaged 1200 German mounted pistoleers and an equal num-

[11] Revue Historique, vol. xcvii, p. 305.
[12] Letter of F. Hotman, December 31, 1560.
[13] Castelnau, p. 153.

ber of horse, which arrived at Blois four months later.[14] Yet twelve days subsequent to the hiring of these mercenaries, the Count Palatine answered one of Navarre's letters, pledging goodwill to the Reform in France.[15] Four weeks before the mails could bring this reply, the vacillating Antoine of Navarre had cast the die by attending mass on Palm Sunday, March 22, 1562. Condé, his brother, proposed to the German Protestant princes that if the Guises tried to enlist in Germany, measures should be taken to check the effort; that if the Guisards armed against Condé and Coligny and were supported by Spain, Protestant Germany should send assistance. On the second of May, many of the Lutheran princes of Germany advocated an open league of all Protestant states for mutual protection in the hope that the mere knowledge of such a coalition would restrain their adversaries.[16] Men from Saxony and Brandenburg were recruiting for the Catholic armies in France, with Frankfort as the distributing point.[17] There were no regular Catholic armies as yet, but only mercenaries under famous captains. On the 7th of May, Wurtemberg replied to the messengers of Condé that he had commanded his subjects not to enter the service of foreign princes.[18] On the other hand, the English ambassador was authority for the statement that soldiers were easily enlisted in the bishopric of Trèves, on account of its proximity to the French kingdom.[19]

In protesting to the French government against importing Germans to man the Catholic armies, the Protestant princes were at the outset under a definite handicap. On account of the machinations of Guise, for over a month the envoys of the Count Palatine, Zweibrücken, Wurtemberg, Hesse, and Baden were unprovided with safe conducts.[20]

[14] Mémoires de Théo. Agrippa D'Aubigné, II, p. 33, note; Archives Nationales, K. 1494, No. 105, Oct. 28, 1561.
[15] Condé, vol. iii, p. 100.
[16] Great Britain, Cal. St. P. For., No. 11, May 2, 1562.
[17] Lavisse et Rambaud, Histoire Générale de France, vol. v, p. 128.
[18] Condé, vol. iii, p. 436.
[19] Great Britain, Cal. St. P. For., No. 414, May 19, 1562.
[20] Great Britain, Cal. St. P. For., 674, May 19, 1562.

The same English despatch of June 13, 1562, carried the news that these princes had put Roggendorf under their ban. A paragraph of Catholic origin of July 20 added that the same princes warned that they would attack Brabant should the Catholics initiate any repressive measures against the Huguenots of the Low Countries.[21] Heidelberg completely snubbed D'Oysel, Charles IX's agent, when he asked for aid late in July.[22] On August 26, Louis of Condé thanked the landgrave of Hesse for his help of the Protestant propaganda. Candor compels the statement that the Roman Catholics as a rule were unsuccessful beyond the Rhine and fortunate in Switzerland and the episcopal states.

The implacable and uncompromising enemies of the Reform abroad were powerful if not numerous. They should not be enumerated without mentioning several smaller ones. Among these Brittany, which opposed equally the French Reformation and the Revolution, had been a part of France only since 1532. Henry II and Charles IX were kings of France and dukes of Brittany, the heiress Anne of Brittany having been forced to marry Charles VIII.[23] The Bretons may more reasonably be considered as "foreign foes" when it is remembered that they retained a separate parliament until 1789. Even the small kingdoms of Greece and Albania sent troops all the way to France to fight for the Duke of Guise.[24] This is no less surprising than amusing, since from 1453 until the end of the eighteenth century almost all the occasions on which the Greek people appear on the page of history are episodes in which they were butchered or sold into slavery. Greece in 1560 was under the sway of foreigners. Mohammed II a century before had personally conquered the kingdoms of Albania, Elboea, Greece proper, and part of the Peloponnesus, but the Lion of St. Mark, which floated over many of the Aegean islands, was soon in evidence in Athens. The Venetians owned large posses-

[21] St. Croix, p. 176.
[22] Cal. St. P. For., No. 414, Aug. 3, 1562.
[23] de Calan, La Brétagne au 16e siècle. Nantes, 1908, p. 1.
[24] Lavisse et Rambaud, vol. v, p. 128.

sions in Greece and Albania and doubtless were responsible for recruiting the Hellenes for the French Catholic forces. As early as 1552 a Moorish ambassador of the King of Argos reached Paris.[25] Francis I started the connection with the Turks, but the death of Henry II in 1559 had ended for the time being the treaties with the Sublime Porte.

Savoy was the firm friend of the established church in France. Duke Emmanuel Philibert of Savoy established in 1557 at the victory of St. Quentin his reputation as one of the most brilliant generals of the century. The peace of Cateau-Cambrésis restored to him his states with certain exceptions withheld by Spain and France. Previously the duke had been governor of the Low Countries. One of the conditions of the treaty provided for the marriage of Emmanuel with the lovely Margaret of France, sister of Henry II. On June 30, 1559, the date set for the double marriage of Philip of Spain and Elizabeth of France, and of Emmanuel and Margaret, Henry II was mortally wounded in a tournament. To make it more funereal the ceremony, at Henry's orders, occurred at midnight, and possibly the scene was prophetic.

The French marshal Vieilleville bewailed the aforesaid treaty with Savoy. "What will become of those fine parlements of Turin and Chambéry, and the chambres des comptes which were instituted by Henry II? They all speak French. The duke of Savoy [who lived until 1580] will soon wipe out the French glory of thirty years. The chance to obtain Milan is lost. These terms help Philip II, who will soon thunder at the gates of Lyons, our new frontier."[26] As the fruit of Chantonnay's interview with Moreta, the Savoyard ambassador, early in April, 1562, when he discussed a possible restoration to the duchy of certain Piedmontese fortresses held by Philip II, Emmanuel Philibert offered to the Catholic army of France 10,000 foot soldiers and 600 cavalry. Three thousand of the in-

[25] Bourciez, p. 51.

[26] Carloix, Mémoires de la vie de Francois de Scepeaux, sieur de Vieilleville, 1527–1591. 5 vols., Paris, 1757; vol. i, p. 28.

fantry and half the horse were to be armed at the duke's own expense.[27] Just four weeks later the duke proffered 6000 infantry and 600 horsemen, promising to pay one-half their maintenance for four months.[28]

In Rome there was an unalterable determination to trample down heresy at any cost. Spurred on by the colloquy of Poissy, the consistory of the Roman Curia resolved on October 10, 1561, to resist the Protestant movement in France. On the eighth day of the following June the constable Montmorency appealed to Rome through Santa Croce for a body of soldiers and a loan of 200,000 écus.[29] The pope offered 50,000 crowns per month. Venice, too, was uncompromisingly anti-Protestant, though Catherine de Medicis had refused a league with the city of canals.[30] French traffic with Venice had diminished when the silk industry was inaugurated at home by the Huguenots, and when spices were introduced from Lisbon.[31] The Venetians, however, were kept closely in touch with the progress of the French Reform through the assiduity of their ambassadors, upon whose despatches historians of this period largely rely. Genoa seems to have taken but little part in French affairs during the sixteenth century. The Genoese rulers had for a time exhibited great inferiority, falling now under the power of France, now of Milan, until the national spirit appeared to regain its ancient vigor in 1528. In that year Andrew Doria was successful in throwing off the French domination and restoring the old form of government. A mariner of Genoa not long before had given to Spain that new world which might have become the possession of his native state had Genoa been able to supply him with the ships and crews which he so ardently begged her to furnish. In the first war of religion Genoa furnished crossbowmen who had formerly fought in the western king-

[27] Archives Nationales, K. 1497, No. 21, April 8, 1562.
[28] Condé, vol. ii, p. 20.
[29] Archives curieuses de l'histoire de France (Cimber and Danjou). Paris, 1834, vol. vi, p. 86.
[30] St. Croix, 176, July 20, 1562.
[31] Levasseur, Commerce, vol. i, p. 205.

dom. The republic's star was setting. Her Aegean and Syrian fortresses were being abandoned, although many exist even to-day around the Mediterranean basin, even to the summit of Mt. Gerizim in the Holy Land. France was to be overrun with the ferocious German cavalry because the inevitable mercenaries of the decadent Italian states were needed at home.

Philip II of Spain has been considered by many historians the real pope of the period of 1560 rather than the incumbent at Rome. "Whoever wishes to be well acquainted with the morbid anatomy of governments," wrote Macaulay, "whoever wishes to know how great states may be made feeble and wretched, should study the history of Spain."[32] The empire of Philip II was undoubtedly one of the most powerful and splendid that ever existed in the world. In Europe he ruled Portugal, Spain, the Netherlands on both sides of the Rhine, Franche-Comté, Roussillon, the Milanese, and the two Sicilies, Parma, Tuscany, and the smaller states of Italy were completely dependent upon him. In Asia the Spanish monarch was master of the Philippines, and of all those rich settlements which the Portuguese had made on the coasts of Coromandel and Malabar, in the Malacca peninsula, and in the spice islands of the Eastern Archipelago. In America his dominions extended on each side of the equator into the temperate zone. The influence of Philip on the continent was as tremendous as that of Napoleon, who in his day longed in vain for the ships, colonies, and commerce which had proved both bane and blessing to Spain of the sixteenth century. Spanish ascendancy had been gained by unquestionable superiority in all the arts of policy and war. The Swiss phalanx and French chivalry were no match for the Spanish infantry. Nevertheless, more sombre and gloomier than his Escorial palace-dungeon Philip even seemed born old and sad.

The support of Philip was a vital factor in French politics. His wife, however, even though she was a daughter

[32] Macaulay (T. B.), Essay on Lord Mahon's History of the War of Succession in Spain.

of French royalty, had no influence over the sullen king.[33] On the other hand, many French noblemen took up arms against their government because they did not relish Catherine de Medicis' unpatriotic dealing with Philip.[34] Her vacillating policy wavered between fear of Spain and anxiety on account of the Huguenot insurrection. Political dictates demanded that Philip prevent heresy in France, for the latter lay like a wedge between Spain and the Spanish domain of Burgundy and Flanders. The monarch feared the results of French national councils and assemblies such as that of Meaux. The latter, for example, had been called by Charles IX for three reasons: hearing the grievances of everyone, composing the religious troubles of the kingdom, and solacing the people on account of tributes.[35] Such results would be the antithesis of the ends desired by Philip. To forefend the proposed national council he offered as early as September 28, 1560, to give the French aid at his own expense in suppressing all rebellion and schism. In the southwest four thousand infantry were stationed near Bayonne, together with a large body of Spanish cavalry. At Narbonne, on the Barcelona-Perpignan highway, five miles from the Mediterranean, two thousand more troops were available. In Flanders 3500 infantry were at the disposal of the French government.[36] Ten weeks subsequent to this offer the frail Francis II succumbed before a complication of maladies. Philip sent De Manrique ostensibly to congratulate the new young ruler Charles IX, but really to win over Montmorency, to steel the French nation against the Protestants, to deter any movement towards a national council, and to urge the marriage of Guise's niece, Mary of Scots, to the Spanish king's son, Don Carlos.

Chantonnay concocted a scheme to put an end to Catherine's moderation. At his suggestion Philip wrote a common letter to Guise, Montmorency, the duke of Montpellier,

[33] Baschet, La Diplomatie Vénetienne, p. 238.
[34] Duparcq, Histoire de Henri II, p. 107.
[35] Laplanche, vol. ii, p. 63.
[36] Great Britain, Cal. St. P. Ven., No. 199.

the chancellor, St. André, and Brissac and a joint note to the cardinals Tournon and Lorraine. To the constable Montmorency and St. André, however, he wrote separate letters, proposing a combination of reactionary forces. Urged by his Roman Catholic wife, Madeleine of Savoy, the constable formed on the 6th of April, 1561, just four months after the accession of the boy king, Charles, a triumvirate consisting of Navarre, St. André, and Montmorency. Under this act of Spanish conception it was planned to keep France in a deluge of blood until the heretics were wiped out. Thus the cordon of Iberian influence was tightening about France. Philip's armada patrolled the coasts. On the Flemish, Burgundian, Béarnese, and Lyonnais frontiers, the kingdom riven by religious controversy was menaced by the Spaniard. So domineering was that power that when a misunderstanding arose between England and France concerning the city of Havre, Alva and Alava brazenly proposed that this second seaport of France be temporarily entrusted to Philip, who would mediate between the two countries.[37]

Within the borders of France itself there were several important personages who were hostile to the Reform and whose influence must be considered. Foremost was Catherine de Medicis daughter of the Florentine ruler Lorenzo, and born in central Italy in 1519. When but fifteen days old her mother died, and in less than three more weeks the infant was left an orphan. At the age of fourteen her destiny was settled when she was married to the duke of Orléans, later Henry II. During the lifetime of her husband the queen exerted no political influence, but on the contrary was hated as an Italian.[38] Henry was ever completely under the influence of Diana of Poitiers, and the short reign of Francis II was dominated by his wife Mary Stuart and her uncles, the Guises. Therefore, during these two reigns, from 1547 to 1560, Catherine was living a pas-

[37] L'Ambassade de St. Sulpice, pp. 137, 151.
[38] Relations . . . vénetiens, vol. i, p. 105.

sive, but observant life. In person she possessed big eyes and thick lips, was fond of good living and ate irregularly. The Venetian ambassador chronicled that the queen was never still, and was noted especially as a great huntress, yet retained an olive complexion in spite of much exercise.[39] At fifty she walked so fast that no one at court was willing to follow.[40] From the period of the peace of Amboise, Catherine continued to fill her subjects with astonishment. Her industry in public business was amazing. She even followed the Catholic armies, often on foot, and revelled in sieges.

"The famous Roman temporizer, Fabius Cunctator," wrote the ambassador of Venice, "would have recognized his daughter in this astute woman of Etruria."[41] For fear of being sent back to Florence or staying in France without influence Catherine for a quarter of a century played the two parties of religion against each other, but her "bridge policy," instead of uniting France, kept it divided. With monotonous recurrence it happened that the queen marred or ruined the progress she had made with the aid of one party's support by her own envious fear of that party's predominance. In the life of the "most respectable bad woman on record" there were four determining elements: Guise, the Protestants, Philip, and Diana of Poitiers.[42]

The councilor Dubourg was burned for heresy in spite of intercession by the Catholic wife of Montmorency, of Marguerite of Savoy, and of the Count Palatine, two days before Christmas, 1559. Directly afterward Catherine saw an opportunity to make headway against the Guises by playing into the hands of Condé and Coligny. Henry II possessed neither the vivacity of spirit, eloquence, or chivalry of Francis I, but was the embodiment of ostentation, violence, and selfishness. Catherine emulated him in these qualities, to which may be added jealousy, particularly of

[39] Relations . . . vénetiens, vol. i, p. 409.
[40] Ibid., vol. ii, p. 155.
[41] Baschet, La diplomatie Vénetienne, p. 499.
[42] Sichel, p. 4.

the Guises. She begrudged their position in a place which naturally and traditionally was her own, had the regencies of Blanche of Castile and Anne of Brittany been considered as precedent.[43]

Tavannes says that Catherine went so far as to instigate the conspiracy of Amboise which startled France about the middle of March, 1560. Were that true, it was presumably to check the power of the Guise brothers. After the conspiracy the queen arranged an interrogation of the Protestant historian Laplanche upon the state of the kingdom. The cardinal Lorraine, whom Catherine cleverly persuaded to eavesdrop in an adjoining room, certainly could not have felt flattered during the interview.[44] The prompt action of the queen mother after the death of Francis II on December 5, 1560, turned the scales against the cardinal and the duke. The government of the minor, Charles IX, was organized around Catherine, with the three Bourbon princes, Navarre, Condé, and the Cardinal Bourbon, and the further assistance of the Constable Montmorency, the brothers Montpensier and Roche-sur-Yon (a Catholic duke and a Protestant prince), and the three Châtillons, Coligny, D'Andelot, and Cardinal Odet. The Guisard faction of Aumale, Marquis Elboeuf, the grand prior of France, and the cardinals of Lorraine and Guise all left the court at the same time without exhibiting any hurt pride. The Parlement of Paris passed an act in which Catherine declared that the withdrawal of the Guises from court carried no prejudice to their honor.[45] The queen adroitly avoided their influence by arranging in the Privy Council, March 27, 1561, that she and Navarre should rule jointly.[46] Her duplicity or anxiety, as we care to view it, was immediately in evidence. The queen mother's plan to govern through the Catholic constable and the Huguenot admiral, leaving Navarre only nominal authority, received a shock on April 6,

[43] Thompson, p. 42.
[44] Laplanche, vol. i, p. 8 (preface).
[45] Condé, vol. iii, p. 512.
[46] Relations . . . vénetiens, vol. i, p. 433.

1561.[47] On that date the Triumvirate was formed. The Protestant world was startled, for only ten days before Catherine had contrived to have Navarre named as co-regent.

The year 1562 was marked by continued contradictory actions on the part of Catherine. A Catholic authority recorded that the queen on the 5th of February changed the governors of her sons from the Huguenot to Roman Catholic. In the same chapter we find that Catherine's fear of the Triumvirate led her to take up an abode near the Protestant forces.[48] Yet on Friday, the 10th of April, she wrote to the cardinal Odet of Châtillon, asking him to influence his brother Louis of Condé to lay down arms.[49] The question might be asked if Catherine sought to win the favor of the Reform because her bitter enemy, Henry's favorite Diana of Poitiers, hated them. From 1547 to 1559, said the Protestants, not a drop of justice fell upon France except by stealth, thanks to the beauty from Poitou. But although Catherine may have resolved not to allow the Huguenots to be utterly crushed in order to use them as a counterpoise to Diana, Philip, and the Guises, she was by habit, if not by conscience, a Catholic. Montluc was delighted to inform the duke of Alva that "they may saw the queen in two before she will become a Huguenot."[50]

By April 19, 1562, the Protestant uprising had so increased the fears of Catherine that she completely surrendered to the Triumvirate and resolved to appeal to Spain for assistance. At her instance Navarre, St. André, and Montmorency formally solicited Philip's military help.[51] Lettenhove said that the queen asked for 10,000 infantry and a like number of cavalry.[52] Exactly one month later the Spanish monarch acceded, promising the full quota of

[47] Négociations toscanes, vol. iii, p. 448; Archives Nationales, K. 1494, B. 12, 73, April 7 and 9.
[48] St. Croix, pp. 64, 94.
[49] Bethune MSS., vol. 8702.
[50] Blackburn, vol. ii, p. 40.
[51] Archives Nationales, K. 1496, No. 61.
[52] Lettenhove, p. 80.

foot soldiers and 3000 horsemen. Both branches of the service were to be largely composed of Italians and Germans.

Henceforth Catherine was to be the Circe of the Calvinists. Like so many of the Italians of her century, who were almost destitute of moral sense, she looked upon statesmanship in particular as a career in which finesse, lying, and assassination were the most admirable, because the most effective weapons. An attendant once said to the queen: "I have noticed that whom you hate you call friend, and never stop until you have destroyed."[53] On June 1, 1562, fifteen new chevaliers of the order were elected in order to ensure the affection of a few doubtful nobles to the queen.[54] Catherine believed the middle of the year to be the time to degrade before the tribunals of ecclesiastical jurisdiction those nobles and clergy who were opposed to the Roman faith, while the Council was assuredly Catholic. She now seemed convinced that Alva was correct when he shouted: "Catch the big fishes. One salmon is worth 10,000 frogs."[55] The upper classes who professed Calvinism she desired first to cajole and then condemn to a judicial death; the middle classes she aimed to drive from the Reform by vexatious interference and refusal of a chance to worship. Nevertheless, even after the battle of Dreux the Huguenots admittedly throve. Catherine was compelled to exclaim, "the more fire, the more of this novel faith."

In the course of one year these changes had occurred in Catherine's relations to the new religion: (1) the Edict of January, 1562, had been under her auspices: she now minded it no longer; (2) the Reformers had been protected, but she now turned against them; (3) her best adviser and finest support had been among the Huguenots: she now disdained their advice and forgot their fidelity; (4) once Condé had been besought to take up arms in her defense: she disavowed him when he took the field.[56] The Talsy confer-

[53] Blackburn, vol. i, p. 47.
[54] St. Croix, p. 171.
[55] Blackburn, vol. ii, p. 40.
[56] Delaborde, p. 55.

ence between Catherine, Condé, and Coligny was worse than futile.

The other great hypocritical friend of the Reform was Antoine of Bourbon, sieur de Vendôme, and king of Navarre, the first prince of the blood in 1559. He was tall and vigorous, generous to a fault, but vain and undependable. When he first renounced the mass all France whispered that it was for the purpose of becoming the head of the Huguenot party. Suriano relates that the Protestants themselves called him a hypocrite.[57] His hobby was to regain the kingdom of Navarre. This ambition might have been achieved had Antoine, the logical leader of the party, definitely cast his lot with the Protestants, but the pusillanimous prince not only hesitated, but allowed the Guises to imprison and nearly behead his brother of Condé, besides losing the governorship of Guyenne.[58] Dargaud said that Antoine was only a prince, not a man. He was sought by both parties and became much inflated with a sense of his own importance. He negotiated especially with Philip and the Pope for the restoration of his former kingdom. Chantonnay as early as May 16, 1561, told Antoine that he would probably be rewarded thus if he would help in keeping France true to the established religion.[59] Fifteen days previously Chantonnay had written his master that he was parleying with Vendôme (the Spaniards would never consent to call Antoine "Navarre") for the transfer of Majorca and some other islands of the Mediterranean.[60] Even Antoine's patience was being taxed so that on the 7th of December, 1561, Philip offered another proposition to the prince.[61] Should Navarre succeed in banishing from the French court every Huguenot, and from France all the Protestant pastors, along with Condé, the Châtillons, L'Hôpital, and Montluc, bishop of Valence, he would re-

[57] Relations . . . vénetiens, vol. ii, p. 47.
[58] Great Britain, Cal. St. P. For., No. 716, Nov. 17, 1560.
[59] Great Britain, Cal. St. P. Ven., No. 259.
[60] Archives Nationales, K. 1494, No. 83.
[61] Cal. St. P. For., No. 116.

ceive as a reward the "kingdom of Tunis." Geographical ideas of the sixteenth century were often ludicrous. Montmorency thought Tunis an island! Antoine realized that the Turks were still in possession, so Philip proposed that "M. Vendôme" exchange Navarre for Tunis and Sardinia, and promised to conquer it for him.[62] One condition was that Jeanne d'Albret should also relinquish her rights to Navarre. Jeanne and Antoine had already quarreled because the latter insisted upon receiving instruction from a Jesuit, while she refused to allow the future Henry IV to be escorted to mass. To add to the complications the queen of Navarre abjured Catholicism at Christmas, 1561.

On the 5th of January, 1562, Navarre told St. Croix that he was being toyed with; that he saw nothing in Italy or the Low Countries which would give him satisfaction. Naples or Milan, with absolute mastership thereof, was his latest demand. Two days later Chantonnay assured St. Croix that Philip was *nearly* ready to turn over Sardinia, except the fortified ports, to Navarre.[63] Antoine, enraged at the thought of what he would do with the interior of the large island, wreaked his vengeance upon the Huguenots. In July, five months after the massacre of Vassy, numbers of persons of all ages were drowned at night with stones about their necks at Tours, Amboise, Blois, and those towns which capitulated to the king of Navarre.[64] The reckoning came on October 26, 1562, when he died from a wound sustained at the siege of Rouen. He was a "trimmer" to the end, on his deathbed professing the confession of Augsburg, a doctrine intermediate between Catholicism and Calvinism.[65]

[62] Bordenave, Histoire de Béarn et de Navarre. Paris, 1873, p. 108.
[63] St. Croix, p. 14.
[64] Thompson, p. 154.
[65] Despatches of Michele Suriano and Marc Antonio Barbaro, 1560–1563. (Ed. Sir Henry Layard, London, 1891), November 25, 1562.

CHAPTER VI

Guise or Valois?

From 1550 the house of Guise directed and almost produced events in France. Its leaders were the brilliant and terrible meteors of the sixteenth century. The expansion of this alien house became so great that the whole misfortunes of France were attributed to it, and among the families of Europe it rose to an eminence unrivalled. In the fourteenth century the countship of Guise, a fief under the French crown, had been carried by marriage to Rodolph, duke of Lorraine. In 1508 René II, the conqueror of Charles the Bold, divided his territories between his sons, Antony, who became duke of Lorraine as holder of the Germanic portion, and Claude, who had the French fief including Guise. Claude of Lorraine thus became the founder of a great family in which there appeared repeatedly a cardinal and a duke side by side. It was the second duke and cardinal who threw themselves into the Catholic reaction and became the leaders of the resistance to the Reform in France. Until the day of Richelieu the Guises stood between the nobility and the king, fortified by an imposing array of lordships bequeathed to them by Claude of Lorraine; Guise, Aumale, Elboeuf, Joinville, Harcourt, Mayenne, Longjumeau, Lanbesc, Boves, Sablé. Alliances with the houses of Nevers, Joyeuse, Ventadour, Sully, Mercoeur, and Aiguillon further strengthened the position of family. The cardinalate of Lorraine, the archbishopric of Rheims, the bishopric of Metz, and various minor ecclesiastical positions belonged also to the Guises, whose power was well represented in the arms of Claude of Lorraine, who as a foreign prince and at the same time a peer of France, carried the German-Lorraine double eagle and the quarterings of eight

sovereign houses, including the kings of Jerusalem, Hungary, Naples, and Aragon, and of the lords of Flanders, Bar, Anjou, and Guelderland. In 1527 this Claude was created duke of Guise, and gathered to himself riches by all means, fair or foul. His brother John, first cardinal Lorraine, also was so grasping that in consequence the reputation of the whole Lorraine country suffered for centuries. Francis, the eldest of the six children of Claude who attained their majority, was born in 1519. Charles, born in 1524, became the second cardinal. The younger brothers included Claude, duke of Aumale, Louis, cardinal of Guise and archbishop of Sens, and René, marquis of Elboeuf.

Claude of Guise died in 1550, and was succeeded by Francis, the "grand Guise," with whom we have to deal. He was liberal, chivalrous, humane. A fearful face scar, received at Boulogne in 1545 while defending his country, was the outward symbol of his devotion to France, and heightened his popularity with the lower classes. His renown reached its height after he had repelled Charles V at Metz in 1552 and wrested Calais finally from the English in 1557. With his brother Charles, the duke of Guise was practically co-regent during the reign of Francis II. If Francis of Guise was "le grand Guise," the cardinal Charles of Lorraine was the ablest, and in 1559 was in his early prime. He had a fine face, a striking figure, and was gifted with rare eloquence and an astonishing memory.[1] His ability as a linguist was only exceeded by his great insight and intuition, but he was avaricious, licentious, vindictive, envious, quick to anger. As we shall have occasion to see, the cardinal's duplicity was so great that he seemed never to tell the truth. "Le cardinal Lorraine est plus habile que personne dans l'art de dissimuler." As between the two brothers Balzac's opinion that "the passion of the French for this man [Francis of Guise] was almost idolatrous"[2] is not confirmed by the facts, while the most biased writer has

[1] Relations . . . vénetiens, vol. i, pp. 435, 437.
[2] Buet, p. 10.

never been so rash as to give a similar estimate of Charles, Cardinal Lorraine.

The machinations of the Guises are an integral part of the rise of French Protestantism, 1559 to 1562, and are naturally considered under three aspects, political, religious, and financial. Their political position was due in part to the accidents of nature, for during the estates of Orleans, the Marquis de Beaupreau, practically the last prince of the blood, died after a fall from his charger. Eighty years before, the princes of blood were numerous, but of the old titles in 1559 only Bourbon names remained (Vendôme, Montpensier, and Roche-sur-Yon). The new names were practically limited to the prince of Condé and his children. If women might have occupied the French throne, the daugther of Louis XII, the duchess of Ferrara, would have been more nearly in line than Francis.[3] Urging the Salic law, Francis of Guise in 1559 obtained control of war affairs, while his brother the Cardinal assumed the management of finances and state politics. When Henry II passed away the Guises immediately seized the person of the heir apparent, the frail Francis II.[4] As guardians they held the young king in their control and virtually a prisoner from the age of seventeen to the day of his death. They said they would see the kingdom in ashes rather than leave the king. The young monarch was forced to utter the following on December 15, 1559: "We know of no better selection than our much esteemed and beloved uncle, Francis of Lorraine, on account of the perfect and entire confidence we have in him, to entrust the credit and authority of such affairs."[5] As Francis neared his majority the Guises were glad, for now they could manage him without a council. This was in spite of the law of the land, for at Tours in 1484 it was determined that in case of a minor king the three estates should meet and elect a council. This was to contain princes of

[3] Suriano, p. 364.
[4] Castelnau, p. 68.
[5] Condé, vol. ii, p. 342.

the blood and no foreigners.[6] Now the Guises made it treason to the king to speak of the estates, for they well saw that the demand for the States-General was the voice of France against Guise. The nobility were to be considered traitors for approaching thus near to the king of France.

Men were at work tracing the genealogy of Guise back to Charlemagne.[7] Futile as the attempt was, there is little doubt that the brothers intended to seize any opportunity to supplant the weak Francis II, the second from last of the house of Valois, with a revival of the "Angevin dynasty." Henry II had addressed an injunction to all his provinces to obey the commands of the Guises as if they came from him.[8] When Queen Catherine interceded in favor of the condemned Baron Castelnau, she had to interview "ces nouveaux rois," the Guises. Lorraine was called the "Cardinal of Anjou" while he was in Rome,[9] but Henry II obliged him to release him from a promise that he would bestow the title Anjou on him when he was king. After the battle of Jarnac, the duke of Guise erected a shaft inscribed "Erected by a great French prince." In spite of his lawyers the duke inserted "Anjou" in his marriage contract.[10] In Dauphiny he signed merely "Francis" like a king, and used royal seals of gold. In Parlement he alone of the nobles wore a sword. The younger brothers also were permeated with the consuming ambition. Aumale, upon the occasion of his marriage at Ferrara, signed as the "duc d'Anjou."[11]

The unscrupulous policy of the Guises is illustrated in their machinations against royalty. Prince Louis of Condé, of the house of Bourbon, stood near the throne in case a prince of the blood should be chosen to reign in the place of the weakling children of Henry II and Catherine de

[6] Laplanche, vol. i, p. 40.
[7] Condé, vol. i, p. 406.
[8] Laplanche, vol. i, p. 412.
[9] Ibid., vol. i, p. 158.
[10] Bersier, p. 26.
[11] De Thou, Histoire universelle. 16 vols., London, 1734; vol. i, p. 164.

Medicis. Condé, gay, gallant, laughter-loving, lively, wayward, still was chivalrously honorable and had genuine and strong religious convictions.[12] Though he was very poor, bribes of every kind were spurned. Since he would not countenance or support the ambition of the Guises, this rival must be eliminated. As the prince of Condé with his brother, Antoine of Navarre, on October 30, 1560, rode into Orléans where the States-General were to convene, he was arrested and imprisoned, upon the charge of implication in the Amboise conspiracy and the insurrection at Lyons.[13] Only two persons were sufficiently powerful and concerned to invesigate this audacious seizure of so eminent a noble. It was to the regent Catherine's interest to avoid strong measures and to play the Catholic Guise against the Huguenot Condé, hence all signs point to the cardinal Lorraine as the author of this move. To be sure, as late as March, 1562, Guise was denying that he was responsible for Condé's imprisonment,[14] and tried to avert public scrutiny of his motives by a voluntary statement of the object of the Amboise conspiracy. It was intended, he said, for the death of both sovereigns, the king's brother and all the princes, and the foundation of a republic.[15] History records that several times did the Guises lay themselves open to suspicion on the first of those very charges. Davila chronicles one. The frail king Francis eventually succumbed to a malady of the ear and head. One day in 1560 the monarch suffered a fainting fit while in the barber's chair.[16] The ugly rumor reached every province that the Guises had caused the barber to put poison in the king's ear. The Pope and Philip of Spain were both advised that the heretic Condé would soon be executed. The prince was saved only because the Guises were trying to draw both Navarre and the constable Montmorency into the same plot. Fair trial with the existing venality of justice would have been the exception. The

[12] Hanna, p. 24.
[13] Négociations toscanes, vol. iii, p. 425.
[14] Condé, vol. iii, p. 156.
[15] Venice was about the only republic well known to France.
[16] Davila, p. 64.

death of Francis II on December 5, 1560, thwarted the efforts of Guise to have the great Condé executed or kept in perpetual confinement.

Another instance of flagrant tampering with royalty is recorded by the ultra-Catholic ambassador Chantonnay, Philip's minister at the court of France, in a letter of November 9, 1561. The young king Charles IX had left his room after an illness. The duke of Orléans, his brother, was in the king's room and met the duke of Nemours, a relation of the Guises. To the question whether he was Papist or Huguenot, young Orléans answered that he was of the religion of his mother, the queen. Nemours asked "s'il ne luy plaisoit pas qu'il luy dis 25 paroles," then took him aside near the door of the king's cabinet and said: "Sir, I see that the kingdom of France is lost and ruined by these Huguenots, and the King and yourself are not secure, because the King of Navarre and Condé wish to become king, and will cause both you and the King to die: thus, Sir, if you wish to avoid this danger, you must guard and if you wish, M. Guise and I will aid and succor you, and send you into Lorraine or Savoy."[17] Orléans replied that he did not wish to leave his mother and the king. Nemours: "Think well of what I tell you, it is to your profit." The duke did not reply. Nemours: "You do not trust in Carnavallet and Villequier?" "Yes." "Do not tell them of what I have told you and what we have been talking about thus at length. If they ask you, say we were speaking of comedies," said Nemours, and left him. At this juncture, the duke of Guise, who had been standing before the fire talking to his son the Prince of Joinville, approached Orléans and said, "Sir, I have heard that the Queen wished to send you and the duke of Anjou (Henry III's fourth son) into Lorraine, in quite a splendid castle, for a vacation: if you wish to go, we will make you much at home." Orléans: "I do not think the Queen my mother wants me to abandon the King." Joinville: "If you wish to come to Lorraine

[17] Condé, vol. iii, p. 375.

and enjoy what M. de Nemours has told you of, he can fix it all right." The next day Joinville came to Orléans, speaking in the same strain, saying that if he wished to know the means of accomplishing the departure he would tell him. The young duke would like very much to know. Joinville: "You will be taken away at midnight, after being lowered from a window opening on the Pont de Parc: afterwards you will enter a coach, and will be in Lorraine before any one finds it out." Orléans did not answer, and left the prince. The following day Nemours was to leave and at his departure whispered to Orléans: "Remember what I have told you and tell no one." Only an accident frustrated this plot of the Guises and Nemours to spirit the dukes of Orléans and Anjou into Lorraine, their stronghold.

"La tyrannie guisienne" was no fiction. The brothers built up a system of government wholly their own, especially in the provinces. Dependent upon Guise's lieutenants were about six thousand who had been raised to various positions in the government of the provinces.[18] In 1559 there were almost as many to whom tyranny seemed profitable as those to whom liberty seemed agreeable. The government of the provinces and frontier towns was changed, and Guisards were installed. The frontiers of Champagne, Picardy, Brittany, Poitou, Gascony, and Dauphiny especially were furnished with adherents of Guise. All generals, governors and towns were ordered to obey Guise as the king himself. Not content with their foreign and French fiefs, the Guises set about increasing their holdings. Claiming to be descendants of Charlemagne, they wrested two of Henry II's chief provinces, Provence and Anjou, besides the duchy of Bar, which domain Lorraine asserted had been taken away originally only by force. The Guises threw a sop to the princes by advising the king to create two new governments in the center of France. To Montpensier was given the government of the province of Touraine, the duchies of Vendôme and Anjou, and the coun-

[18] La Boëtie, Discours de la servitude volontaire, p. 85.

ties of Blois, Maine and Dunois.[19] His brother, the prince de la Roche-sur-Yon, received the government of Orléans, the duchy of Berry, the "pays" Chartrain, the Beauce, and Montargis. We are not surprised to find, however, that the new offices were subject to provincial lieutenants under Guise, Sipierre in Orléannais and Savigny in Touraine. To balance these allotments the constable Montmorency was deprived of the government of Languedoc.

Italy was the scene of the majority of the foreign machinations of the Cardinal Lorraine and his brothers. At Rome the Guises played with sustained credit, possibly because Italians held one-third of the benefices in France and infinite pensions.[20] At first the cardinal had requested Henry II to use his influence to secure the tiara for his uncle, John, later Paul IV. This Giovanni Pietro Caraffa had been head of the reactionary party at Rome, bent on crushing all tendencies to religious innovation. After taking part in two important conclaves, Caraffa was unexpectedly elected pope on May 23, 1555, after the death of Marcellus II. The cardinal Lorraine seems to have been instrumental in raising Paul IV to the pontifical throne, notwithstanding his personal unpopularity and the positive veto of Charles V. Caraffa rewarded Lorraine by openly espousing the cause of France as against Spain and Catholic Germany. His death in 1559 so crystallized the detestation of the Roman people, that the hawkers of earthenware and glass were compelled for a time to discontinue their usual cry of "carafe" and substitute "ampolle." Immediately the Guises, always fishers in troubled waters, brought to bear all their resources. The cardinal aspired to the throne of St. Peter;[21] for his brother Francis of Guise he sought the throne of Naples.[22] Against Pius IV, the pope succeeding Paul IV, the cardinal warred for four years, and

[19] Oeuvres complètes de Brantôme. Lalanne, 11 vols, Paris, 1864–87; vol. iii, p. 278.
[20] Laplanche, vol. i, p. 331.
[21] Baschet, La diplomatie Vénetienne, p. 497.
[22] Tavannes, vol. ii, p. 185.

declared the French king the protector of the duke of Parma (the second of the Farnese line, Ottavio) and the house of Farnese, whom the pope had anathematized. Now, at the height of their power in France, the Guises longed also for the Papacy and the Kingdom of Naples and Sicily.

Through the jealousies of the Montmorencies, Francis of Guise had been sent in 1557 to assume charge of military operations in Italy. His recall, necessitated by the events leading up to his laudable coup at St. Quentin, prevented one more addition to the long list of military reputations ruined in Italy. But the sojourn was the foundation for his future enterprises at Rome. One of these was the contemplated alliance of a brother of the duke with Ferrara's daughter. Two expeditions instigated by the cardinal involved losses to French prestige in Italy. In one of these the papacy was the prize. The other goal was the kingdom of Naples (and Sicily), which rich territorial prize covered the entire south of the Italian peninsula, just as in the day of Napoleon. To further his aims, Francis of Guise made capital of the inveterate hatred of the Neapolitans for the Spanish rule. Prior to 1559 the Guises had not cultivated the deference to Philip II which is so conspicuous after the outbreak of the wars of religion.

The sudden change in Guise's attitude toward Spain, in the epoch-making year of 1559, is partially explained by the close alliance of Cardinal Lorraine and Granvella, the Spanish ambassador to the Low Countries. In the same year, as will be shown, the attitude of France became anti-Protestant instead of anti-Spanish. One of the most astute diplomats of all time, Chantonnay, the Spanish ambassador at the French court, was an overshadowing factor in this result. On February 4, 1560, Guise wrote Philip: "I will obey, Sire, any good and praiseworthy advice it will please you to give me."[23] On January 31, 1561, Lorraine assured the Spanish monarch of his loyalty.[24] On April 21, 1562,

[23] Capefigue, Histoire de la Réforme, vol. ii, p. 92.
[24] Archives Nationales, K. 1494, No. 35, Bibl. Nat.

an assuring note was handed Philip from the new Triumvirate, which was a reality as soon as Marshal Montmorency determined to join Marshal St. André and Guise in their ambitious program.[25] Another ill-omen for France lay in the coincidence that the colors of Spain and Guise were identical, red and yellow. The accord of the Triumvirate provided for (1) Philip II to be the head; (2) Navarre to coöperate; (3) Emperor and Roman Catholic princes of Germany to blockade France during the war; (4) Roman Catholic cantons to prevent the other cantons from assisting; (5) Ferrara to be head of the Italian troops; (6) Savoy to attack Geneva and murder every one; (7) German Lutherans to be massacred.[26] In answer to Condé, the Triumvirate on May 4, 1562, presented a request to Charles IX, asking him to proclaim that he does not wish diversity of religion and that all officers shall observe the same religion.[27] It may be added that it would probably be impossible to find any Huguenot leader who ever thought of subordinating the government of France to a foreign ruler for the maintenance of the faith he believed in, as did Guise, St. André, and Montmorency.

Scotland was aspired to by the house of Guise through enterprises in favor of Mary Stuart. They had a lien on that country on account of the two Marys. Mary I of England had married Philip II and restored the Catholic faith, while Mary queen of Scots was the daughter of Mary of Lorraine and James V of Scotland. At the age of six she was betrothed to the dauphin Francis and started for France. Imperial Rome at its darkest could not have overshadowed the society in which the child was reared. Debauchery of all kinds and murder in all forms were the daily matter of jest to the circle of satellites around Catherine de Medicis. After ten years' tutelage by the woman whose chief instrument of policy was the corruption of her own children, Mary was married to the dauphin on April

[25] Archives Nationales, K. 1496, No. 64.
[26] Condé, Jan. 31, 1562.
[27] Ibid., vol. iii, p. 419.

25, 1558. To serve Guise they were married long before marriageable age, Francis attaining to fifteen years and three months and Mary one month older. "By a singular combination of events and lineages Mary Stuart was necessarily almost the cornerstone of the universal monarchy Philip II dreamed of forming in Europe, her possession of the Scottish crown, her claim to England, her relationship with the Guises, united with the religion she professed, made the furtherance of her power the most practicable means to that end."[28] Louis of Condé was the power who thwarted Guise's plan to make Francis II, "King of France, Scotland, Ireland and England."[29] The Guises plucked courage from the fact that under the pretext of preparing for a Scotch war in favor of Mary Stuart, they could fill France with soldiers, to meet any French, German, or Swiss Protestant contingency.[30] Their agents had been at work among the mercenary princes of Germany for months, 20,000 men being engaged by the middle of 1560.

The leading Protestant princes of Germany were concentrated upon by the Guises in an effort to inject into the minds of the Germans an unmerited confidence in themselves and a suspicion and dislike of the Huguenots.[31] German Protestants had been tricked into France to fight their fellow Protestants. The Count Palatine and the Landgrave of Thuringia were Calvinists. The other leaders. Augustus, elector of Saxony; Joachim, margrave of Brandenburg; John Frederick, duke of Saxony; Wolfgang William, duke of Zweibrücken; Joachim Ernest, prince of Anhalt; Charles, margrave of Baden; William, landgrave of Hesse; and Christopher, duke of Würtemberg, were all Lutherans.[32] Their participation in the wars of religion will appear in another chapter, as will the conference of Francis of Guise with the duke of Würtemberg, at Saverne,

[28] Thompson, p. 244.
[29] Aumale, Histoire des Princes de Condé, vol. i, p. 51.
[30] Archives Nationales, K. 1495, No. 2, July 11, 1560.
[31] Letter of Fr. Hotman, Dec. 31, 1560.
[32] Condé, vol. iv, pp. 1–38.

February 15, 1562. Francis went so far as to emphasize that he was essentially a Lutheran. To this perjury was added the promise not to molest the Huguenots any more. The original plan of Philip, Chantonnay, and Guise called for such a distortion of the facts that the audiences with the Protestant princes of Germany might even result in the enlistment of Lutheran forces against the French Calvinists. The Saverne meeting was simply an expedient to "endormir les Protestants."[33] Christopher of Würtemberg was soon undeceived. The duke of Guise immediately crossed the French frontier into Lorraine and on to one of his estates at Joinville, in Champagne. On March 1, ten days after the Saverne conference, the duke's retinue passed through the village of Vassy. In perfect accordance with the Edict of Toleration of January 17, 1562, a Huguenot congregation was at worship in a barn outside the village. History will probably never obtain a true account of what followed, but an epoch was marked when the duke's followers butchered the defenseless people. The January Edict had been made in the absence of the Guises and against their wish. Vassy was the result. Guise had said: "This sword shall cut the bond of that edict, though never so strait."[34] The historian Ranke tersely remarks that "whether the duke intended the massacre or not, it is enough that he did not prevent it."[35] Vassy was the immediate cause of the disastrous and paralyzing wars of religion. Agents of Guise circulated printed apologies for Vassy, though one of the duke's train boasted having brought down six of the pigeons who tried to escape over the roofs![36] Even by May, 1562, Guise had not been absolved by the Guisard Court of Parlement or by the peers of France for this atrocious deed.

The kingdoms of Denmark and Sweden had been at war for seven years. The German princes were fearful lest the

[33] Varillas, Histoire de Charles IX. 2 vols., Paris, 1683; vol. i, p. 153.
[34] Davila, p. 97.
[35] Ranke, L., Civil Wars and Monarchy in France. 2 vols., p. 211.
[36] Popelinière, vol. i, p. 327; Hanna, p. 33.

Guises should use this favorable opportunity to move into Denmark and put their relative, the Duke of Lorraine (brother-in-law of Christian II, exiled King of Denmark), on the throne.[37] Denmark wanted a French Protestant prince to marry the Danish king's sister, and offered an alliance between the sovereign and the widowed Mary Stuart. Naturally this pro-Protestant proposal was frustrated by Philip and the henchmen of the Guise party.

The foreign political intrigues of Guise, to be considered under separate titles, cover an amazing range. In addition to the countries referred to the plans of the ambitious family included Switzerland, Flanders, Holland, the Three Bishoprics, Savoy, Venice, Barbary, Turkey, and even Greece and Albania. It seemed as if each month saw the heart of some foreign prince alienated from the French king and his country through the schemes of the Guises. The Venetian ambassador wrote home: "Il n'y avait rien que en ne branlait et tremblait sous le nom de Guise."[38]

Naturally, the subservience of the parliaments of Paris and the provinces was essential to these political plans. Most of the sacred laws of France were trampled upon. Ordinances and edicts were changed. Legislation and justice were degraded, and one has but to open the records of 1559 to 1562 to discover how the Guises repeatedly upset decisions of the courts of Parlement to obtain favorable judgments. If it is too much to say, with Beza, that Guise was "meurtrier du genre humain,"[39] still it was a constant epithet in all of western Europe. Lorraine pursued under the name of heretics all who blocked his ambitions or refused to serve them.[40] The Parlement of Paris, dominated by Ultramontanes and Guisards, was his chief instrument. Other parliaments assisted, especially those of Aix and

[37] Correspondance du Cardinal de Granvelle, 1565–1575. Ed. Poullet et Piot. 11 vols., Brussels, 1878–85; vol. i, p. 126.

[38] Relations . . . vénetiens, vol. i, p. 435.

[39] Aymon, Les synodes nationaux des églises reformées de France, vol. i, p. 82.

[40] Dufay, Pierre, Histoire, actes et remonstrances des parlemens. 2 vols., Paris, 1826; vol. i, p. 63.

Toulouse. Unknown persons carried the response to certain slanders of the cardinal to the parliaments of Paris and Rouen. The latter body sent it to the king, but the Guises, fearing a libel, sent the magistrates home without seeing the king.[41] Forms of law were seldom, if ever, used in capital punishment: the victims' names were never published. Wherever the king was sojourning, distinguished heretics were hanged, strangled or burnt, especially for the amusement of the ladies of the court. The guiltless Dubourg was incarcerated in the Bastille at the motion of the Cardinal. A man was arrested if he stopped in front of the prison. Only the sudden death of Francis II kept intact the head of the great Condé. That event affected also one of the most important diplomatic moves made by the Guises, which was the great effort made to attach to their party Brissac, governor of Piedmont under Henry II. The hope of playing him against the constable Montmorency and the Bourbons was ever a dominant impulse.[42] Their extended system of checks and balances was interrupted only when the fusion party of the chancellor L'Hôpital displaced the ultra-Catholic Guises at the death of Francis.

Concluding the survey of the machinations of this ambitious house in so far as they were political, one important observation remains. Jurisconsults of Germany and France, and likewise theologians and doctors, said that the usurped government of the Guises could be legitimately opposed by arms if need be. The sequel is to be found in the chapter dealing with the armed progress of the Reform. The Protestant rising was based on definite legal grounds. Nothing is more curious in the period of the wars of religion than the Protestant passion for legality. Legists, pastors, commanders, all sought legal basis for their action.

Just as the political and religious schemes of the house of Guise were executed to the detriment of the nobility and

[41] Condé, vol. ii, p. 360.

[42] Paris, Négociations relatives au règne de François II, vol. ii, p. 73.

the clergy, so their financial dealings were most often at the expense of the other great order, the Third Estate. A famous anagram current in 1560 voiced the sentiment of the common people in various transpositions of the letters of "Charles de Lorraine":

Il cherra l'asne doré (he worships the golden ass)
Hardi larron se cèle (bold thief hides himself)
Renard lasche le roi (fox, let go the king)
Raclé à l'or de Henri (raked up from the gold of Henry)

The amount "raked up from the gold of Henry" was independent of the ordinary income of the Guises. Their patrimony, church property, pensions and benefits from the king amounted to 600,000 francs (nearly $500,000 today), the cardinal having half that sum. The estates inherited from their ancestors of Lorraine would have sufficed for any one save the ambitious brothers. Although an attendant of Marshal de Brissac said that one hundred houses in France yielded nothing to the Guises in grandeur, nobility, and antiquity,[43] yet the records would seem to show that the house of Lorraine was second to none in opulence. It is the more surprising therefore to read the Venetian ambassador's comment on the "shameful cupidity and duplicity of the cardinal."[44] In the same letter this Catholic envoy refers to the "great Babylonian beast, avarice, in whose path follow so many superstitions and abominations." One of the cardinal's crowning acts of dishonesty appeared when he forced Queen Catherine to divide with him the fees arising from the confirmation of offices and the privileges accorded towns and municipal corporations in the time of Henry II, which sums lawfully accrued to her. Then he cut her share in half by a fraudulent estimate in livres instead of écus d'or.[45]

The conspicuous blot upon the public financial policy of Guise was the extraordinary imposition of taxes from 1558

[43] Laplanche, vol. ii, p. 311.
[44] Relations . . . vénetiens, vol. i, p. 435: "Sa violence était telle que dans tout le royaume on ne désirait que sa mort."
[45] Écu d'or = 2 livres tournois under Francis I.

to 1563. Tailles were redoubled. Imposts on grain, wine and salt were so increased that the poor subjects found peace more intolerable than war. Loans purporting to relieve the royal treasury went to swell the Guisard exchequer. A famous journal, Le Tigre de 1560, aptly wrote:

> "Le feu Roy devina ce poinct
> Que ceux de la Maison de Guise
> Mettroient ses enfants en pourpoinct
> Et son pauvre peuple en chemise."[46]

Laplanche declared that the cardinal would sell the air! "We must increase the course of the sun twice in order to double the crops to meet the exactions of Guise."[47] An economic catastrophe was nearly precipitated when the foreign merchants refused to submit to these exactions. They were assured no profits if they dealt with the Guises, consequently France remained full of wine and grains and empty of money. Public revenues were diverted. Most of the timber land in France was in Normandy, Champagne, Burgundy, and Dauphiny, forming, as it were, a dotted line across the kingdom from northwest to southeast. These "vacant lands" were rented out, but the returns never reached the royal treasury.

To add to the universal dissatisfaction due to the financial situation, these redoubled tailles of the "real kings" were not used to alleviate conditions. The king's army itself developed the most acute situation. Gendarmes, infantry, and cavalry were obliged to go for a long time without pay, although the Guises' foreign mercenaries were always provided for.[48] Even the salaries of officers of justice were far in arrears. The henchmen of Lorraine and foreign satellites consumed funds which were diverted from their customary channels. As far as possible the greatest offices on land or sea had been secured by the Guise brothers to their servants. Often their dependents bar-

[46] De Thou.
[47] Laplanche, vol. i, p. 326.
[48] Condé, p. 408.

tered for the offices of justice.[49] From governors to petty officials their obsequious adherents formed an anti-monarchical and anti-Protestant chain, from Flanders to Dauphiny, from Navarre to Brittany. For their friends they created new offices, and were quite unabashed when, on April 2, 1561, a member of the Parlement of Paris declared that the "government had fallen into the hands of harpies and griffins, who deserve 1000 gibbets!"[50] Some prominent persons were so deceived that they even transferred their inheritances to the duke.[51] It would be difficult today to picture adequately the venality of justice, for the prostitution of offices of justice to the Guisard adherents was the rule. Reform in such affairs would have straightened out the conditions of noble, military, merchant, and laboring classes.

The inevitable intersection of Italian and French relations was never more apparent than in financial matters. In the public complaint of the French people, April 9, 1560, it was stated that the Guises had hired 8000 Italians for their enterprises, mercenaries who were paid with the deniers of France. The nobility are chased into the sea, while the English are incited into a new war on account of the ambitions of Guise. Four months later, on August 23, 1560, at the council of Fontainebleau, Marillac, the liberal archbishop of Vienne, in his speech on the program of the religious and political Huguenots, remarked: "Foreign prelates, chiefly Italians, fill one-third of our benefices, have an infinite number of pensions, suck our blood like leeches, and in their hearts, laugh at our stupidity."[52] The importation of money from Germany into Lorraine was no secret.[53] One apothecary, on the Franco-Italian border, said: "I know of 150 villages robbed of straw, oats, wine, and money for Guises' table and stable."[54]

[49] Laplanche, vol. i. p. 598.
[50] Response to pamphlet Pour la majorité du François II, in Condé Memoirs.
[51] Laplanche, vol. i, p. 309.
[52] La Place, pp. 53–55.
[53] Great Britain, Cal. St. P. For., No. 789, Jan. 8, 1562.
[54] Laplanche, vol. ii, p. 300.

The evidence shows that ecclesiastical foundations were not immune from the financial greed of the house of Lorraine. Did the Guises hold to Catholicism on account of their 400,000 livres revenue from the church? The fact that it was quite facile for the duke and the cardinal to prove religious turncoats on several important occasions would seem to show this, while at the same time they were piling up pluralities of bishoprics and abbeys. Two examples of absorption will suffice. The rich abbey of St. Thièrry des Rheims, paying 12,000 livres, became vacant in 1558. Before Henry II heard of it, those "three harpies, Guise, Montmorency and Diane de Poitiers," all applied for it.[55] Happily the king pretended he had already given it to the Marshal Vieilleville, who was one of his many creditors. Usually the monarch, like the Guises, had a way of scattering sedition by threatening his creditors. In another case the titles of the monastery of Monastierende in Champagne were burned and the monks driven out, to enrich the house of Joinville-Lorraine. Evidently the Guises were plagiarizing the question of Henry II: "Is it better to lose a kingdom, or take the money of the church?" Aside from Paris, where the échevins were called on to contribute eighteen times by Henry II in the dozen years of his reign, even to the gold and silver plate of the bourgeois (1553), the church of France was the grand pillar of government finance. The clergy yearly received a sum equivalent to two-fifths of the entire annual exports of France, or 15,000,000 livres gold.[56]

In the attempt to maintain religious uniformity there were several ways of ferreting out Huguenots. In various towns the host, or consecrated wafer, was borne in solemn procession, often for the sole purpose of discovering heretics who would not salute the symbol. For a similar purpose little children bore sacred candles through the streets. The complaints of and to the Parlement of Paris on this subject were continual. Wily spies pounced upon the unwary who

[55] Williams, H. Noel, Henry II: his life and times, p. 171.
[56] Suriano, p. 368.

did not contribute to the money boxes nailed to the corner lampposts. House-to-house visitations of collectors of money with which to persecute the Huguenots helped to fill the unspeakable prisons of Paris of the sixteenth century with the followers of Calvin and Luther. Against Tours on the Loire the Guises had special malevolence, and invoked the king to punish the heretics,[57] but one of the processions just referred to met with such clamor in the streets of Dieppe on April 30, 1559, that the cardinal Lorraine lost his head and departed that night under cover of darkness. He justified the drastic policy of the government by saying: "It will be more than necessary to apply violent remedies and proceed to fire and sword, as otherwise unless provision be made, the alienation of France, coupled with that of England, Scotland, and Germany would by force draw Spain and Italy and the rest of Christendom to the same result."[58]

Divergence in the opinions of contemporaries as to the cardinal's qualities of religious leadership is great. In the spring of 1560 the Venetian ambassador wrote: "During the whole of this Passion Week nothing has been attended to but the sermon of the Cardinal Lorraine, which gathered very great congregations, not only to his praise, but to the universal astonishment and admiration, both on account of his doctrines and by reasons of his very fine gesticulation, and incomparable eloquence and mode of utterance."[59] Perhaps it was in such a moment of inspiration that the prelate bequeathed to posterity an evidence of conscience usually conspicuous by its absence. Eight months later than the period at which the Venetian ambassador wrote, Francis II lay dying, before attaining his eighteenth year. His last prayer, dictated by Lorraine, was: "Lord, impute not to me thy servant the sin committed by my ministers under my name and authority."[60] The proffer of Charles

[57] Laplanche, vol. i, p. 234.
[58] Great Britain, Cal. St. P. For., No. 952, April 6, 1560.
[59] Great Britain, Cal. St. P. Ven., No. 149, 1560.
[60] Sichel, p. 105.

and Francis of Lorraine to the German princes (February 15–17, 1562) to enter the confession of Augsburg might have evinced religious penetration and statesmanship had not the massacre of Vassy twelve days later labelled the proposition a conspiracy. The Protestants despised the scholastic philosophy which the cardinal had studied at the Sorbonne.[61] Their ministers knew Greek and Latin, but the priests did not. The duke of Guise evidently was of no assistance to his brother in theology. He told him that the Bible was good for nothing, having been "written last year,[62] while Christ died 1500 years ago." The cardinal replied to the witnesses: "My brother is in the wrong." His inability to cope successfully with Protestant doctrines is shown by the Huguenot historians in his act of 1560, where he prevented the meeting of Catherine and a Calvinist minister at Rheims, at the time of the coronation of Charles IX.

The most glaring instance of quibbling due to deficiency in theological training was his conduct at the very important Colloquy of Poissy. Simultaneously in the summer of 1561 there met the States-General at Pontoise, north of the Seine, and the assembly of picked leaders of Catholicism and Protestantism at Poissy, south of the same river. The estates had to face the stringent financial crisis described in another chapter. Aside from Paris, the church of France was to prove more than ever the pillar of government finances.[63] Economy and retrenchment, honest and effective administration, no longer would avail. Jean Bretaigne, of Autun, the spokesman of the Third Estate, argued that the immense resources of the clergy must be used to bolster government finances. All offices, benefices, and ecclesiastical dignities not actually officiated either in person or in a titular capacity, must yield their revenues. The riches of deceased bishops and monks, and of benefices in litigation

[61] Varillas, Charles IX, p. 11.
[62] Hanna, p. 79.
[63] Great Britain, Cal. St. P. For., No. 396, Aug. 11, 1561; Thompson, p. 107.

should be taken over by the government. A scale of one-quarter to two-thirds was to be applied to those benefices ranging from 500 to 12000 livres in annual income. As for incomes exceeding the latter figure, the government was to retain all but 4000 livres in the case of the clergy, all but 6000 in case of cardinals, archbishops, and bishops. The plan as it touched the religious orders was severe. From the Benedictines, founded in Italy in 529 A.D., to the Jesuitesses, established in Flanders by an English woman in 1554, all revenues except a pittance for support were to be appropriated. Further sumptuary laws would increase this total. As a last resort all ecclesiastical property might be sold directly. Before such a proposition the nobility was in a dilemma, but finally a compromise was attained. The royal domain was all to be redeemed by the clergy by January, 1568, and the rest of the debt to be cleared by 1574.[64]

The Colloquy of Poissy between the leaders of Protestantism and Catholicism was being held simultaneously with the session at Pontoise. It had been called for July 2, 1561, but inadequate means of travel and other delays had postponed the actual convening until September 15.[65] Indeed the financial and religious issues were so urgent that the Parlement of Paris had met daily except Sundays from June 18 till July 11, 1561.[66] The advantages between the parties represented were not at all equal. On one side were fifty-two rich prelates (present only through royal command) masters of the situation and ready to close the debate as soon as it seemed unfavorable. Some of the delegates of the Spanish clergy on their way to the council of Trent paused in their journey to gloat over the discomfiture of the heretics. Lainez, the Spanish Jesuit general, appeared at Poissy without summons, to give the meeting another touch of intrigue and violence.[67] On the other hand the

[64] Great Britain, Cal. St. P. For., No. 750, Dec. 28, 1561.
[65] Papiers d'état du cardinal de Granvelle, vol. vi, p. 137.
[66] Condé, vol. ii, p. 396.
[67] Dufay, Parlemens, vol. i, p. 68.

Protestant ministers came under a precarious safe conduct, and were watched more than protected by the guards.

Having already kept the Protestants waiting sixteen days before opening the conference, Charles, cardinal of Lorraine, addressed the colloquy on the second day of the debate (September 16, 1561), delivering one of the "very long speeches" which according to Suriano were made by all the delegates. His address dealt with two points: one, that the king, not being the head of the church, might not act as a judge in religious matters; the other, that the authority of the church was extended even over princes. The cardinal directed a shaft at the Huguenot pastors by defining the church as "the company of Christians in which is comprised both reprobates and heretics, and which has been recognized always, everywhere, and by all, and which alone had the right of interpreting Scriptures."[68] The inclusion of "heretics" in this description was probably more from temporization than connection. The cardinal attempted to reply to only two of the points emphasized by Theodore Beza, the Huguenot leader. He asserted the Real Presence in the Eucharist, denied by Beza, and further argued that the church is no mere aggregation of the elect. The churchman quibbled with Beza as to whether on one occasion the latter had written that Christ was not more in "Coena" that in "Coeno."[69] In spite of Addison's declaration that "a pun can be no more engraven than it can be translated," Charles was accusing Beza of the impossible sacrilege of the statement that Providence was not more in the supper than in the mire!

The cardinal's malice was instrumental in causing the Protestant ministers to stand back of the rail in the assembly room as they spoke. Their demands included the propositions: (1) The bishops, abbots, and other ecclesiastics should not be constituted in any way judges of the Huguenots, in view of the fact that they were their opponents; (2) That all points of difference be judged and decided according to

[68] Great Britain, Cal. St. P. For., No. 507, Sept. 17, 1561.
[69] Baird, Beza, p. 136.

the simple word of God, as contained in the New and Old Testaments, since the Reformed faith was founded on this alone, and that where any difficulties arose concerning the interpretation of words, reference should be made to the original Hebrew and Greek text.[70] But the gulf between the two parties seemed hopeless. The colloquy dissolved on October 18. Coligny and the Chancellor L'Hôpital thwarted, if they did not dominate the Papal-Spanish party. L'Hôpital's scheme was two-fold: (1) to assure Protestants of liberty of conscience; (2) to make royal power the protector of all creeds, and not a party head.[71] This policy was finally carried out under Henry IV. Witty Madame Cursol said to the cardinal Lorraine after Poissy: "Good man for this evening, but tomorrow, what?"[72] The next day Charles boasted he had overcome Beza and brought him over to his opinion, but as a matter of fact the Guises made more Protestants than the preaching of all the Protestant apostles. Their religious policy should at this point be considered.

Many councils, canons, and courts had forbidden ecclesiastics from mixing in secular affairs, especially war. Unfortunately for France, the ecclesiastic position of the "Cardinal de la Ruine" kept him from being responsible to secular judges. He could not be reached, for one of the elements in the strength of the Guises lay in their vast clerical influence. Four cardinalates and eleven bishoprics were answerable to the house of Lorraine. Nevertheless no biography of Charles and Francis has ever proved that they were pious Catholics. The unbiased reader will find numerous instances of their using religion as a life-line.[73] Even more often they will be suspected of subscribing to a cult similar to that of Catherine de Medicis and many others of the sixteenth century who professed no religion whatever. In 1559 they who had been simply Guisards decided to change their names to Catholics.

[70] Archives Nationales, K. 1494, No. 96.
[71] Baudrillrat, Théories Politiques, p. 52.
[72] Baird, Beza, p. 145.
[73] La Boëtie, p. 17.

The indictment of introducing the Inquisition into France was preferred against the Guises by the three Electors, Würtemberg, and the duke of Zweibrücken, on March 19, 1558. Doubtless this accusation related to the most serious religious or political misdemeanor ever advanced against the house of Lorraine. Rather would the French populace have forgiven usurpation of the throne of the Valois. Under guise of assisting and defending the purity of Christendom, "misericordia et justitia" the motto, the most flagrant injustice and those cruel "tender mercies" mentioned by the Book of Proverbs made up the Inquisition. The latter had passed from Provence into France in 1255, when Alexander IV named the provincial of the Dominicans and the head of the Franciscans at Paris his inquisitors-general for France at the insistent request of St. Louis, whose piety was of the narrowest crusading type. (Were he living today he would be horrified to know that the Moslems of Tunis revere him as a saint who died in the Moslem faith!) But the Gallican church, resenting this interference of the inevitable ultramontane influence, even opposed and helped defeat the innovation. When Ferdinand and Isabella united Castile and Aragon, the Inquisition had been reorganized in Spain under a code of thirty-nine articles, drawn up by the famous Dominican Torquemada and later revised by Cardinal Ximines. Llorente, a competent authority, says that in Spain alone, until Napoleon suppressed it, 31,912 were burned, out of a total of 341,021 who were punished and handed over to the auto-da-fé.[74] The Guises wished to gratify the Pope and establish the Inquisition in France as in Spain.[75] At least this was the word brought to Henry II by Cardinal Caraffa, according to the brilliant cavalry leader Tavannes. So, in 1557, the Inquisition in its latest form was introduced into France. It was through no fault of the Guises that its hold on French soil was always small. Its success would have furthered their religious, political, and financial plans. One characteristic would have par-

[74] J. A. Llorente, Historia Critica de la inquisicion de España.
[75] Tavannes, vol. ii, p. 185.

ticularly pleased the Cardinal Lorraine, namely the hope of a rich booty from confiscation. One illustrious victim whom the Guises hoped to betray was the Cardinal Châtillon, the brother of Coligny. Through the craft of Lorraine this churchman was placed on the French board of Inquisition with three other cardinals.[76] In the opinion of the writer, chancellor L'Hôpital urged the edict of Romorantin, in May, 1560, to prevent the Guises from introducing the Inquisition. Furthermore, this royal decree was a sop to the priests, for it removed completely the jurisdiction of legal processes from the courts of parliament and from lay judges who had been empowered to render summary judgments, and restored it to the ecclesiastical judges. D'Aubigné proves that this move was an assurance to suspected persons that the death penalty was no longer a serious menace, thanks to the opportunity of appeals from the acts of bishops to archbishops and from thence to Rome.[77]

As has been said, the brothers of Guise preached:

> "Un Christ tout noircy de fumée
> Portant un morion en teste et dans la main
> Un large coutelas rouge de sang humain."[78]

In addition to the inquisition their savage policy presented many other angles. The treaty concluded between France and Spain in 1559 at the little French town of Cateau-Cambrésis was aimed at the Reform. The presence in Paris of the duke of Alva confirmed the prevailing impression that Philip II and Henry II intended to establish the inquistion in France. Even before the Romorantin Edict of 1560, the Parlement of Paris formally declared against the large increase in the powers of the ecclesiastical courts and the corresponding decrease in those of the regular legal tribunals. It further protested against conversion by persecution, and the Spanish form of the inquisition.[79] It was proposed that the inquisitors be empowered to appoint

[76] Beza, Histoire ecclésiastique des églises réformées, p. 137.
[77] D'Aubigné, vol. i, p. 274.
[78] Lettenhove, p. 79.
[79] Armstrong, Wars of Religion in France, p. 4.

diocesan tribunals, which could decide without appeal. The Parlement of Paris absolutely declined to register this edict, but the king entered the Mercuriale, or the famous Wednesday assembly, and broke with tradition by ordering the arrest of five members, among them the advocate Du Bourg, who had protested against the introduction of the inquisition.

This action placed one of the most influential elements of the kingdom in an unfriendly mood toward the government, and since the grievance was the sequel of the religious program of the Guises, it had a marked tendency to create a "rapprochement" between the reformers and the judicial classes. The most eminent jurists in 1560 were in the Protestant minority. Even the Roman Catholic historian Florimond de Remond records[80] that the youths who were present at Du Bourg's execution at the stake on December 23, 1559, cursed the judges. "This punishment did more harm to Catholicism than 100 ministers would have done." To entangle one other powerful personage in the state was the aim of the Guises and he barely escaped the net. This was the Chancellor L'Hôpital, to whom with Coligny accrued the credit of the Edict of Romorantin and other lenitive measures. The Huguenot writer, General La Noue, overheard the duke of Alva exclaim: "Catch the big fishes! One salmon (L'Hôpital) is worth 10,000 frogs."[81]

Other instances of Guisard cruelty "for the good of the true religion" are plentiful. Maugiron was instructed to sack and put to fire and sword all of the reformed in Dauphiny.[82] After the conspiracy of Amboise in the middle of March, 1560, Guise ordered the masters of the forests of the Orléannais, Berry, and Poitou to kill all suspects, without bringing them to him, and ugly rumors circulated that the Guises and Diane de Poitiers, Henry II's favorite, maintained at Paris a special staff of Italian and Spanish physicians for the purpose of making an unobtrusive end of the owners of certain benefices.

[80] Bulletin of French Protestantism, vol. xxxvii, p. 529.
[81] Blackburn, Admiral Coligny and the Rise of the Huguenots, vol. ii, p. 40.
[82] Arnaud, Dauphiné, p. 47.

CHAPTER VII

The Arsenal of Protestantism

The certainty of civil war was assured by the turn of events in 1562. In less than fifteen years after that date a million perished in war in the name of religion. The struggle was bitter, for the sixteenth century was a period of ardent passions and little regard for human life. The contest was further intensified in that the Protestants were obliged to combat the authority of a long established monarchy as well as the mediaeval church. Indeed, it has been asserted that all excuses for the Huguenot revolt rest upon the minority of two of these kings,[1] and a Protestant biographer of Coligny, writing from another point of view, insists that the Calvinists were defeated because in a war for freedom of worship they were obliged to contend with the prestige of the king's name.[2] Furthermore at the outbreak of the war the Catholic party was strongly intrenched in the local government of the provinces. Not less than nine of the fourteen governors were of the royal faction.[3]

As early as July 26, 1561, Philip of Spain had learned from his minister Chantonnay that "in Brittany and Normandy things are turbulent as always."[4] Two months later the Huguenots had seized the Garonne valley towns of Castres, Lavaur, Revel, Rabastens, and Realmont. The

[1] Weill, p. 39.

[2] Bersier, p. xvi (preface).

[3] Laplanche, vol. i, p. 399. From the council of August, 1560, the lords went out to the following assignments: Montmorency, Isle-de-France; St. André, Moulins; Brissac, Picardy; Thermes, Loches; Villebon, Rouen; Nivernais, Champagne-Brie, then to Troyes; Montpensier, Touraine, to which were annexed the duchies of Anjou and Vendôme, and the counties of Maine, Blois, and Dunois; La Mothe-Gondrin, Dauphiny; Roche-sur Yon, Orléannais, duchy of Berri, Beausse, Chartrain and Montagris.

[4] Archives Nationales, K. 1495, No. 54.

letter of the Catholic Joyeuse to Montmorency, dated September 30, also bore the information that the great Notre Dame Cathedral at Montpellier in Languedoc had been taken by four thousand Protestants.[5] At intervals during December of 1561 Chantonnay reiterated in his reports the unrest in France. Utilizing Sundays to write his royal master at the new capital and "unica corte" of Madrid, the ambassador described on December 7 and 21, the great revolt in Gascony and at Amiens, in Picardy.[6] On the 29th of December there came from the same source an account of a great insurrection at Meaux, a Huguenot center twenty-eight miles to the east of Paris.[7]

The year 1562 was ushered in with the Edict of Toleration of January 17, but a violent conflagration soon threatened the kingdom. We may pause to ask if this could have been avoided. In view of the fact that Henry II in his day had given aid to German Protestants, would not the incidents of Dreux and eventual civil war have been prevented if the wise Coligny's advice to send help to William of Orange against the Spanish Alva had been followed?

It was not Spanish intervention, but the massacre of Vassy, in Lorraine, on March 1, 1562, which immediately precipitated the first war of religion. On the 15th of February, as we have seen elsewhere, Francis of Guise had temporarily hoaxed the Protestant duke of Würtemberg at the conference of Saverne. On his way to Paris from the family estates at Joinville the retinue of Guise rode through the village of Vassy. On the outskirts a little Huguenot company of townspeople were worshipping in a barn on the Sabbath morning. Their assembly was according to the Edict of January, then but six weeks old. Yet the henchmen of Guise shot and hacked the men, women, and children of the congregation. The exact provocation and circumstances, authorities agree, will always remain sealed. Ranke tersely concludes that "whether the duke intended

[5] Condé, vol. ii, p. 435.
[6] Archives Nationales, K. 1495, Nos. 95, 105.
[7] Ibid., No. 107.

the massacre or not, it is enough that he did not prevent it."[8]

March, 1562, was an eventful month. In less than three weeks the Huguenots had seized three dozen large towns.[9] The importance of these cities may be realized when it is stated that the majority coincided with the famous itinerary of pacification of his kingdom undertaken by Charles IX in 1564–66. Beginning at Sens, southeast of Paris, the Protestants proceeded to capture Châlons-sur-Saône and Maçon in Burgundy; all the country about Lyons, west of La Bresse in the divisions of Forez and Lyonnais; Montbrison, southwest of Lyons, and Vienne, south of the same town, on the Dauphinese Rhone; then Romans, Tournon, Valence, and Montélimart, on the left bank of that river as it flows towards the Mediterranean. In eastern Dauphiny the important town of Grenoble was taken by the Huguenots, as were Gap, in the modern Hautes-Alpes, and Sisteron on the south side of the Durance river, forming the boundary between the divisions of Hautes- and Basses-Alpes. The Protestants of the Comtat-Venaissin subdued Avignon, at the juncture of the Rhône and the Durance, and the territory around this provincial capital, particularly Orange, directly north. From the southeastern corner of the kingdom the wave of Huguenot successes undulated to the Spanish boundary. In the northern (Velay) center (Vivarais), and southern (Cevennes) subdivisions of Upper Languedoc, Protestant successes were the rule. In Lower Languedoc five towns dotting the main highway to the Spanish frontier fell before the Huguenots: Nîmes, Aigues-Mortes, Montpellier, Beziers, and Castelnaudary, in addition to Castres, further north. The Béarnese, in the extreme southwest of France, led by their capitol, Pau, eagerly accepted the new doctrines.

As we traverse in imagination the western side of the square-shaped kingdom, we find that Lectoure in Gascony,

[8] Ranke, Civil Wars and Monarchy in France, p. 211.

[9] Mandet, Histoire des Guerres civiles, politiques, et religieuses dans les montagnes du Velay pendant le 16e siècle, p. 70.

Agen, Montauban and Milhau in Lower Guyenne, and La Rochelle in Aunis, opened their gates to the swift moving Huguenots. In the north, Havre, Rouen, Honfleur, and Dieppe declared for Condé, during the month under consideration, March, 1562. Possibly the Protestants at the outset were best entrenched in central France. The river Loire, coiling about the heart of the kingdom, was a favorite locality with the new sect. Starting at the mouth of the great river system, Angers, Pont-de-Cé and Saumur (Anjou), Tours (Touraine), Blois and Beaugency (Orléannais), Bourges (Berry) and Moulins (Bourbonnais) succumbed to or sided with the Huguenots. The culmination of the activities during March, 1562, was reached when Condé started from Meaux in Ile-de-France for Orléans. Ever since the promulgation of the Edict of January the great Louis had been preparing for the inevitable outbreak. Now after two months his forces were ready on March 29 to cross the Seine and advance upon Orléans, which for many years was destined to be the Protestant metropolis.

To the dismay of Catherine and the Guises the prince, along with Coligny, D'Andelot, and three thousand cavalry, appeared before the gates of Paris on the 29th of March.[10] The draw-bridges, however, were raised, and all preparations made for a possible attack by the Protestants. Condé issued an edict to the effect that the young king was literally a captive of the Guises. When the Catholic leaders went further and abducted the sovereign to Melun, negotiations ceased and the Protestant leaders set out for Orléans. The Huguenot march to the capital of the Loire consumed five days, ending on the 2d of April. St. Cloud, Longjumeau, Montehéry, Etampes, Angerville, Toury, Artenay, and Cercottes heard the thud of Huguenot cavalry. Three days after the arrival of Condé at Orléans, Montmorency ordered the Calvinist temple near the Parisian Port St. Antoine razed and the contents burned. On the 8th, and again on the 25th of April, Condé accused the Triumvirate of begin-

[10] Great Britain, Cal. St. P. For., No. 967, March 31, 1562.

ning the war, declared Vassy to have been a violation of the January Edict, and defended the Protestants for beginning hostilities, but his apology, although correct, did not win the universal approbation of the Huguenots. The town of La Rochelle and warm sympathizers like Louis de Gonzague, duke of Nevers, and the duke of Bouillon (so strongly Protestant that Aumale replaced him as governor of Normandy), refused at first to follow the lead.[11] On Sunday, April 12, three weeks after the day when his brother of Navarre attended mass and definitely declared himself a Romanist, Louis of Condé formally assumed command of the Huguenot forces. The first of the wars of religion had begun.

Hostilities now broke out all over France. Ile-de-France and Burgundy adhered to the established religion, the former from inclination, the latter on account of Marshal Tavannes. This cavalry leader retook Macon and Châlons-sur-Saône from the Huguenots, and prevented Dijon from falling into their hands. Montbrison retired to Lyons, leaving Burgundy clear of the Protestants.[12] In Dauphiny and Provence great massacres took place on both sides. The natives of these two provinces of the fiery south of France seemed cruel and warlike. It was in the same vicinity three hundred years previously that the Waldenses had sprung up. To assert that in any national commotion of such a nature the excesses were on one side only would be to assume that a portion of our race are angels. Generally the excesses of the oppressed party were retaliatory, hence, both iniquitous and defensible, and it may suffice to mention two noteworthy "butchers," one of each party. Baron des Adrets, starting the war on the Huguenot side, proclaimed all the Catholics in Dauphiny, Lyonnais, Burgundy, and Limousin rebels to the king. He captured Grenoble, Valence, and Châlons, in spite of the fact that Tavannes was said to have 8000 foot, 1500 horse, and 6000 Swiss from

[11] Castelnau, p. 166.
[12] Castelnau, p. 183.

Berne and Lucerne. From the roof of a castle at Mornas, in Dauphiny, Adrets caused two hundred men to be hurled: the hands which clutched at the window bars were severed with sword and ax.[13] But the achievements of the baron pale into insignificance before those of the famous Monluc. The latter boasted that he "rather inclined to violence than to peace, and was more prone to fighting and cutting of throats than to making of speeches."[14] As early as January, 1560, the veteran had been commissioned as the "conservateur de la Guyenne." We read that in one case his troops "were so few that we were not enough to kill them all," while before Agen the Huguenots "no sooner heard my name but they fancied the rope already about their necks." Pope Pius wrote Monluc: "You are making a glorious name."[15] A historian of Upper Languedoc compared Adrets, who one month after the massacre of Vassy succeeded the deceased La Mothe-Gondarin as governor of Dauphiny,[16] to a Tartar of the seventh century.[17] He and his satellite Blaçons, like Monluc, were accused of leaving ruin behind them.

April, 1562, was almost as epoch-making as the preceding month. In addition to the cities already enumerated, the small towns of Ponteau-de-Mer, Pezenas, Pierrelot, Mornas, Montlinas, and Viviers were controlled by the Huguenots.[18] Sens in Champagne, Toul in Lorraine, Abbéville in Picardy, Tours, Cahors in Quercy, Toulouse, and Agen were the scenes of bloody riots.[19] In the latter city Charles IX called upon the governor of Guyenne to repress the violence.[20] On the fifth of the month Montmorency raided the homes and chapel of the Protestants of Paris at 3 a.m., burning books and benches. It was claimed that

[13] Castelnau, p. 183.
[14] Monluc, vol. iv, pp. 111–225.
[15] Blackburn, vol. ii, p. 47.
[16] Capefigue, Histoire de la Réforme, p. 110.
[17] Mandet, Velay, p. 27.
[18] Haton, vol. i, p. 189.
[19] Beza, vol. i, p. 416.
[20] Inventaire des Archives communales d'Agen, Villeneuve-sur-Lot, 1876, xxx, p. 28, Apr. 17, 1562.

seventy Huguenot soldiers were discovered in concealment in the home of Rose, avocat du roi. Two days later the Protestant military heads issued an urgent appeal for assistance from each of their 2150 churches.[21] On the 11th of April the recruiting captains of the king in Normandy and Champagne were prevented by the Huguenots from enlisting soldiers in Rouen and Troyes.[22] Eight days later the thoroughly frightened Catherine bade the triumvirate formally to invite the support of Spain. This was done on April 21.[23] The same day Rochefoucauld with four hundred horsemen and Grammont with four thousand Gascons started from Provence and Languedoc. Before they could join the Orléans troops, however, the force from Gascony was compelled to turn to the southeast to meet the Spanish reinforcements poured into Fortarbia to thwart a possible Huguenot attack upon Navarre. A despatch of the Catholic bishop St. Croix under date of April 29, 1562, conveyed the news that since the massacre at Sens eighty of the Reform had been killed and thirty of their homes burned at Paris.[24] Condé, on the last day of the month, reported the capture of Lyons "by the faithful in the king's name."[25]

By the end of April Condé dominated these provinces: in the northwest, Maine, Anjou, Touraine, and much of Normandy, including Dieppe, Rouen, and Caen; in the west, Poitou, besides much of the middle Loire country; in the southwest, parts of Guyenne and Gascony, in which latter province the Huguenots were constantly intercepting couriers between the French and Spanish courts; in the southeast, Provence and Dauphiny, in addition to Lyons. The month of May was ushered in by the ordinance of Charles IX, issued on the second, which permitted those citizens of Paris fit to bear arms to form companies under chosen captains.[26] On the eighth the young king formally

[21] St. Croix, p. 121.
[22] St. Croix, p. 133.
[23] Archives Nationales, K. 1496, B. 14, No. 61.
[24] St. Croix, p. 133.
[25] Condé, vol. iii, p. 350, 4 j.
[26] Ibid., vol. iii, p. 419.

begged military aid of Philip II, who granted it exactly one month later.[27] Havre-de-Grâce, at the outlet of the Seine, was captured by the Protestants on May 14, much to the dismay of the Guises. Great was the alarm of the Catholics at the Huguenot occupation of Dieppe and Havre, for Paris was in danger of starving, once these two keys were assured to the enemy.[28] Almost simultaneously the government of Rouen was assumed by the Protestants. Before the end of the month Vendôme, Montargis, Auxerre (Champagne), La Charité (Nivernais), Poitiers, and most of the western provinces of Saintonge and Angoumois had declared for Condé.

In order to secure much needed funds the Huguenots took charge of the money in each province under their control, even to the extent of destroying the government registers in the towns. On one corner of a manuscript of the correspondence of Chantonnay found in the Archives nationales of Paris the Spanish king laconically wrote that the Catholics would be better off were they as active as the Huguenots.[29] Futile negotiations for peace were conducted between the 18th and 28th of May. Unless the citizens of Paris were more generous in their contributions it appeared that the royalists would not possess sufficient ordnance for the defense of the capital against any Huguenot assault. The Venetian ambassador in France recorded that at the opening of the first war of religion the Catholics could muster only twenty-two pieces of artillery.[30] Even in the middle of May only twenty-five cannon were available.[31] Suriano is authority for the information that all the French (Protestant included) artillery and ammunition were of uniform and convenient size.[32] On May 26 the turncoat

[27] Gachard, Correspondance de Philippe II sur les Pays Bas, vol. ii, pp. 218–221.

[28] Daval, Jean, Histoire de la Réforme à Dieppe, 1557–1657. 2 vols., Rouen, 1878; vol. i, p. 10.

[29] Archives Nationales, K. 1497, No. 33, May 2, 1562; Thompson, p. 147.

[30] Relations . . . vénetiens, vol. ii, p. 101.

[31] Great Britain, Cal. St. P. For., No. 106, May 28, 1562.

[32] Suriano, p. 361.

Antoine of Bourbon proclaimed that all Protestants should be expelled from the capital and that their possessions might be confiscated by the financially embarrassed Catholic bourgeois.[33]

Parleys rather than fighting marked the cold month of June, 1562. On the third of the month Aurillac in Auvergne was entered by the Huguenots. On the other hand four thousand Swiss from the Catholic cantons had enabled the brilliant cavalry leader Tavannes to save the Burgundian cities of Châlons-sur-Saône, Dijon, and Macon for the king. The May negotiations had failed because the brother of Coligny, Odet cardinal Châtillon, protested to Catherine de Medicis that peace would be impossible unless the Triumvirate were banished from court. A truce, ending June 21, was declared by the opposing forces near Orléans, commanded by the brothers Condé and Navarre. The Catholic Bourbon urged his brother to heed the king's proffer to allow the Huguenots to remain unharmed in their homes until a council could settle the mooted questions. Liberty of conscience was promised. To Condé's insistence that the January Edict be observed in Paris there was point-blank refusal. The truce of Beaugency terminated when the Catholics, presumably through the Triumvirate, demanded that Condé, the three Châtillons, and all Huguenot officers and clergymen should be banished from France until Charles IX attained the age of twenty-one, that is, in 1571. Prince Louis returned from audience with the queen to the Calvinist camp, and war commenced anew on June 29.[34] The warfare during the several months must have been more than fairly successful from the Huguenot viewpoint, for Chantonnay recorded on the 6th of June that all the horrors of the Goths had been surpassed.[35] On the 3rd of July the prince of Condé captured Beaugency, then retired towards Orléans. The despatches of the English am-

[33] Great Britain, Cal. St. P. For., No. 107; Condé, vol. iii, p. 462; Archives Nationale, K. 1497, No. 36.
[34] Weill, p. 107.
[35] Lettenhove, p. 79.

bassador of the date of July 12, 1562, were to the effect that the inhabitants of Caen, Bayeux, and most of the places in lower Normandy were defacing images and intercepting the king's revenues.[36] Montbrison in Auvergne, one of the less noted parts of the theatre of war, was attacked on July 13 by Adrets, and in the account we read that it was pillaged for two days by four thousand soldiers.[37] On the twenty-first of the month the duke d'Aumale took Honfleur for the king. In the same Norman province the city of Rouen was such a hotbed of Calvinism that Charles IX issued a declaration transferring the Rouennais Parlement to Louviers.[38] Less than twenty-four hours separated the last two episodes. The king ordered Baron Castelnau to make a magazine of the Seine valley as far as Havre, but on both sides of the river all Normandy was waste. Trade was dead. Many of both sects lived in caves. It was in vain that Aumale offered to relieve the peasants from all taxes and dangled visions of the sack and loot of chateaux. In late July St. André captured the capitals of Poitou and Angoumois, while the duke of Guise further north was subduing the Touraine towns of Chinon and Loudun.[39] In the meanwhile Aumale had been commissioned at the instance of the Triumvirate to levy necessary troops to perpetuate the Catholic cause in Burgundy, Champagne, and Brie. During the closing days of the month 6000 lansquenets were marching across the Ile-de-France to Blois. To assist Joyeuse, lieutenant-governor of Languedoc, the Roman pontiff Pius IV despatched his own nephew at the head of 2500 troops.[40] About the same time Roggendorf, the famous Catholic recruiter, arrived in France with twelve hundred pistoleers from Germany. Encamped in Champagne were the Rhinegrave, with two hundred pistoleers and two regiments of infantry, and the Swiss captain Froelich, commanding fifteen Helvetian ensigns.

[36] Great Britain, Cal. St. P. For., No. 303, July 12, 1562.
[37] Duparcq, Charles IX, p. 152.
[38] Condé, vol. iii, p. 524.
[39] Archives de la Gironde, vol. xvii, p. 270.
[40] Négociations toscanes, vol. iii, p. 492.

One writer divides the internal troubles of mid-year, 1562, into six parts: (1) Dauphiny; (2) Provence; (3) Languedoc; (4) Périgord, Limousin, Agenois; (5) Anjou; (6) Bretagne.[41] The first three represent the southern theatre, the fourth the southwest, and the last two the far northwest. When the war broke out the Roman Catholics in the northwest arose against the Protestants, with the spirit which animated La Vendée during the Revolution: in the southwest the Huguenots took the initiative. August seems to have been noteworthy chiefly for the siege of Bourges, in Berry, by the Catholics. Inside the town were 3500 Huguenot defenders with sufficient food but no superior ordnance. The garrison was anxiously awaiting succor from D'Andelot, who had crossed the Rhine to obtain assistance. The Protestant leanings of this younger brother of Coligny had so angered the king during one interview that it was reported that the monarch hurled a plate at his head.[42] At this crisis his effort to bring in German cavalry was too late by three weeks to save Bourges, which capitulated on the last day of August.[43] Philip of Spain grumbled at the reasonable terms of surrender, which included the assurance of life, property, and liberty of conscience to all the soldiers and civilians of the town in exchange for 50,000 livres. Surely those of the Reform would never thus have entrusted themselves to Monluc in Guyenne or to Cursol in Languedoc. The racy memoirs of Monluc inform us that in many towns the Protestant ministers promised the king's soldiers heaven, if they would desist, and the author adds that many actually accepted the offer, especially at Montauban.[44]

The Protestants were in daily expectation of the arrival of the German pistoleers and footmen who were to be led by Casimir, second son of the Count Palatine. The foreign princes were so tardy in their response that Louis of Condé

[41] Duparcq, Henri II, vol. ii, p. 157.
[42] Hanna, p. 38.
[43] Raynal, Histoire du Berry, 4 vols., Bourges, 1844–47; vol. iv; Négociations toscanes, vol. iii, p. 494.
[44] Monluc, Commentaires, p. 220.

tried to stimulate activity by promising their troops the pillage of Paris.[45] Under these circumstances the first avalanche of the fearsome reiters descended upon France. On September 22, 1562, ten troops of cavalry (2600) and twelve battalions of lansquenets (3000) crossed the Rhine under the command of Hesse, whom Castelnau considered a very indifferent soldier.[46] It was the long expected force of D'Andelot. The day before Monluc for the king had captured Agen, in Lower Guyenne.[47] On the twenty-fourth the English proclamation for the expedition into Normandy was promulgated, one fortnight subsequent to the signing of the treaty of Hampton Court by Elizabeth of England and the Prince of Condé. September saw the Protestants enter Lyons and abandon the siege of Pertuis, while Sisteron, one of the keys of Provence, was retaken by the Catholics.

On October 1 the English set sail for Havre and the place was occupied three days later. Fifty miles up the Seine the troops of Aumale had been besieging Rouen for over a month, while the vacillating policy of the English government refused to allow the earl of Warwick to leave the coast to succor the beleaguered town. The theory of Castelnau was that Rouen could have been captured in twenty-four hours by the Catholics, but the king and the chancellor would not hear of it, because the trades of the town would expect full satisfaction and guarantee from the sovereign.[48] On Friday, the 16th of October, Montgomery, the defender of the town, parleyed with Catherine and Damville, second son of the constable Montmorency. The Huguenots proposed that the edict of January should be amended to include Calvinist preaching inside, as well as outside, of the French cities.[49] Simultaneously the royal government was treating with the prince of Condé, stipulating that town worship was to be confined to Huguenot

[45] Condé, vol. iii, p. 630.
[46] Castelnau, p. 171.
[47] Condé, vol. ii, p. 20.
[48] Castelnau, p. 174.
[49] Great Britain, Cal. St. P. For., No. 901, Oct. 23, 1562.

homes. The counter proposal to Condé's suggestion that in the event of peace the king should reimburse the reiters on the Protestant side, was that both German auxiliaries and Huguenot troops should first drive the English from French soil. In each case the opponents were hopelessly far from a compromise. Three days following the truce arranged by Montgomery, Charles IX issued an order proclaiming pardon to all who would assist in expelling the English and Germans.[50] Meanwhile great breaches had been caused in the walls of Rouen by mines and large shot and through these the Catholic Germans and French swarmed on October 26. The sack was terrible. For eight days the city was plundered, especially by the courtiers, generally the "greatest harpies." Eventually the order was given to leave the town, but the "French suffered themselves to be killed rather than quit the place while there was anything left!"[51] The crimes committed at this siege made a deep impression upon the remainder of the kingdom. When Joyeuse, lieutenant-governor of Languedoc, marshalled all the Catholic forces of his province and of Provence for an assault upon Montpellier, in the far south of France, all its citizens rushed to the defense, regardless of religion.[52] At Rouen, Pastor Marlorat and two elders of the Reformed church were officially executed at the conclusion of the siege.

November was noteworthy for Condé's march upon Paris. The Catholic historian Aumale admits that the prince could have captured Paris had he pressed forward on November 28.[53] The lost chance did not occur again. The rapid march upon the capital had found many of the royal soldiers on a furlough, with only meagre rations stored in the city. In order to offset their unpreparedness Catherine and the Guises played for time. At Etampes, where the prince's cavalry arrived on November 25, Condé was cajoled with

[50] Condé, vol. iv, p. 38.
[51] Castelnau, p. 174.
[52] Ibid., p. 188.
[53] Aumale, p. 145.

peace overtures. On his part the Bourbon leader claimed the position of lieutenant-governor of France and proposed several modified demands along lines of religious toleration. In the first instance, Huguenot preaching was to be allowed in the suburbs of frontier towns, or in several designated ones; secondly, these sermons should be delivered only in those towns where they had been permitted prior to the outbreak of hostilities; thirdly, all nobles and gentlemen might lawfully hold private services in their own houses; finally, those persons residing in places where preaching was not allowed should be permitted to proceed to the nearest towns or other places for the exercise of their religion, without molestation. In reply, the government excepted Paris and its suburbs from these conditions, but consented to consider Lyons as an interior rather than a frontier city.[54]

It was not until the 3rd of December that the government and Condé accepted these articles. Suddenly the royalists terminated the negotiations. To everyone but Condé the reason was obvious. Paris during the truce had been so replenished with Gascons and Spaniards that more than fifteen thousand troops were now available. Condé, with less than half that number, felt compelled to withdraw towards Normandy and sought to effect a junction with the earl of Warwick. In the several weeks preceding December 9, the date of Condé's withdrawal from Paris, the Huguenot operations had been chiefly in Normandy, where they had taken St. Lô, Vire, Bayeux, Dieppe, and Honfleur.[55] Brissac suggested that the king move the army of Guise from the siege of Orléans to Normandy before all the maritime ports should fall into English hands. Unfortunately the prince of Condé was south of the Seine. To join Warwick he must cross the river, which was guarded at Poissy by Francis of Guise and at Pont de l'Arche, near Rouen, by Villebon and the Rhinegrave. On the 19th of December, 1562, while Condé's forces were endeavoring to cross

[54] Beza, Histoire des églises réformées, vol. ii, p. 121, ed. 1841.
[55] Castelnau, p. 223.

the river Eure, a branch of the Seine, the famous battle of Dreux was begun.

Duparcq estimated that at the time of this battle, the royal armies comprised 55,000 men in the field, with an additional 45,000 in the different garrisons.[56] Castelnau is authority for the figures at Dreux. The royal army, according to him, had 14,000 infantry and 2000 cavalry; Condé, 8000 foot soldiers and 4000 horsemen.[57] Throckmorton, the English ambassador, recorded that there were 6000 French infantry and 2000 native cavalry, besides 3500 reiters and 4000 lansquenets from Germany. Accepting this higher estimate the Calvinists were yet inferior in numbers to the Catholics. Furthermore, the Protestants were wasting their strength upon local enterprises scattered about the provinces. The effect of concentration in one or two main drives of the military resources of 2150 parishes would have been incalculable. The history of the periods of Louis XIV and Napoleon would probably read quite differently had the Huguenots, by the addition of several thousand native soldiers, won a decisive victory in the battle of Dreux.

The duke of Guise commanded the advance guard of the Catholics against Admiral Coligny for the Protestants; the main army of the former was led by St. André, opposed by D'Andelot and his reiters, who had received no wages for three months.[58] The two rear guards were commanded, respectively, by the constable Montmorency and Condé. At the outset the Huguenot cavalry under Coligny captured Montmorency, who was despatched to Orléans, the Protestant capital. The lumbering reiters of D'Andelot supported the next charge so clumsily that the prince of Condé, unhorsed, was left a prisoner in the Catholic array. Although the strife was so fierce that the commander of each rear guard was captured by the enemy, the Huguenot infantry lost the day by retiring in disorder without making even a

[56] Duparcq, Charles IX, p. 548.
[57] Castelnau, vol. iv, p. 205.
[58] Great Britain, Cal. St. P. For., No. 16, Jan. 3, 1563.

charge. A priest estimated the Protestant losses at over 6000, the Catholic at one-third that number.[59] But the dissolution of the famous Triumvirate now began. St. André fell in this battle, while the constable was made a prisoner. Within two months the great Francis of Guise fell under the dagger of the assassin Poltrot.[60]

On the 8th of March, 1563, eleven weeks after the battle of Dreux, Condé and Montmorency were simultaneously released from captivity. As men of the hour, now that Guise was dead, their counsel was necessary in the peace overtures. On March 19 Charles IX formally decreed religious toleration. Prince Louis of Condé, the Bourbon, "one of the arms of the [king's] body,"[61] with whom the temptations used upon his brother Navarre had been of no avail,[62] was appointed lieutenant-general of the realm.[63] This Peace of Amboise, March 19, 1563, terminated the first of the four civil wars of religion in France.

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[59] Haton, vol. i, p. 311.

[60] A contemporaneous cavalry leader recorded in his memoirs several remarkable happenings at Dreux: the generosity of the Swiss, and their great proofs of valor; the long patience of Guise in attaining the decision; a five-hour battle, instead of one of the usual duration of one-third the time; the taking as prisoners of two rival generals. (La Noue, p. 605.) Moreover it seems to have been evidence of mutual exhaustion that news of the battle, which terminated at dusk on one of the shortest days of the year, did not reach Paris, only twelve leagues distant, until 3 A. M. Six hours later, on the quiet Sabbath morning, Sieur de Losses rode through the St. Honoré gate, crying: "Guise has won the battle; Condé is prisoner!" (Vieilleville, p. 323.) The chronicler of this information, Vieilleville, accepted the marshal's baton, succeeding St. André, killed in action.

[61] Lettenhove, p. 80.

[62] Aumale, p. 94.

[63] Great Britain, Cal. St. P. For., No. 473, March, 1563.

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