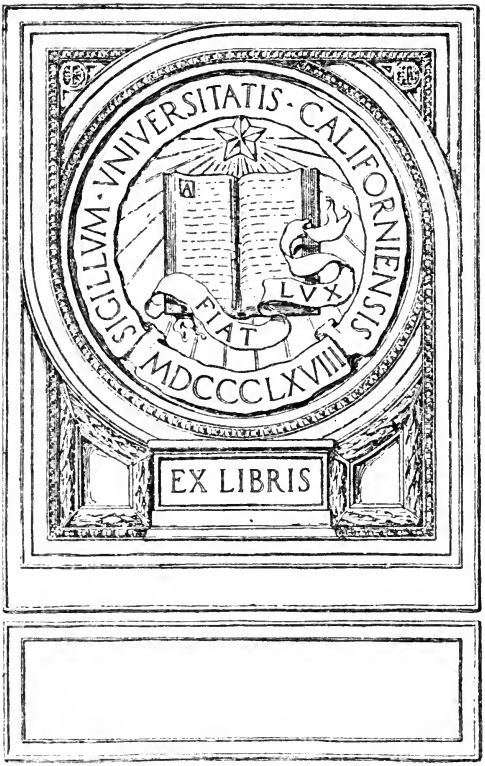
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A PRIMER

OF THE

ENGLISH CONSTITUTION

AND

GOVERNMENT

FOR THE USE OF COLLEGES, SCHOOLS, AND PRIVATE STUDENTS

BY

SHELDON AMOS, M.A.

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TO

HIS IMPERIAL MAJESTY

THE EMPEROR OF JAPAN

&c. &c.

FOR THE ASSISTANCE OF WHOSE COMMISSIONERS

THE DRAFT OF THE FIRST EDITION OF

THIS WORK WAS PREPARED

PREFACE.

THERE are certain inherent difficulties in the composition of a work of the character of the present one, which I think it better to allude to at the outset, so that if it turns out that I have failed to overcome them, I may at least not seem so far disrespectful to my subject and to my readers as to have failed to look them fully in the face.

In the first place, the Constitution and Government of England have in a peculiar degree sprung from a long line of historical antecedents,—antecedents, too, which are not so much startling and isolated events as vast groups of circumstances slowly and silently manifesting themselves in orderly and unceasing progression. Not to deal in any manner with these historical antecedents must leave certain parts of the subject wholly unintelligible. To dwell much on the historical aspects of any portion of the subject would in the present case distract the attention from the

main purpose in view, and, in fact, deluge the mind with what would here be irrelevant matter. Thus I have had to exercise, at every point, an arbitrary discretion as to when to admit, and when to exclude, references to historical antecedents.

In the second place, in a time of active legislative change like the present, a writer on such subjects as those here treated is constantly being called upon to make a decision as to whether a given institution or principle of Government is or is not too evanescent to deserve or to need description. An institution on the verge of becoming obsolete, equally with one wholly new and scarcely tried, can hardly be presented as characteristically English at the present day. I have endeavoured to meet this class of difficulties by occasionally, in reference to any much criticised institution, describing the more important sorts of projected changes, and even by briefly estimating their comparative expediency.

In the third place, I have had, in every line, to contend with a difficulty which must beset any one who affects to explain legal principles to unprofessional persons. It is scarcely possible to be plain and brief without becoming proportionately, in a certain sense, inaccurate. No legal proposition, in England at any rate, can be precisely stated without reference to the leading judicial opinions, out of the concert and conflict of which it has either emerged into existence, or (if based upon a Statute) acquired its actual

shape. To state it apart from all the circumstances, historical and judicial, to which alone it owes its existence and limiting character, and to announce it as a settled and incontrovertible rule, is to propound a disputable theory rather than to communicate a fact. Nevertheless, it is only under the conditions of taking as certain and exact what is in itself doubtful and not susceptible of being reduced into compendious language, that the unprofessional student can ever gain a tolerable knowledge of the laws and constitution of his or her country. I believe that even under these conditions, a really valuable, not to say indispensable, amount of knowledge on these topics can be conveyed, and I have endeavoured to convey it.

SHELDON AMOS.

CONTENTS.

APPENDICES.

The following works (among others) have been used in the preparation of the present treatise, and are recommended to students for perusal or reference:—

HALLAM'S *Works.*
BLACKSTONE'S *Commentaries* (Recent Edition).
HADLEY and BROOM'S *Commentaries.*
MAY'S *Constitutional History.*
MAY'S *Parliamentary Practice.*
STUBBS'S *Constitutional History of England.*
FREEMAN'S *Growth of the English Constitution.*
PALGRAVE'S *Lectures on the House of Commons.*
HOMERSHAM COX'S *Institutions of the English Government.*
CREASY'S *Rise and Progress of the English Constitution.*
LIEBER'S *Civil Liberty and Self-Government.*
GNEIST'S *Self-Government in England.*
FISCHEL'S *English Constitution.*
FORSYTH'S *Cases and Opinions on Constitutional Law.*
„ *History of Trial by Jury.*
BROOM'S *Constitutional Law.*
PHILLIMORE'S *Ecclesiastical Law.*
TOULMIN SMITH'S "*The Parish.*"
BURN'S *Justice of the Peace.*
ARCHBOLD'S *Quarter Sessions.*
Civil Service Estimates for the Year.
Parliamentary Report of Judicial Statistics.
Report of Select Committee of House of Commons on Loc Taxation.
Statistical Society's Journal.
Statesman's Year-Book.
GLEN'S *Public Health Acts.*
RAWLINSON'S *Municipal Corporation Act.*
The Extradition Acts, 1870 (33 and 34 Vict., c. 52), an 1873 (36 and 37 Vict., c. 60).
The Foreign Enlistment Act, 1870 (33 and 34 Vict., c. 90).
The Naturalization Act, 1870 (33 and 34 Vict., c. 14).
An Act to Consolidate and Amend the Acts relating to the Property of Married Women (45 and 46 Vict., c. 75).
Clerical Disabilities Act, 1870 (33 and 34 Vict., c. 91).

Parliamentary Elections Act [*Election Judges*] (31 and 32 Vict., c. 125).
Reform Act of 1867 (30 and 31 Vict., c. 102).
Ballot Act of 1872 (35 and 36 Vict., c. 33).
Supreme Court of Judicature Acts, 1873, 1876, 1877, *and* 1881.
Appellate Jurisdiction Act of 1876.
Public Worship Regulation Act, 1874.

FOR THE USE OF STUDENTS, THE FOLLOWING EXPLANATIONS ARE GIVEN OF COMMON POLITICAL TERMS AND EXPRESSIONS.

SUPREME POLITICAL AUTHORITY.—The person or persons in a political community, who, at a given time, are habitually obeyed by the bulk of the persons in the community.

STATE.—(1) A portion of the human race, looked upon as occupying a definite territory, as having a continuous history, and as organised for purposes of Government. The word is also sometimes (2) used to express the *Supreme Political Authority* of a nation at a given time.

GOVERNMENT.—The word sometimes (1) is used to express the mere fact of some person or persons in a nation being generally obeyed by all the rest. Sometimes (2) the word signifies the *Supreme Political Authority* at the time,—as in the phrase "Form of Government." Sometimes (3) the word signifies the persons entrusted with the active duties of carrying laws into effect and regulating certain departments of the State,—as in the phrases "The Queen's *Government*," "A Liberal or a Conservative *Government*."

LAW.—(1) A *Law* is a general command of the Supreme Political Authority, purporting to direct or control the acts of persons in the community. The word *Law* is also (2) used to denote either a *body of Laws* (in the first sense), or (abstractly) the mere fact of such Laws existing, as in the phrase "the reign of *Law*." The word "*Law*" is also used in a variety of other senses for non-political purposes.

LEGISLATIVE.—The *Legislative* Authority of a State is the Supreme Political Authority looked upon as engaged in making Laws.

EXECUTIVE, ADMINISTRATIVE.—These terms are sometimes used convertibly with each other, to express the person or persons to whom the Supreme Political Authority deputes the functions (1) of carrying Laws into effect, and (2) of

actively regulating certain departments of the State,—in other words, the terms signify the *Government* in the third of the meanings above given. Sometimes the term *Administrative* is opposed to *Executive*, and is limited to express the person or persons charged with making official appointments and regulating certain departments of the State.

JUDICIAL.—The *Judicial Authority* is that part of the Executive Authority which is concerned with formally and publicly investigating whether Laws have been disobeyed, and who are the persons who have disobeyed them.

MONARCHY.—A form of Government in which the Supreme Political Authority is restricted in numbers to one person only is sometimes called an "Absolute" *Monarchy* or "Despotism." Where it is, in form, restricted to one person, though the power is shared to a greater or less extent by a larger or smaller number of other persons, chosen in some one out of many possible ways, it is called a "Limited" or a "Constitutional" *Monarchy*.

ARISTOCRACY, OLIGARCHY.—Where the Supreme Political Authority consists of a number of persons, though not a very large number, chosen either with reference to birth, or to special personal merit, or to some standard other than that supplied by popular election irresponsibly exercised, the form of Government is said by its friends and enemies to be an *Aristocracy*, that is, "Government by the best," and sometimes, by its enemies, to be an *Oligarchy*, that is, "Government by a few."

DEMOCRACY.—Where the Supreme Political Authority either consists of a very large number of persons, making a considerable fraction of all the persons in the community,—or where the persons constituting that Authority are directly elected by, and subjected to no other conditions than those implied in the unrestricted choice of, nearly all the persons in the community, the form of Government is said to be a *Democracy*.

REPUBLIC.—This is a term often equally used by the friends both of an Aristocracy and a Democracy to describe those two forms of Government, and thus a Republic may be either Aristocratic or Democratic. Where the Supreme Political Authority ostensibly consists of a number of persons neither very great nor very small; where no hereditary

pretensions prevail in the choice of them ; but it is believed that they are chosen on wide and popular principles likely to conduce in the highest degree to the general and equally distributed well-being of the whole community, and to the suppression of personal self-seeking, the form of Government is sometimes said by those who share this belief to be a *Republic.*

CONSTITUTION, CONSTITUTIONAL.—All the Laws and all the customary practices which, taken together, determine the person or persons who shall constitute the Supreme Political Authority of a State, and which ascertain the modes of Legislation, and the method of appointing and restricting the Executive Authority, are compendiously styled the *Constitution* of that State. According as a newly-suggested measure is or is not believed to conform to the spirit of those laws and practices, it is said to be *Constitutional* or *Unconstitutional.*

RIGHT.—(1) A *Right* is a measure of power delegated by the State to persons said to be thereby invested with the *right,* over the acts of other persons said to be thereby made liable to the performance of a *duty.* This is the strict legal sense of the term, though the term has important moral and popular uses from which the above use has to be carefully distinguished. For instance, the term *right* is often used in political discussions to signify a moral claim which it is iniquitous, or, at the least, highly inexpedient, not to recognise ; as in the phrases, "a slave has a *right* to his freedom," and "every one has a *right,* by himself or by his representatives, to assent to or dissent from, the imposition of taxes, which he is called upon to pay." In the strict use, every *right* pre-supposes a *duty,* though every legal duty does not pre-suppose a legal right. The State, which is the source of all legal rights and duties, cannot be strictly said to have legal rights itself, though it may confer on all the official persons who are engaged in its administration such rights as are needed for the purposes of their work.

THE

CONSTITUTION AND GOVERNMENT OF ENGLAND.

THE Constitution of England is the resulting product of all the institutions, the customary practices, and the laws which together determine what persons take part in the government of the country; how these persons are related to one another; how laws are made, and how and by whom they are executed; and what securities the people of the country have against misgovernment. Thus it is a characteristic of the English Constitution that the "Supreme Political Authority" consists of a King or Queen and two Houses of Parliament; that the King or Queen is a particular member of a particular family; and that the two Houses or Assemblies are composed in certain definite ways, as by hereditary succession in special families, or by popular election; that no law can be enacted without the joint consent of the King or Queen and the two Houses of Parliament; that the King or Queen appoints, through the agency of Ministers directly responsible to the two Houses of Parliament, officials engaged in securing obedience to the laws, in collecting the taxes, in preserving the public peace, and in administering the Army and Navy; and lastly, that by Jury Trial, by the Habeas Corpus Acts, and by special provisions

for the independence of Judges, the people of England are protected against abuses on the part of the Executive.

There are parts of the Constitution which seem to be far more solid and indestructible than other parts; so much so, that they could not be suddenly removed or even changed without the permanence of the State itself seeming to be endangered. Such parts are, the institution of Monarchy in its limited or constitutional form; the distribution of the Legislature into three branches; the Representative system of Government with its attendant control of Taxation; the independence of Judges, and the securities afforded against unfair trials and tyrannical imprisonment; and the subjection of all State officials to the Common Law of the Land.

Some of these more important elements of the Constitution are very ancient; others are the offspring of modern Acts of Parliament, passed, as it were, in a day. Others, again, have slowly and gradually emerged into being after the struggle of centuries.

There are, again, parts of the Constitution which are made up of enduring and of fragile elements conjointly. The former either undergo no change, or change so insensibly that the effects can only be observed at long intervals of time; the latter are readily and constantly modified as occasion dictates. The changeable and the unchangeable elements are, however, so closely blended together that they cannot easily be severed, and much of the difficulty that attends proposed changes is due to this fact. Examples of such composite parts are the rules which determine the qualifications of members of the two Houses, and of electors of members of the House of Commons; which fix the exact line of succession to the Crown; and which determine the judicial or other special privileges of the two Houses and of the members of each House.

It is notorious that certain alterations are made from time to time in all these matters with very general acquiescence, or, at least, without anything of the nature of a shock

to a genuine national sentiment. Other alterations in the same matters are sometimes contemplated or attempted which are instantly and generally resented as "unconstitutional." This means that they threaten changes in those parts of the Constitution which by common, though tacit, consent it is understood should be treated as immoveable, except under circumstances of a very peculiar and pressing kind. If the desire to make the alteration is still persisted in, it is usually argued on behalf of it that either such peculiar and pressing circumstances do actually exist, or else that the proposed alteration does not touch the confessedly permanent parts of the Constitution. In other words, it is said either that the time has come to modify some of the essential characteristics of the Constitution, or that the proposed change is not concerned with any one of these characteristics.

It is difficult and generally impossible to draw a clear line between what are held at any particular time to be the unchangeable elements of the Constitution and what are not held to be such. The making of a practical distinction must depend for its success upon the cultivated instinct of statesmen, and upon the way in which the popular mind is balanced between a lazy disposition to adhere to antiquated and obsolete practices, and a restless inclination to be captivated by novelties without consideration of the risk of exchanging a certain measure of known and attainable good for evils which only experience can bring to light.

Besides a careful study of existing and immemorial institutions, the Constitution of England can be known only by reference to the following classes of authorities.

I. Written documents of the nature of solemn engagements made at great national crises between persons representing opposed political forces. Such are the Great Charter and its several Confirmations and Amended Editions, the Petition of Right, and the Declaration of Rights.

II. Statutes, such as the Habeas Corpus Act and its

Amendments, the Bill of Rights, the Act of Settlement, Mr. Fox's Libel Act, the Prisoners' Counsel Act, the Reform Acts, the Supreme Court of Judicature Act, the Naturalization Act, the Municipal Corporation Act, and the Local Government Acts.

III. Authoritative Judicial Decisions, as those on the Rights of Jurymen, on the Prerogative of the Crown, on the Privileges of the Houses of Parliament and of their Members, and on the rights and duties of the Police.

IV. Parliamentary Precedents as recorded in Reports of Committees of both Houses, in the writings of authoritative Commentators on Parliamentary usage, and in the reported Debates and Proceedings of both Houses.

The free life and energy of the English Constitution are preserved by a constant maintenance of a mutual dependence between Central and Local Power.

The functions of both these classes of Authorities are (1) *Legislative*, that is, expressing and publishing directly or indirectly the commands of the Supreme Political Authority, in other words, making *Laws*; (2) *Executive*, that is, securing that Laws are obeyed, and punishing the transgressors of them; and (3) *Administrative*, that is, appointing public officials, controlling in detail the different parts of the public service, and making from time to time such regulations as are required for this purpose. These last two functions, that is, the *Executive* and *Administrative*, can hardly be distinguished one from another, and are, indeed, frequently called by the common name *Executive*. These *Executive* and *Administrative* departments of Government are, of course, wholly subordinate to the *Legislative* department, and are created in fact (though not always in name) by this latter department. Nevertheless, a formal distinction between the so-called "Legislative Authority" and the "Executive Authority" is often regarded as of great constitutional importance.

The CENTRAL Power is compounded of two distinct elements, one (1) *Legislative*, and the other (2) *Executive* and *Administrative*. Many of the same persons form part of both elements.

(1) The *Legislative* Authority consists of—

The Sovereign,
The House of Lords,
The House of Commons.

(2) The *Executive* and *Administrative* Authority is—

The Sovereign as represented and advised by { The First Lord of the Treasury, the principal Secretaries of State, and other members of the Cabinet; Judicial officers of all sorts; and the Heads of the Army and Navy, of the Police, and of various special departments, as those of Education, Trade, Public Health, and Local Government generally.

The LOCAL Powers are very various and numerous. They are either special officers or Boards (that is, small assemblies of persons), and are fixed (1) in the Parish or District (which is either a collection of Parishes, or a portion of a large Parish); (2) in the County; and (3) in the Borough or Town.

These officers or Boards are generally elected by persons living and paying taxes on the spot, though in many cases the Central Executive Authority controls the elections by refusing to sanction the election of certain persons or by appointing additional officers of its own.

The principal purposes for which Local Authorities exist are:—

1. The *Relief* of the *Poor*.
2. The *Education* of the *Poor*.
3. The building and managing of *Gaols* and *Lunatic Asylums*.

4. The making and repairing of *Sewers* and the doing all other necessary matters connected with the *Public Health.*

5. The Lighting, Paving, and Improvement of a Town or Village.

6. The Administration of the Laws in the case of all minor offices.

The popular nature and working of the Central Government is secured in the following ways :—

1. By the mode of electing Members of the House of Commons.

2. By the right and practice of *Petitioning* both Houses of Parliament, and of approaching the Queen's Ministers by *Deputation.*

3. By the system of *Trial by Jury*, through which in all the most important criminal prosecutions the final decision is given not by an Executive official, but by a body of twelve men, duly qualified, and impartially chosen out of the body of the people.

THE SOVEREIGN.

The succession to the Crown is regulated by an Act of Parliament passed in 1700, in the twelfth year of the reign of William III., and usually called the "Act of Settlement." * This Act limited the right of succession to the Princess Sophia, Electress and Duchess Dowager of Hanover, and grand-daughter of James I., and to her heirs *being Protestants.* It was also enacted by the same Statute that "whosoever shall hereafter come to the possession of this Crown shall join in Communion with the Church of England as by Law established."

* See Appendix **A.**

The Monarch may be either a King or a Queen. The present Queen began to reign in 1837. Her eldest son is called "Prince of Wales," and, if alive, will succeed to the throne at his mother's death. If he be not then alive, his eldest son or grandson will succeed; and if the son be not living, nor leave children, the Prince of Wales's second son will succeed, and so on. If none of the Prince of Wales's children or their children are living, then the Prince of Wales's next brother, the Duke of Edinburgh, and his children successively would come to the throne.

In the case of a minor (that is, for this purpose, one under eighteen years of age) being heir to the throne, a Regent is usually nominated in anticipation by Act of Parliament; and a Regent is similarly nominated in the case of the Sovereign becoming invalided, that is to say, permanently incapable of discharging his proper functions. In this last case some difficulty is experienced if the cause be sudden and unforeseen illness, as Parliament cannot act without the co-operation of the Sovereign. Hitherto this difficulty has been surmounted by such devices as acting without the Sovereign, but otherwise keeping as closely as possible to the principles and forms of the Constitution. A Regency Act describes the limits of the Regent's capacity, and provides, as far as is practicable, against the possibility of the Sovereign who is invalided or a minor being prejudiced, or the Constitution endangered, by the Regent's acts. In the case of an invalid Sovereign it is customary, but not necessary, to select as Regent the heir to the throne. In the case of a minor, it is usual to select a parent or other near relation; and provision is also sometimes made against possible abuses by nominating a Council of advisers to share the Regent's responsibility in respect of all public acts.

Though the Sovereign is capable of owning land and dealing with it in exactly the same way as an ordinary citizen, yet he is not dependent upon any such casual sources of

income for his support. All the property which once formed the main revenue of the Crown is now treated as furnishing part of the general State revenues, and the management of it is directly controlled by Parliament. In the stead of this precarious, indefinite, and generally insufficient provision for the Sovereign's personal expenses, and the expenses of the Royal Household, Parliament fixes, at the commencement of every reign, the yearly sum which shall be payable to the Crown for all the expenses not directly of a public kind. The yearly sum paid to the Sovereign for personal expenses is 60,000*l.*, which, added to that paid for the expenses of the Court, pensions, and salaries to servants, amounts to 385,000*l.* This is apart from special provision made on their marriage, by Act passed at the time, for the support of Members of the Royal Family. This sum, in addition to that paid for the Queen's personal expenses, is sometimes called the "Civil List," from the list of civil servants whose salaries were at one time payable out of the sum so set apart.

The functions of the Sovereign may be distinguished into those which are (1) in relation to Parliament, and those which are (2) Executive or Administrative.

In both respects the Sovereign is always held to act upon the advice of his Ministers, who are responsible to Parliament and the country. These Ministers, who form a compact body called the Cabinet, have entirely superseded in importance, though they have not even nominally displaced, the "Privy Council," of which they and all past Ministers with a number of other illustrious persons are members. The Cabinet is a sort of select and confidential Committee of advisers, presided over by the Prime Minister, who is now invariably the First Lord of the Treasury. The Cabinet is not known to the Law in any corporate capacity, nor is it recognised in any Act of Parliament or in any formal Parliamentary Proceedings. Each member of the Cabinet is responsible for any advice he gives personally to the Crown

or fails to give in a case in which his advice might be expected; and each member is responsible for the advice given by all or any one of the others unless he can prove his ignorance of it or his repudiation of it.

I.—THE SOVEREIGN IN HIS RELATION TO PARLIAMENT.

The Sovereign's functions in relation to Parliament may be described both negatively and positively, that is, by what he cannot do, and by what he can do.

1. *Negatively.* The Sovereign cannot by a mere exercise of his will, and without the assent of the two Houses of Parliament, make, alter, or suspend a law or impose any sort of tax. It is true that sometimes Parliament empowers the Sovereign in his Executive capacity to determine, "with the advice of his Privy Council," the time and place at which, and the extent to which, the provisions of a Law shall come into force. So, too, though the Sovereign cannot suspend the operation of a Law, yet, by his "prerogative of pardon," he can relieve particular offenders from the penalty attaching to their offence: but his advisers are held responsible for an abuse of this privilege. So, again, in the case of England becoming engaged in war, or taking up a position of "neutrality," the Sovereign issues a Proclamation notifying the fact and reminding the people of their legal duties and of the penalties attending the breach of them as provided by Acts of Parliament.

2. *Positively.* The Queen (acting by the advice of her Ministers) can prorogue Parliament whenever she pleases, and (except in one case) no Parliament can be assembled, prorogued, or dissolved except by her express command. If the Sovereign die while Parliament is sitting, or during prorogation, it continues to exercise, or resumes, its functions until prorogued or dissolved by his successor. If the

Sovereign die after the dissolution of one Parliament and before the day appointed for the assembling of a new one, the last preceding Parliament meets and continues for a period of six months, unless sooner prorogued or dissolved. Except by such an accidental extension of six months in the last-mentioned case, no Parliament can last longer than seven years. The Sovereign can dissolve Parliament whenever he pleases. He occasionally dissolves Parliament on the advice of his Ministers when it appears that they no longer possess the confidence of the House of Commons, and it seems probable that by "appealing to the people" a new House may be returned more favourable to them, or, at the least, that they may be secure in the belief that the judgment inside the House is fully supported by that outside it.

When a Parliament either comes to a natural end or is *dissolved*, all the members of the House of Commons and the Representative Peers of Scotland in the House of Lords are elected afresh. When Parliament is *prorogued*, the members of the two Houses are merely to be summoned afresh to meet again. A prorogation puts an end to all business then in progress in either House, except certain proceedings of a judicial nature, such as an Impeachment.

The annual meeting of Parliament is secured by the necessity of obtaining a grant from Parliament of the yearly supplies and of passing the annual Mutiny Act [now merged in the Army Discipline and Regulation Act], which alone authorises the maintenance of a standing army. Parliament usually meets in February, and sits, with short vacations at Easter and Whitsuntide, till the early part of August. This is called a Session.

At the commencement of a *new* Parliament the cause of the summons must be declared to both Houses assembled together, either by the Sovereign in person or by Commissioners authorised by him for that purpose. On the first day of its meeting, the Commons are summoned to the House

of Lords, and are there informed by the Lord Chancellor that the cause of summons will be declared by the Crown as soon as the members of both Houses are sworn, and a Speaker of the House of Commons chosen.

Every other session than the first is opened at once by the Sovereign's Speech.

This Speech is prepared by the Sovereign's Ministers, and gives a general, though not very definite, sketch of the sort of measures which the Ministers, or the so-called "Government," will introduce into Parliament in the course of the Session. It also notices briefly any important facts in current Foreign politics or in the domestic annals of the Royal family, especially when either of these classes of facts are likely to give rise to an application to Parliament for a grant of money.

The Speech is delivered either by the Sovereign in person or by one of a small body of Commissioners, among whom the Lord Chancellor is generally included. The terms of the Speech usually form the first subject of earnest discussion between the rival political parties in the House, a complimentary Address to the Queen being first moved in each House. Each House usually proceeds, for form's sake, with some other business, such as having a Bill read, before taking into consideration the Sovereign's Speech, in order to insist on their privilege of discussing other matters than those included in the cause of summons.

The Houses of Parliament are very jealous of any attempted interference with or restriction of their freedom of Debate on the part of the Crown. It is one of the clauses of the Bill of Rights* that "the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."

The assent of the Sovereign is indispensable for any Bill

* See Appendix **A.**

(or proposed Law) to become actual Law. The Royal assent can be given either in person or by Commission in the Lords' House, to which the House of Commons is on such occasions summoned.

The Sovereign's power of refusing assent to a Bill was last exercised in 1707, when Queen Anne refused her assent to a Bill for settling the militia in Scotland.

When no date for the commencement of an Act is provided in the body of the Act itself, the day at which it receives the Royal assent is the date of that commencement. The "Clerk assistant" is required to endorse, in English, on every Act of Parliament, immediately after the title, the day, month, and year when the same shall have received the Royal assent.

In some cases a Bill cannot be introduced or read a first time without a previous announcement of the Sovereign's consent. Bills for the restitution of honours, or the granting of precedency, must be introduced into the Lords' House by the Sovereign's command, and cannot be read a first time in the House of Commons till the Sovereign's "consent" is signified.

In the case of Bills presented to the Commons involving any public expenditure not included in the annual estimates, or having the effect of releasing or compounding any sum of money owing to the Crown, a recommendation from the Crown must be signified by a Minister before the Bill can be introduced.

In the case of Bills concerning the Royal Prerogative or the hereditary revenues of the Crown, the Royal consent must be signified before the Bill pass either House, but this consent can be signified at any and even at the final stage. A Bill for a general pardon is first signed by the Queen, and is read only once in each House ; after which it receives the Royal assent in the ordinary form. The Bill cannot be amended in either House, but must be accepted or rejected as a whole.

The members of the House of Commons, as a body, accompanied by their Speaker, have at all times the right of access to the Sovereign in order to present Addresses, or to deliver answers to questions propounded to them. The members of the House of Lords have individually the right of audience by the Sovereign.

Though the Sovereign is, by a fiction, always supposed to be present in Parliament and is entitled to be personally present in the House of Lords without taking part in its proceedings, yet according to modern practice he is not so except on its opening and prorogation, and occasionally for the purpose of giving the Royal assent to Bills during a Session.

The Sovereign communicates with the two Houses of Parliament in many ways, such as by a Speech in opening or proroguing Parliament; by a message under his sign-manual, delivered in the House of Lords by a Peer, and in the House of Commons by a member of the House who is also a Minister of the Crown; by a verbal message delivered by a Minister of the Crown to the House of which he is a member; by the signification in reference to proposed legislation of the Royal "pleasure," "recommendation," or "consent;" and, lastly, by a signification conveyed through a Minister that the Crown "places its interests at the disposal of Parliament."

These communications are never made except on such subjects as require the attention of Parliament; the prerogatives or property of the Crown; provision for the Royal family; the arrest of a member of either House for a crime; the introduction of a Bill in which the interests of the Crown are, or are supposed to be, personally affected.

The Houses of Parliament communicate with the Sovereign by Addresses conveying resolutions of either House. The Addresses are sometimes joint from both Houses, but more often separately confined to each House. The members of the two Houses, or of either House con-

cerned, attend personally to present the Address, which when joint is read by the Lord Chancellor, and when separate either by the Lord Chancellor or by the Speaker of the House of Commons, according as the Address is presented by one House or by the other.

The subjects of Addresses are such as the expression of congratulation or condolence; the administration of justice; the action of the Crown in reference to foreign policy; the appointment of Royal Commissions; and the thankful acknowledgment of the communications from the Crown.

II.—THE SOVEREIGN'S EXECUTIVE AND ADMINISTRATIVE FUNCTIONS.

(1) *In respect of the Execution of the Laws.*

The Sovereign is said to be the "Fountain of Justice." This means that, with the advice of his responsible Ministers—

1. The Sovereign appoints, either directly or by delegation, all *Judges* of all sorts and degrees, who are held to be his deputies. In the case of the Judges of the superior courts. excepting the Lord Chancellor, the appointment can only be made for life, and a Judge can be removed only in the case of misbehaviour, on an address to the Crown by both Houses of Parliament.

2. All prosecutions for crimes are conducted in the name of the Sovereign, and it is his officers who carry on the proceedings to their close, with or without the help of the person directly injured by the crime.

3. The Sovereign can, with a few exceptions, pardon all offenders against the Criminal Law either before or after conviction, but this prerogative is, in practice, seldom exercised. The following are the exceptions: namely,

First, that no "pardon under the Great Seal of England

is pleadable to an Impeachment by the Commons in Parliament." The proceeding called "Impeachment" will be described presently. Except in cases of felony, when a warrant under the Sovereign's sign-manual countersigned by a principal Secretary of State suffices, a Royal Pardon can be certified only by the Great Seal affixed by the Lord Chancellor.

Secondly, that the committing of any person to prison out of the realm, is by the Habeas Corpus Act "unpardonable even by the King."

A third exception is when the pardon would inflict an injury on an innocent person, as in the case of a nuisance yet unredressed, or of a breach of certain statutes after an informer has become entitled to a reward payable out of the penalty.

Any abuse of the prerogative of pardon by the Sovereign's responsible advisers is visited with severe public censure. The following are the only cases in which the prerogative is, in practice, exercised at the present day, that is to say:—

i. Offences, as to which fresh evidence tending to excuse the prisoner, presents itself *after the trial.*

ii. Offences, as to which it appears that untrustworthy evidence was relied on at the trial and led to conviction, or in which some grave miscarriage of justice, *not otherwise remediable,* has occurred.

iii. Offences as to which the evidence is of that dubious or complicated nature that the Jury accompany their verdict by some such qualifying language as a "recommendation to mercy" on some ground or other, or in which the Judge specially reports to the Home Secretary that he himself is dissatisfied with the verdict.

iv. *Political offences,* where the object of the offender was not to inflict injury on any particular person or persons, and no other offences were superadded. Such offences are those sorts of *Treason* in which the acts are directed

against the Constitution or order of the State, and not against the person of the Sovereign or other public officials; *riots*, "unlawful assemblies," "tumultuous petitioning," and seditious libel, where the object, direct or indirect, is to bring pressure to bear on the Houses of Parliament or on the Sovereign's advisers.

In the case of these latter offences the exercise of the prerogative of pardon is usually delayed until the general feeling which led to them has subsided and there is no danger of its recurrence.

A pardon may be either free or conditional. In the latter case a lesser is sometimes substituted for a greater punishment. A promise of the Sovereign's pardon is frequently used as an inducement to participators in a crime to deliver up to justice the principal criminal or criminals.

The investigation of the grounds for exercising the prerogative of pardon is conducted by the Sovereign's principal Secretary for Home Affairs, usually styled the Home Secretary.

(3) *In respect of Internal Affairs.*

1. All degrees of nobility are, or have been, derived from grant of the Crown.

2. All "Corporations," that is, bodies of persons united together so as to be treated, for some legal purposes, as though they were only one person, are created either directly by grant of the Crown, or, indirectly so, by compliance with the terms of certain Acts of Parliament.

In making a grant, as in doing all other public acts, it is an important constitutional principle that the "King can do no wrong," that is, he cannot inflict an injury on a subject, nor is he personally amenable to the procedure of any Court of Law. Thus, if a grant violates any rule of law, or impairs the vested rights of any one, it is held void in a Court of Justice, as having been obtained by deceit

and fraud. Thus, too, the Sovereign cannot, except under the Patent Laws, grant the exclusive privilege of selling any product or manufacture—that is, a monopoly. The only remedy against the Sovereign personally is by Petition of Right, which is available only in cases in which the Sovereign's title to lands or goods is disputed. It is held to be of the Sovereign's mere grace and freewill that the proceedings are allowed. The petition is granted in the form "Let Right be done," and then the investigation follows the course of an ordinary civil trial before the Superior Courts of Law.

3. The Sovereign alone can coin money, and impress what stamp he chooses upon it, and impart to it its legally current value. The establishment where the coin is made is called the Mint.

4. The Sovereign as "Supreme governor, as well in all spiritual or ecclesiastical things or causes as temporal," appoints all archbishops and bishops of the Established Church, though the form of an election by a body of clergy called the "Chapter," attached to the Cathedral Church, is always gone through.

(3) *In respect of external affairs.*

1. The Sovereign appoints all Ambassadors and diplomatic agents to Foreign Governments, and conducts all negotiations with those States.

2. The Sovereign concludes Treaties, and makes War or Peace with Foreign States.

As these matters usually involve expenditure of some sort, and otherwise demand the co-operation of Parliament, the Sovereign's Ministers take an early opportunity of explaining the situation of affairs to Parliament, and of inviting a debate on the subject in one or both of the Houses. If the Ministers neglect to do this, or defer to do it for an unreasonable time, questions are asked of them in the Houses,

or a motion is made for the production of papers or despatches, or a resolution of want of confidence is moved on the ground of alleged misconduct or misadventure in conducting a negotiation.

3. A proposition has been made in Parliament that every treaty shall be approved by the two Houses of Parliament before being ratified. The objections to this course are (1) that no treaty could be concluded when Parliament is not sitting; (2) that all the circumstances which accompany the making a treaty would have to be made public before it is concluded, which must, in many cases, prevent a treaty, however beneficial, being made at all; (3) that the delay and the protracted discussion incident to Parliamentary proceedings, and the physical distance which frequently separates the contracting parties, render such a precaution peculiarly unsuitable

4. The Sovereign has the supreme command of the Army and Navy, under Parliamentary restrictions to be described later on, and appoints all the officers of the Army and Navy.*

5. The Sovereign appoints the Viceroys of Ireland and of India and all Colonial Governors. In the case of certain of the Colonies he prescribes the form of government, and in the case of all of them his assent is essential to the validity of all Acts of Colonial Legislatures.

* On the occasion of abolishing Purchase in the Army in 1871, it was warmly debated whether the Royal Warrant issued for that purpose, and revoking previous warrants, was only in pursuance of a temporary power given by the 49 Geo. III. c. 126, s. 7, or in the exercise of an inherent and undisputed prerogative. See "Annual Register" (New Series) for 1871.

THE HOUSE OF LORDS.

The House of Lords is at present composed of 502 members, though the exact number is constantly changing. The following is an enumeration of the members according to their several titles, and in the order of their precedence :—

6 Princes of the Blood Royal.
2 Archbishops
21 Dukes.
19 Marquises.
117 Earls.
26 Viscounts.
24 Bishops.
257 Barons.
16 representative Peers for *Scotland*,—chosen for each Parliament.
28 representative Peers for *Ireland*,—elected for life.

The Dukes, Marquises, Earls, Viscounts, and Barons differ from one another only in respect of their order of precedence. They have no other necessary points of difference. These titles are very old, and in early times probably all represented important offices in the Government of the country; but this is no longer so. The titles are now all honorary, except so far as they imply that the holder has a seat in the House of Lords, and they give a bare claim to precedence. The Sovereign can make as many new Peers, and can give them such of the above titles as he chooses. His ministers usually recommend (especially at the time of their giving up office) the grant of peerages to some of their most active and distinguished supporters. When once a person has been summoned to Parliament to sit in the House of Lords, or has actually taken his seat, or when a

person has been created a Peer by the Queen's "letters patent," his descendants inherit the right to sit, the eldest son succeeding first on his father's death, and the eldest son of that eldest son again succeeding, to the exclusion of his uncles. The order of succession is exactly the same as that to the Crown, except that women may succeed to the Crown in default of men of equal nearness to the last Sovereign. Women cannot sit in the House of Lords, though women may be Peeresses by Royal grant, or even in some Peerages by descent.

No Peers can be created *for life only*, except the "Lords of Appeal in Ordinary."[1] The Lord Chancellor, who is always an eminent lawyer, and made a Peer, generally presides over the debates in the House of Lords.

At one time, that is, about 800 years ago, the House of Lords was the only Legislative and Executive body in the country. It was composed of persons holding estates of land from the King and owing him military services in return, or having distinct offices in the government of the country. There was then only one Chamber, or House of Assembly, and the King presided, as at a Great Council. Two changes subsequently took place,—one the separation of some of the chief officers of state from the Great Council, so as to form a smaller council, or "King's Council,"—the other the separation of the lesser Peers, that is the poorer and less important ones, from the richer and more eminent ones. By this separation a Second Chamber, or new House of Assembly, was created, which was the beginning of the present House of Commons. Later on, only a few of the smaller "Barons" or "Knights," that is, the smaller tenants of land from the crown, were chosen to represent the rest; and later on, that is, in the year 1265, Boroughs or Towns were permitted to be represented by Members in the House of Commons, as well as the Counties or County Divisions.

At present comparatively little business is done in the

[1] *See* p. 82.

House of Lords, though the consent of that House is needed for any Bill to become law. When much interest attaches to a Bill there is often a considerable attendance and a warm debate, but the House very seldom throws out or much alters a Bill which has been deliberately passed by a large majority of votes in the House of Commons. Sometimes Bills are proposed in the House of Lords, but never Bills affecting taxation. Such Bills, on coming up from the Commons, are never altered in the Lords' House, though they are occasionally thrown out. Some members of the Cabinet besides the Lord Chancellor always sit in the Lords' House, that is, some Peers are always made members of the Cabinet.

The House of Lords possesses important judicial functions as the Highest Court of Appeal. It has a distinct constitution for this purpose. (See p. 81.)

Among the most notable judicial functions reserved to the House of Lords are those in cases of Impeachment (see p. 50), and of the trial of a Peer for treason or felony under the presidency of a High Steward appointed for the occasion. When these trials take place during the sitting of Parliament, they are said to be before the "Court of our Lady the Queen in Parliament." At other times they are "before the Court of the Lord High Steward." This Court consists of all Lords of Parliament excepting the Bishops. The proceedings commence in the ordinary Criminal Court, and are removed, by writ, into the Parliamentary Court. In all Judicial proceedings the Peers give their votes "on their honour." Bishops and Archbishops take no part in the proceedings of the Court of the Lord High Steward, nor can they themselves be tried by this Court. In case of a trial before the High Court of Parliament, and of an Impeachment, they retire (though under protest) before sentence of death is pronounced.

Other matters concerning the proceedings in the House of Lords will be most conveniently considered after the

constitution of the House of Commons has been investigated.

In order to explain the present state of the House of Lords, it is necessary to say something of the current objections that are made to its constitution, and of the remedies that are suggested.

It is alleged in some quarters that as the large bulk of the members of the House of Lords become such only through birth, no security is afforded for the wisdom, patriotism, activity, or general fitness of the members.

As a matter of fact, the House of Lords takes only an intermittent part in public business, and sits but a short time each day. There is, furthermore, a very strong "stationary" element in it,—that is, there are a large number of members who are indisposed to make any change whatever in existing institutions. In consequence of this, a Bill has often to be passed over and over again in the House of Commons in successive sessions before it is finally adopted by the House of Lords.

On the other hand there are good reasons for holding that it is better to have *two* Chambers or Assemblies than only *one*. It is better to have a matter considered twice over by bodies of persons selected on different principles rather than to run the risk of a great change in the Law being inconsiderately made by one body of persons alone, acting (it may be) under some special and temporary influences. It is also alleged that there ought to be some Assembly distinctly representing the continuity of the traditional or historical associations of the country, and also what is called the "Landed Interest,"—that is, the interests of the persons who own most of the national soil or land.

The following remedies have been suggested, and some of them are now occupying a good deal of attention :—

(1.) The appointment of a certain number of "Life Peers,"—that is, persons chosen to sit in the House of Lords for their own lives without handing down their right to their

children and descendants, and chosen for their conspicuous and tried ability in the Public Service or in Literature or Art. The "Lords of Appeal in Ordinary" are Peers of this sort. (See p. 82.)

(2.) The exclusion from the House of Lords of all the Bishops and Archbishops, because they concern themselves little or unwisely with questions of secular politics; and are withdrawn from their diocesan work to the public loss and inconvenience. This might be accompanied by (1).

(3.) The permission to the House of Commons to nominate some of their own members as members of the House of Lords. This might be accompanied by (1) and (2).

(4.) The Election of members of the House of Lords or of some of them by the population of the country on the same principle as that on which the members of the House of Commons are elected,—though on a different basis,—as, for instance, that only persons having so much money or land could be elected or vote at elections. This method is adopted in some British Colonies. It might be compounded with (1), (2), and (3). The members so elected might sit for a longer or a shorter number of years than do the members of the House of Commons. These changes would probably be regarded as far more "unconstitutional" than those mentioned in the former paragraphs.

THE HOUSE OF COMMONS.

I.—CONSTITUTION OF THE HOUSE OF COMMONS.

The House of Commons has now been for a long time the most important branch of the Legislature. It consists of Members elected by different classes of the people, the whole number of Members being now 652, comprising those elected by English, Welsh, Scotch, and Irish "Constituencies" (that is, bodies of persons entitled

to elect each one, two, or three Members). The important points to be attended to are:—

1. The Places Represented.
2. The Qualifications of Electors.
3. The Mode of Election, and the Penalties for Bribery or Paying for Votes.
4. The Qualifications of Members.

1.—As to the Places Represented.

These places are (1) Counties, (2) Towns or Boroughs, and (3) Universities, or the chief seats of the Higher Public Education,—and these are represented whether situated in England, Wales, Scotland, or Ireland.

England and Wales.

	Members
52 Counties	187
197 Boroughs	295
3 Universities	5
Total	487

Scotland.

32 Counties	32
22 Boroughs	26
4 Universities	2
Total	60

Ireland.

32 Counties	64
33 Boroughs	39
1 University	2
Total	105

In the history of the House of Commons the places represented have varied a great deal, according to their changing size and importance. When a town loses its importance, or becomes smaller, or is proved to have had bribery very extensively practised in it, it is sometimes "disfranchised," or loses its right to return a Member to the House of Commons. On the other hand, if a town increases in importance, or grows into importance for the first time, it is allowed to return more Members or one Member at least (if it returned none before). This, with other changes in the representation, is effected by a "Reform" Act, or law enacted for the purpose. The chief Acts of this kind were passed in the years 1832 and 1867. Sometimes it is enacted that a *County* shall return more Members or fewer than it did before, or it is broken up into two or three or more different constituencies, each returning two or three Members. This choice of the places, and the fixing the number of the representatives to be chosen, are always matters of great difficulty and importance, and when a change is contemplated (which does not often take place) it gives rise to animated discussion. The larger towns sometimes return three or four Members; and London is divided into several constituencies, each represented by two or more Members.

It thus comes about that every Member of the House of Commons is closely connected with a *body of persons* living in, or having property in, or (as with the Universities) related to, some definite *place*. It is generally believed that County constituencies are less favourable to political innovations than Borough constituencies: the differences due to education, social influences, and occupations may, perhaps, account for this. Country life is based on the slow and steady production of wealth from the soil by efforts mostly individual and isolated. Town life is based on the rapid and speculative accumulation of wealth by organised trade and commerce. The opposite tastes and opinions of

the Members representing *Town* and *Country* constituencies in the House of Commons give rise to much of the difference of opinion in that House, and to the great "party" struggles in the debates which decide who shall be the Cabinet Ministers and conduct the Executive Government in the name of the Crown. The subject of "party" will be considered further on.

2.—Qualification of Electors.

The question of who shall be entitled to vote for Members of Parliament is a matter of the utmost importance, and has been settled by several Acts of Parliament, the most important modern ones being, as already said, the Reform Acts of 1832 and 1867.

Generally, the qualifications are being a male of 21 years of age, and either having property in land or buildings of a certain amount, or living in a certain settled residence for at least 12 months previous to being registered as a voter.

Omitting some minor ones, the qualifications now are :—

A. For voting in *Boroughs*.

1. Being for 12 preceding months a resident occupier of a dwelling house within the borough.

2. Being for 12 preceding months a resident occupier of lodgings of the yearly value of 10*l.* at least if let unfurnished.

3. Belonging to certain specified classes of persons, as (in some cases) that of "freemen."

B. For voting in *Counties*.

1. Being a "Freeholder" of lands or buildings of the yearly value of 2*l.* at least, these lands or buildings being either occupied by the freeholder, or acquired through marriage, intestate succession, a will, or promotion to an office.

[A "freeholder" is one who owns lands or buildings

either for the duration of his own life or for that of another or of others.]

2. Being a "Freeholder" of lands or buildings of yearly value of 5*l.* at least, though not satisfying the last-mentioned conditions.

3. Being tenant on lease for 20 years of property at 50*l.* annual value.

4. Being tenant for the unexpired part of a term of 60 years of an estate of the yearly value of 5*l.* at the least.

4. Being for the 12 preceding months occupier of lands or buildings of the yearly value of 12*l.* at the least.

Both in the case of the Borough and in that of the County Franchise, in order to claim in any year the right of voting, it is requisite to have paid, by the 20th of July in that year, all poor rates due up to the preceding 5th of January on behalf of the premises the occupation of which gives the qualification.

In order to exercise the right of voting for a Borough or a County, it is indispensable to be duly "registered," that is, entered on the official list of voters. Such lists are prepared in the Summer of each year by the poor-law officers (the "overseers") of each parish, and Courts for revising these lists are held on certain days in the Autumn by barristers (called "revising barristers,") appointed by the Judges of the High Court of Justice. Claims may then be made by persons whose names have been omitted, and objections made to names alleged to have been improperly inserted. If an objection is sustained, the name is struck off the list. On points of law there is an appeal to the Court of Common Pleas.

C. For voting in *Universities.*

Having passed certain examinations in, and had a certain "Degree" or honorary distinction conferred by the particular University.

There are three important movements now going on in the country for a change in the qualifications of electors of the House of Commons :—

(1). The first has for its purpose the assimilation of the borough and the county franchise.

It is alleged, in objection to this, that one consequence must be such a re-distribution of seats as will give to the towns with a large population an unfair share in the general representation. Thus the country element would be wholly overborne, and a loss of variety in the composition of the House would be experienced. This last result might be counteracted by the adoption of one of the "minority representation" schemes described lower down ; and, any way, it is doubtful whether the opposition between town and country opinions is a true one for modern times, or can be a permanent one.

(2). A second movement has for its purpose the enabling of all men to vote if of the proper age and not otherwise incompetent, wholly independent of the ownership or occupation of property. This is sometimes, though falsely, called "universal suffrage."

There is no doubt that the present household and "lodging" franchise excludes a vast number of persons whose votes would be valuable to the community and themselves. New devices will no doubt be suggested to include these persons ; and the spread of national education will render any mode of lowering the franchise safe. But it will probably always be well to take as an electoral test some formal security for the genuine concern which a voter may properly be expected to have in the permanent welfare of the country.

(3). The third movement has for its purpose the enabling women to vote, on their possessing the same qualifications as those upon which the right of voting is conceded to men.

This movement is the more important as a Bill for

effecting its object has been of late annually introduced into the House of Commons, and, on one occasion, was read a second time. The objections to the movement seem to be based upon a certain unfamiliarity in the notion of women concerning themselves actively in political affairs, and an assumed incompatibility between such activity and what is held to be their true domestic vocation. It is forgotten that much of the coarseness and vulgarity which have hitherto discredited the contentions of political life may have been due to women having had no legitimate concern in them; and that the possible disadvantage of distracting women from the management of their households (where they have any) is likely to be more than compensated by the effect upon themselves, and, indirectly, upon all whom they are called to educate and influence, of a class of mental occupations the largest and noblest with which human beings can be concerned.

The positive arguments in favour of removing the disabilities of women are:—

i. That, under the existing law, women vote in all municipal elections on the same basis as men.

ii. That unmarried women own land and houses and all other things in exactly the same way as men do.

iii. That women pay exactly the same *taxes* estimated on their property as men do.

iv. That women are affected by the law in the same way as men are.

v. That women's interests, especially where they come into competition with those of men, are injuriously affected in Parliament through women having no control over the elections.

vi. That ordinary women are in all respects as much qualified in their minds for political action as ordinary men; and this is assumed in the fact of the present Sovereign being a woman.

3.—Mode of Election.

Two questions arise under this head: first, as to the value of each vote; and, secondly, as to the way in which the votes are given.

1. *As to the value of each vote.*

The almost universal rule in elections is, that each elector has as many votes as there are Members to be elected for his constituency, but an elector need not use more than one of his votes, and must not give more than one vote to one candidate.

A great complaint has been made in some quarters, both in England and in other European countries, against this system, on the ground that it enables or tends to enable the aggregate majority of votes to decide all the elections; and therefore, that although, where a different number of people vote in different constituencies, it may happen that a minority in one place is greater than a majority in another; and that, any way, two minorities in different places may probably enough be greater than one majority, yet, under the existing system, none of these minorities will be represented at all. Furthermore, under the present system, the choice among candidates at any election is arbitrarily limited by the character of the broad public questions (generally very few, and perhaps not of much lasting importance) which happen to attract attention at the moment. Thus, through what may be called mere election accidents, none of the minorities in the country, consisting of it may be more than half the nation, may chance to be represented at all.

To meet these evils, several remedies have been proposed. One of them is now being tried in a few Parliamentary constituencies, and another in elections to School Boards.

1. The method adopted in those exceptional Parliamentary constituencies is to allow each elector to vote for all the candidates save one. If votes are given for more

than the prescribed number of candidates, none of the votes on the voting paper are counted. In this way, if any one candidate have a fair number of supporters who vote for him, even though they do not compose the majority of the electors, he is very likely to be elected.

2. The method adopted in the elections to School Boards is that called "cumulative voting." It consists in giving to each elector as many votes as there are members to be elected, and allowing each elector to give all his votes, or as many of them as he pleases, to any one candidate; or some of his votes to one candidate, and some to another.

The objection to both these methods is the waste of so many votes; that is, the use of so many votes in favour of candidates who cannot be elected with their help, or would be elected without their help. The result is the practical disfranchisement of all electors who vote for either a very popular or a very unpopular candidate.

Suppose, for example, that three members have to be chosen, and there are five candidates, and that the constituency consists of 1,000 electors, 900 of whom are of one way of thinking and 100 of another. Suppose, in the first case, that each elector has two votes and no more. If one of the candidates represents the views of the minority, the 100 electors will all vote for him, and probably him only; but he will stand only a small chance of being elected. Thus the 900 electors have the whole choice of the three members out of the remaining four candidates in their own hands, and the 100 electors in the minority have nothing to say to it, having exhausted all their votes in supporting the candidate who alone in any sense represents them.

The same waste of votes and consequent disfranchisement is occasioned by the School Board method of "cumulative" voting, and by another method sometimes advocated called "single" voting, in which each elector can vote for one candidate and no more.

Other more exact methods have been devised, though

they have not yet been adopted in this country. They are sometimes called Preferential voting, or the whole system is called that of Proportional representation. The most characteristic of these methods are the following :

1. To fix a definite number of votes, based (say) upon the proportion between the number of members to be elected, and the number of electors in a given area, as sufficient and necessary to ensure the election of a candidate ; and to allow each elector to mention in his voting paper (the forms of the ballot being preserved) the names of several candidates, either local or not local as may be settled, to each of which in turn his vote is to be made over in case the candidate to which his vote is first given has, before his vote is counted, either obtained the number of votes sufficient for his election, or cannot, with that vote, make up the necessary number. Lists of candidates may either be framed beforehand by political parties freely formed, or the framing of them may be left at the last to the more or less unrestricted choice of individual electors.

Thus, for example, suppose 5.000 votes are necessary for a candidate to be elected. The elector prepares his voting card, and either adopts a list of the candidates arranged in order by the agents of his political party, or himself places the names of the candidates in the order in which he would desire their several claims to be preferred. If the candidate he places first on his list obtains 5,000 votes before his vote is counted, the vote is counted in favour of the second on the list, and so on ; and if the candidate placed first on the list is not elected, that is, cannot obtain the necessary 5,000 votes, then in the same way each vote given for him is counted in favour of all those who come next on the several lists.

2. To fix the number of votes as before, but to leave each candidate to transfer the surplus or insufficient votes given to himself in any way he pleases.

The common objections to all these more exact methods

are that (1) they are too complex and difficult to be mastered by the average elector; (2) that the necessities of practical government demand that the battle of rival principles should be fought outside rather than inside the House of Commons; and (3) that people must wait till they are strong enough to make their opinions accepted by a majority before they have any claim to be represented.

The first objection is one the force of which must gradually decrease with practice and experience. The latter objections are based upon a very rough, not to say coarse, notion of the functions of Government, as though it were an institution designed not to enlighten and correct, but to give weight to, popular ignorance and prejudice. It is also to be remembered that the House of Commons is, or ought to be, eminently an Assembly for discussion and argument, and not an institution for merely registering conclusions arrived at elsewhere.

2. *How the votes are taken.*

Up to a very recent date, all the votes were given publicly, in such a way that everyone could know who voted for each candidate. They are now given by secret ballot. Elections take place under the following circumstances. Either the case is that of a "General Election," that is, when Parliament has been dissolved, or has come to an end after the lapse of seven years, and elections have to take place in every constituency in England, Wales, Scotland, and Ireland; or else a vacancy has occurred during the existence of a Parliament, owing to the death or retirement of a Member, his appointment to certain offices under the Government entailing a fresh election, or his promotion to the House of Lords. In either case Writs (or official documents giving the proper authority to proceed to the election of a Member or Members) are issued to an officer, called the Returning Officer, in each constituency. These Writs are issued out of "Chancery," an ancient office attached to

the Lord Chancellor's Court. At a General Election the Writs issue by command of the Queen with the formal "advice of the Privy Council," and they mention the day and place of meeting. At other times the Writ proceeds from the Chancery on receipt of the Speaker's warrant issued by order of the House; or, when the House is not sitting (generally), without such an order.

On receipt of the Writ it is the duty of the Returning Officer to give public notice of the time (within the limits fixed by Law) and the place for nominating candidates, and thereby—if there are no more candidates than there are Members to be elected—of the election.

Between the time at which the vacancy occurs and the day fixed for the nomination, candidates publish addresses in which they announce their political opinions and party sympathies, if any, and, usually accompanied by their friends, go about among the constituents making speeches and pressing their claims to support. The different political "parties" (or groups of persons holding like opinions) usually support different candidates and do their best to secure their election.

Before the nomination day and (usually) for about two hours on that day, any elector may propose any candidate he chooses, by filling up with the candidate's name, description, and residence, a printed form or nomination paper. Another elector must add his name as seconding the nomination; and eight more electors must add theirs as assenting to the nomination. The paper so filled in and properly signed must then be presented to the Returning Officer.

If, up to the last available moment for proposing new candidates, no more candidates have been nominated than there are Members to be chosen, the Returning Officer declares the candidate or candidates to be duly elected. If there are more candidates than Members to be elected, the Returning Officer must name a time, within the limits fixed by law, for a "poll," that is, a formal election, which must, as has already been said, be by Ballot.

The principle of the Ballot as applied to Parliamentary elections is that no one shall ever be obliged against his will, or be legally permitted at the moment of election, to make known to others how he votes. According to this process each voter—after satisfying the officials in attendance at the time and place of taking the votes that his name is on the register, or list of voters, and that he is the person so named — is furnished with a card containing a printed list of all the candidates' names. He is instructed to retire into a separate compartment, or solitary closet, and to put a cross against the name of each of the candidates for whom he votes. If the voter puts crosses against more names of candidates than there are Members to be elected, or if he attaches his own name to it, or otherwise defaces the card, the card is good for nothing; but a fresh card may be obtained in the place of one accidentally defaced. After marking his card, the voter takes it to a box called the ballot-box, and, in the presence of an officer, drops the card into it through a slit in the lid. As no name besides those of the candidates appears on the card, it is not possible to know who dropped in the several cards. When the polling is over, the cards are examined, and the candidates who have most votes are declared to be elected. Precautions are taken to prevent voters making it known how they have voted, between the moments of marking the card and of dropping it into the ballot-box. Provisions are also made for enabling persons who, from ignorance or infirmity, are not able to read, or to mark the cards, to have the names of candidates they vote for marked for them by a responsible officer.

The ballot for any constituency takes place on the same day in a number of different places simultaneously. It is usually conducted in a schoolroom, a public building, or a temporary structure erected for the purpose.

The ballot is not used in elections for Universities. Electors for the Universities of Oxford and Cambridge can

vote by proxy-papers; that is, they can have their votes certified by a magistrate and then communicated to the Returning Officer by letter.

The offence of *Bribery*, or of offering rewards or of administering threats in order to procure a vote, is punished in various ways. Thus—

(1) To receive bribes or rewards for voting in a particular way, is a crime, punishable by fine and imprisonment, both in the giver and in the receiver.

(2) If bribery is proved to have taken place at an election with the knowledge of a candidate or his agents, the election of the candidate is declared void, and either the candidate with the next largest number of votes is declared elected, or, if the whole election shall be proved to have been affected by the practice of bribery, it will have to take place over again. If it is proved that bribery is a persistent and deeply-rooted practice, the constituency may be "disfranchised," that is, may lose its right to return any Member in the future. This disfranchisement is effected by an Act of Parliament, but has very rarely been put into practice.

The investigation into the alleged wrongful returns on the ground of bribery, or other serious irregularity, was, up to a few years ago, conducted by a Special Committee of the House of Commons. It is now conducted by one of the Judges of the Superior Courts of Law, who, upon a petition presented by persons in the constituency, goes down to the district where the election was held, and holds there a Court of Justice, in which the proceedings are almost exactly the same as on the trial for an ordinary crime. A single bribe or threat, if given with the knowledge of the candidate or his agent, is sufficient to invalidate the election of that candidate. The proceedings still continue dependent upon the jurisdiction of the House of Commons, and the Election Judge makes his Report to the Speaker of the House.

4.—Qualifications of Members.

All persons (with the exceptions below mentioned) being natural born Englishmen, and twenty-one years of age, may be elected to sit in the House of Commons. It is now of no consequence what property they have, nor to what constituency they themselves belong. The following persons only are excepted and cannot sit :—

1. *English and Scotch Peers,* and Irish Peers for an Irish constituency.

2. *Judges* of the Superior Courts of Law.

3. The "*Clergy*," or Ministers of the Established Church, who have not taken the requisite steps to rid themselves of their disability.

4. The *holders of various offices*, specially excluded by Statute, as offices of profit under the Crown created since the year 1705.

5. *Government Contractors*, that is, persons who have engaged with a Government Department to do any work or carry out any undertaking, till the contract is completed.

6. *Bankrupts*, that is, persons who are unable to pay their debts, and are declared by a proper Court of Justice to be such, all their property being distributed fairly among their creditors.

7. *Felons*, or persons convicted of the heavier classes of crimes.*

If any Member of the House accepts any office of Profit from the Crown, his election is void and a new writ must issue for a fresh election; but unless the office was created since 1705, the Member is re-eligible. No fresh election is needed in the case of a Member who accepts an office instead of, or in addition to, another.

* It must be treated as still an unsettled question whether a felon who has neither suffered the whole of his punishment, nor received pardon from the Crown, can, after the date fixed for the expiration of his punishment, be eligible as a Member of the House. A recent decision of the House in the case of John Mitchell is adverse to his eligibility.

A Member sometimes retires from his seat (which he cannot generally do otherwise) by accepting the office of Steward or Bailiff of the three "Chiltern Hundreds" of Stoke, Desborough, and Bonenham. The office is in the gift of the Crown, and is ordinarily given to any member who applies for it. It is merely nominal, but as the warrant of appointment grants it, together with all wages, fees, and allowances, it is treated as a place of profit.

II.—THE INTERNAL REGULATIONS OF THE HOUSE OF COMMONS.

These regulations concern :—

1. The Privileges of Members of the House.
2. The Power of the House over its own Members and other persons.
3. The General Business of the House.
4. The Passing of a Bill.

1.—The Privileges of Members of the House.

No Member of the House is liable to a "civil action" (that is to be sued in a Court of Justice) with a view to making compensation for any words he may utter in the House, however offensive or injurious to the feelings of anybody outside the House. Nevertheless, a Member is liable to punishment by imprisonment, or even by expulsion, *by the House itself*, for improper language.

Generally speaking, no Member of the House can be detained by the *civil* process of any Court of Justice, that is he cannot be arrested, imprisoned, or obliged to serve on a *jury*. For a long time it was held that a Member could not even be detained in order to be a *witness* in a trial, but this is not the case now. These privileges extend for some time (some say forty days) before the commencement of a session and after the close of a session, and for a convenient time "necessary for returning home" after a dissolution. These

rules do not extend to protect Members against a *criminal* process.

2.—Powers of the House of Commons over its Members and other persons.

The House of Commons has long exercised what is called the "power of commitment," that is the power of sending persons to prison for certain offences against its own dignity, whether the persons committing the offence be Members of the House or other persons. Such offences are :—

(1.) Disobedience to orders or rules of the House, whether general or special, such as by publishing evidence produced before a Committee of the House before it has been reported to the House ; by neglecting rules for preventing the forging signatures to petitions ; by not attending before the House or Committees when properly summoned ; by not producing papers or records called for.

(2.) Indignities offered by libellous reflections, that is, by writing and publishing matters tending to bring the House into disrepute.

(3.) Interference with, or libellous reflections upon, individual Members of the House—as by arresting, obstructing, threatening, or making accusations against Members ; by interfering with officers of the House while in the execution of their duty ; by bribing Members, or receiving bribes as Members ; by tampering with witnesses, that is. trying to make them give evidence of a special kind before the House.

For the purpose of sending persons to prison, the House employs an officer called the "Sergeant-at-Arms." He is appointed by the Crown, and receives a salary of 1,200*l.*

The House of Commons has also the power of expelling its Members for offences calculated to bring discredit upon Parliament. Such offences are forgery, fraud, corruption, libels, and other offences against the House itself.

The chief officers (besides the Sergeant-at-Arms) of the House of Commons are—

(1.) The *Speaker* or President of the House. He is chosen out of the Members by the House itself, and the appointment is confirmed by the Crown. He determines all points of order, that is he decides whether a rule of the House, with respect to its own proceedings, exists or not, and whether it is being observed or not, by any particular Member in the course of a debate. When two or more Members wish to speak at the same moment, he decides which of them shall be heard first. If the votes are equal in any case, he gives the casting vote, that is, decides which side shall prevail, but otherwise he does not vote.

The Speaker of the House of Commons is in every sense a most important and dignified officer. The tone and character of the debates of the House depend largely upon his judicial impartiality, knowledge of Parliamentary forms and precedents, and tact combined with courtesy of manner. If, as a private Member, he has been identified with a party, he is required to divest himself of all party sympathies and to concern himself only with the maintenance of the dignity and good order of the House. When he retires from office (which he generally holds from Parliament to Parliament as long as he pleases) he is usually created a *Peer*. His salary is 5000*l*.

(2.) The Deputy Speaker and Chairman of Committees. Salary 1,500*l*.

(3.) The *Clerk of the House*, who signs all orders of the House, reads whatever has to be read to the House, makes entries or records of all that is done in the House, and has the custody of all records or documents.

(4.) The Clerk Assistant.

(5.) The Second Clerk Assistant.

These Clerks sit at the table of the House and make short entries of the proceedings of the House, which are printed and distributed to the Members every day. From these the "Journal" is afterwards prepared, in which the entries are made at greater length.

3.—The General Business of the House.

The mode in which the business of the House of Commons is conducted is by individual Members making what is called a *motion*, that is, proposing a *question* to the House upon which discussion may or may not take place, and the Members of the House being asked by the Speaker whether they say *Aye* or *No* to the question. If more Members say *Aye* than say *No*, the motion is said to be agreed to or carried. If more say *No* than say *Aye*, it is said to be negatived or lost. The Speaker judges whether the "Ayes" or "Noes" are in the majority by the sound of the voices. He then says "I think the 'Ayes' (or 'Noes') have it." If this decision is challenged three times by even a single Member, the House must divide. If the counted votes are equal, the Speaker's vote decides.

Every Motion, when agreed to, takes the form of either an *order* or a *resolution* of the House. By an order, the House directs some of its Members, or its officers, to do or not to do certain acts; by a *resolution*, the House merely declares its own opinions and purposes.

A Member intending to make a motion must state the form of it on a previous day, and have it entered in a book, called the "Order Book," or "Notice Paper," thus :—

"July 18th.

"*Mr. Gladstone* to move: 'That a Select Committee be appointed to consider the existing regulations for local taxation, and to report to the House what changes may conveniently be made in these regulations.'"

"*Mr. Disraeli* to move: 'That all papers relative to the Geneva Arbitration be produced, and laid upon the table of the House.'"

Notices of a future motion cannot be generally given for more than a *month* in advance.

At present, *Mondays*, *Thursdays*, and *Fridays* are set

apart for matters agreed to be considered by the House on the motion of a Member of the Government, called "Government Orders."

Wednesday is set apart for the *Orders* of private Members, that is, for matters agreed to be considered by the House on the motion of a Member *not* connected with the Government.

Tuesday is generally set apart for notices of motion.

Notice of Motion.—How Made.

When a Member desires to give notice of a motion he first fixes on the most convenient day, having reference to the printed notices and orders of the day. At the meeting of the House, he enters his name upon the notice-paper which is placed upon the table. Each name upon this paper is numbered ; and at half-past four the clerk having put the numbers into a glass, draws them out one by one. As each number is drawn the name of the Member to which it is attached in the notice-paper is called by the Speaker. Each member, in his turn, then rises and reads the notice he is desirous of giving, and afterwards takes it to the table, with a note of the day fixed, to the Clerk Assistant. On the day named the Member rises and makes the motion. If it be agreed to, the House either makes an *order* or expresses a *resolution*. The *order* may have reference to a variety of matters, as for reading a Bill a first, second, or third time ; for referring it to a Select Committee ; for producing papers ; for appointing a Select Committee to examine into facts upon which a future Bill may be required, and the like.

A motion may have reference to a variety of matters besides the passing a Bill (in other words, the enacting of a law) : as, for instance, a Member may move for papers, accounts, or statistics—that is, he may propose that the House make an order that certain papers be produced, documents printed, statistics of numerical estimates pro-

cured, and the like. Or again, a motion may be made for the sole purpose of nominating a Committee of Members of the House to investigate certain facts which are disputed or which are unknown, or upon which it is difficult to get information without examining witnesses. Or again, a motion may be made in the course of a debate for "adjournment" of the House—that is, for proceeding to no further business that day; or for introducing a clause in the matter to be voted upon by means of what is called an "amendment." This will be recurred to again in speaking of the passing of a Bill.

One prominent part of the general business of the House is the merely asking questions of members of the Government or other Members, as to their intentions to bring forward certain measures, or to proceed with certain business. Notice is given of these questions in the notice-paper, and sometimes by the Member from his place in the House.

The House does not generally sit on Saturday, and never on Sunday. On Mondays, Tuesdays, Thursdays, and Fridays it sits from four o'clock till late at night, and sometimes till one or two o'clock the following morning. On Wednesdays it sits from midday to six o'clock in the afternoon.

Sometimes, towards the end of a session, when there is a great pressure of business, the House sits twice a day, that is, it has what is called a morning sitting, from twelve to four, as well as an evening one, commencing at six.

The Passing of a Bill.

The most important part of the business of the House of Commons is that of "Passing *Bills*." The whole proceeding of passing a Bill is as follows:—

The first step is for the Member who proposes to introduce a Bill on any subject to have it prepared, or, as it is called, "drafted"—that is, written out in the form he wishes the Act to bear when it is passed,—and printed. A Bill

must have the names of at least two Members on the back of it as approving it. A Bill can be brought in either by private Members—that is, Members not connected with the Government—or by Members of the Government. In the latter case it is called a "Government measure."

The next step is a Motion "for leave to bring in the Bill." Notice of this motion must of course be given, as of all other motions, in the way above described.

If the Motion be agreed to (which is after a debate only when the Bill is of a very exceptional character) the Bill is *ordered* to be brought in, and this is generally done the same day. On it being brought in and delivered to the Clerk of the House, the Bill is said to have been "received by the House." The first reading of the Bill takes place without debate, and is merely formal. This is seldom objected to, and the "short title" of the Bill is read aloud by the Clerk. The Bill is then said to have been read the *first time.* It is to be noted that by *Standing Orders* of the House, Bills having reference to (1) Religion, (2) Trade, (3) the Public Revenue, (4) Granting Money to the Crown, cannot be introduced without having been first considered in a *Committee of the whole House. Standing Orders* are permanent regulations for the discharge of the business of the House, which it makes either for the protection of great public interests, or for its own general convenience. In great emergencies, as when time presses, it sometimes allows them to be suspended. A *Committee of the whole House* is a meeting of the whole House in a rather less formal manner than usual. The Speaker leaves the chair, and some other Member occupies it, and each Member can speak as often as he pleases, instead of only once in each debate, as at other times.

When the Bill has been read a *first* time, the question is put, "That this Bill be read a second time." The second reading is, however, not taken at that time; a future day is named, on which the Bill is ordered to be read a second

time. When the day arrives, the Member in charge of the Bill moves that it be read a second time. This is the most important stage of the Bill, and is the stage at which Bills wholly disapproved by the House are usually thrown out. On making the motion, the Member at this time generally enters into a full description of the measure, and into a defence of it against all objections. Thereupon follows a more or less close debate, in which each Member may speak once, and as long as he likes, the proposer having the right of reply after all the rest have done. If several Members rise at once, the Speaker chooses which shall be heard, according as one or another has first "caught his eye," as it is said. There is no rule against long speeches, but if a Member is over long or tedious, or otherwise irritating, the House sometimes interrupts him by making a great noise.

After the bill is read a second time, a very important stage has to be passed through. This is called "committing" the Bill. It is ordered that the House resolve itself into a Committee, on some future day, for the purpose of considering the details of the Bill. When the day comes the Speaker leaves the chair, another member takes the chair, and the Bill is gone through clause by clause, it being open to any Member to propose any alteration he thinks fit, either by omitting clauses, or putting in words, or putting in fresh clauses. When the House cannot agree upon any point, a division is taken, and the majority of votes decides which side shall prevail. The opinion of the house is taken, either (as was described above) by the Members saying "Aye" or "No," according as they do or do not want a proposed change, or by their passing out of the House, and being counted as they go out, as in favour of the change if they pass through one door, or as against it if they pass through another door.

There is one mode by which an actual vote on the question at issue may be avoided without any decision on its merits being thereby assumed to be made. At the close,

or in the absence, of a debate, the Speaker, on the "previous question" being moved, puts a question in the form "that the question be *now* put." Those who wish to avoid an issue being come to vote in the negative, and the rest in the affirmative. The "previous question" is whether the debated question shall be put.

When the Committee of the whole House has finally determined on the shape which a Bill shall take, it is "reported" to the House, and if amendments have been made it is *ordered* to be considered at a future day, on which day a motion is made that the Bill be read a third time, and after that a motion is made "that this Bill do pass." If this is agreed to, the Bill is held to be passed by the House of Commons, and is sent up to the House of Lords to be passed in a similar way there. It will have been seen that the following are the different stages through which a Bill passes :—

1. *Motion* for leave to bring in the Bill. *Order* to bring it in.

2. *Motion* to have Bill read a *first* time. *Order* that it be read a *first* time.

3. *Motion* to have Bill read a *second* time. *Order* that it be read a *second* time.

4. *Motion* to have the Bill "committed." *Order* that it be committed."

5. Committee on details of Bill. Report of Committee.

6. *Motion* that Bill be read a *third* time. Motion that it be *passed.* Passing of a Bill and sending of it to House of Lords.

When the House of Lords has considered the Bill, if it makes no changes in it, nothing remains to be done but to obtain the Royal Assent, that is, the assent of the Queen. This is now-a-days never refused, and is, in fact, a purely formal proceeding.

If the House of Lords makes any changes in the Bill, it must go down to the House of Commons again, and the

House of Commons must either accept the Lords' amendments or reject them. If it accept them the Bill is ready for the Royal Assent. If it reject them the Bill is lost unless the House of Lords can be induced to give up their amendments. In order to bring this about two practices are resorted to—one, that of sending the Bill back to the Lords with the *reasons* for not accepting the amendments. This is the customary mode. The other practice (which is rare) is that of requesting a *Conference* between the two Houses, that is, a meeting of certain Members of both Houses for the purpose of ascertaining the points of difference between the Houses, and of thereby bringing the Houses into harmony.

It is to be noticed that the House cannot begin business unless forty Members are present. It proceeds, whatever number of Members are present, unless a Member "takes notice" that forty Members are not present. If, on the House being counted by the Speaker, this is found to be so, the House is adjourned. At any time during the discussion of the Bill, a Member may endeavour to get rid of it for the session by moving "That it be read again this day six months, or three months," choosing the date so as to make it fall during the vacation. A Member may also suspend or arrest a Bill for a time by moving that the matter with which it deals be referred to a "Select Committee," that is, a small body of not more than fifteen Members sitting apart.

Select Committees of the House sit every day for a variety of purposes. They examine witnesses on oath, inspect documents, and investigate minutely all the details of a question. Upon completing the inquiry, they report to the House upon the desirableness or inexpediency of any legislation proposed.

The service on Select Committees, which sit during the day, involves some of the most arduous work of the House of Commons, as it is in addition to the attendance on the evening debate.

Sometimes a difficult question, full of details, is similarly

investigated by what is called a "Royal Commission"—that is, a body of men, generally including Members of the Houses of Lords and Commons, specially chosen by the Government.

The attendance of Members in the House of Commons is very variable from day to day. Sometimes (that is, on very important public occasions) as many as 500 are present; at other times less than 100. Members generally attend most when business is being done in which they themselves or their constituencies are concerned, or when great *party votes* are to be taken.

It will be understood that all Bills, with the exception of those affecting taxation, *may* be proposed first in the House of Lords, though, in fact, comparatively few are. When a Bill has been first carried in the House of Lords it is sent down to the Commons, and has there to pass through all the same stages which it would have to pass if it had been originally proposed there.

One important part of the work of both Houses of Parliament is the receipt of *Petitions*. Any person in the country, and any number of persons jointly, may *petition* the House—that is, they signify their wishes with respect to any Bill which is before the House, or about a matter upon which it is expected or feared that a Bill will be presented, and may pray the House to introduce, reject, or alter a Bill. The petitions must be introduced by a Member of the House, and must be signed by each of the persons who join in sending them. Sometimes petitions have many thousands of names attached, and they are said to have a certain influence on the House.

Though it is the constitutional duty of all Members of Parliament to attend the meetings of the House to which they belong, yet it is only when special business is about to be undertaken that means are taken to secure their presence. The most effective method, though one rarely resorted to, is what is termed a "call of the House." This is an order

to have the Members of either House called over, when absent Members, if not capable of excusing their absence, are liable to be committed into custody or even fined. There is, however, no compulsory process by which Members can be obliged to vote.

When a Member of the House of Commons desires to remain in the country, he must in strictness apply to the House for leave of absence, for which sufficient reasons must be given. But, in practice, it is only necessary to do so when serving on Committees.

Absent peers are entitled to vote by proxy, though the use of proxies is suspended by a Standing Order of the 31st of March, 1868. Similarly, in both Houses, the system of "pairing," by which two Members, who belong to opposed parties, or are opposed to each other on particular questions, agree to absent themselves at the same time, whether it be for one sitting of the House, or for weeks or months, is found very convenient, though it is not publicly recognised.

Besides expressing assent or dissent by a vote, peers may record their opinion and the grounds of it by a *protest*, which is entered in the Journals together with the names of all the peers who concur in it.

Strangers—that is persons not members of the House—have no legal right to be admitted into either House while it is sitting. They are, however, usually admitted by courtesy into places set apart for their use, and admission can be obtained on a Member's order if there is room enough. It is competent for any Member of the House of Commons to "take notice" of the presence of strangers, and they can be excluded on a motion for their exclusion being carried by voting without debate. These rules extend to reporters. The exclusion of strangers is rarely resorted to.

Either House, if it desires to do so, can withhold a knowledge of its proceedings from the public, and can punish any violation of its orders in this respect. It is not customary

for either House to object to *bonâ fide* reports of Parliamentary proceedings, and indeed the utmost facilities are afforded to newspaper reporters in both Houses.

A very important constitutional remedy against abuses by ministers of the Crown, or by other persons in important public situations, is that known as Impeachment. This proceeding is almost disused at present, because of its cumbrousness and the strong party feelings to which it gives rise. It might, however, under some circumstances, be revived.

An Impeachment is a judicial trial, by the House of Lords, of a person accused, by the House of Commons, of grave offences which the ordinary law cannot reach, through its insufficiency or uncertainty, or in case of which it is apprehended that the execution of the law will be corruptly interfered with. The proceedings are lengthy and involved owing to the number of persons who must necessarily take part in them. Either a Peer or Commoner, in or out of the House of Commons, may be impeached for any alleged offence whatever. A motion is made by a Member of the House of Commons that a person named be impeached; and if a resolution to this effect be agreed to, a Committee is appointed to draw up the "Articles of Impeachment." These Articles, together with the answers of the accused, are communicated to the Lords, who fix a day for the trial. In the mean time the Commons appoint "managers" to prepare evidence and conduct the proceedings, and desire the Lords to summon all witnesses who are required to prove the charges. The accused may have summonses issued to his own witnesses, and is entitled to make his full defence by Counsel. The trial has usually been held in Westminster Hall, and resembles, in its proceedings, an ordinary criminal trial. If the accused be found guilty, it is for the Commons to demand judgment of the Lords, and the Commons reserve to themselves the right of not pressing for judgment. The

proceedings are not discontinued by reason of a Prorogation or a Dissolution. It would seem that the Commons are not obliged in their Articles to allege facts which, if true, would really amount to the crime charged, as a condition of proceeding with the Impeachment. It has already been said that the proceedings cannot be arrested through the pleading of a Royal Pardon ; and the Bishops absent themselves under protest in the case of sentence of death being pronounced.

GENERAL FORM AND STRUCTURE OF AN ACT OF PARLIAMENT.

It will be convenient to give in this place a brief and general description of the form of an Act of Parliament. The form has been very different at different historical periods, and it depends a good deal upon the taste and skill of the person who prepares it, that is the "draughtsman;" though even the best and most elegantly drawn Act will often lose all its perfections in this respect through changes introduced in the course of the Debates upon it. The general style now adopted is much simpler, shorter, and less verbose than at any former period.

An Act of Parliament usually consists of the following parts, the "enacting clause," however, being the only one which is essential, and always (with one exception) invariably the same in form.

I. The Preamble.

This commences with *Whereas*, and recites the causes or reasons of making the new law. Preambles used to be very lengthy and almost apologetic in their language. They are now generally as brief as possible, and say little more than that "it is expedient" to make some change or other. In the case of Acts granting money, a special sort of Preamble (described below) is combined with the "enacting clause."

II. The Enacting Clause.

This is in the form "Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same." In the case of Acts granting money, this clause is preceded by the following.

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards raising the necessary supplies to defray your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto your Majesty the several duties hereinafter mentioned, and do therefore most humbly beseech your Majesty that it may be enacted:"

III. Short Title of Act.

This is a brief section in the following form:

"This Act may be cited for all purposes as (e.g.) 'The Supreme Court of Judicature Act, 1873,' or 'The Naturalization Act, 1870,' or 'The Bankruptcy Act, 1869.'" It is not always convenient thus to give a short title to the Act, and therefore this section is not always present.

IV. Time of Commencement and Places to which the Act shall extend.

Thus, in "The Supreme Court of Judicature Act, 1873," the second section is "This Act, except any provision thereof which is declared to take effect on the passing of this Act, shall commence and come into operation on the 2nd day of November, 1874."

In "The Bankruptcy Act of 1869," the second section is "This Act shall not, except in so far as is expressly provided, apply to Scotland and Ireland."

The third section in this last-mentioned Act marks the date of the commencement of the Act.

V. Definition of Terms and Expressions.

A section for this purpose is sometimes put at the beginning of the Act and sometimes at the end. It is sometimes called, if consisting of one clause, the "Interpretation Clause." It sometimes, however, consists of a large number of clauses, and is described in the margin as the section dealing with the "Interpretation of Terms," or "Definition of Terms." Thus, in "The Public Health Act, 1848," this section is the second, and is to the effect "that in the con-"struction of this Act the following words and expressions "shall have the meanings hereby assigned to them, unless "such meanings be repugnant to or inconsistent with the "context or subject matter in which such words or expres-"sions occur; that is to say:

"Words importing the Singular number shall include the "Plural number, and words importing the Plural number shall "include the Singular number; the word 'Month' shall mean "'Calendar Month;' the word 'House' shall include schools, "factories, and other buildings in which more than twenty "persons are employed at one time."

In the Naturalization Act, 1871, this section is the 17th, the last but one of the Act; and in the Supreme Court of Judicature Act, 1873, it is the 100th and last section.

VI. The Substance of the Act.

The substantial legislation contained in the Act is distributed into sections, which are all numbered, and each section into clauses or paragraphs, which are not generally numbered, except in cases where classification must take place. Where the material is very cumbrous and perplexed, as in "The Supreme Court of Judicature Act, 1873," and "The Bankruptcy Act, 1869," it is customary to distribute the whole Act into parts, each dealing with distinct subject

matter, and to distribute each part again into such fresh divisions as the variety of the matter suggests. A marginal index gives a summarised account of the contents of every clause.

VII. The Repealing Section.

If the Act wholly or in part repeals former Acts, a section to that effect is inserted usually as the last section. For the list of Acts repealed in whole or in part reference is made to the Schedules.

VIII. The Schedules.

Acts of Parliament often contain Appendices which form part of the Act, but which are more conveniently placed by themselves. These Appendices or Schedules contain catalogues, lists, enumerations, and names of places referred to generally in the body of the Act, but for more precise acquaintance with which reference is made to the Schedules.

The Act is printed by the Queen's Printers, and bears date the year of the Queen's reign in which it is passed.

POLITICAL PARTIES AND THE FORMATION OF THE GOVERNMENT.

For a long time past the Members of both Houses have been accustomed to range themselves in large opposed parties, all voting together in certain cases, and each member of a party supporting all the other members of the same party. The parties have had various names at different periods; and their origin and continued existence are due partly to historical causes, partly to differences of personal temperament or disposition, partly to opposed views on the most important political questions of the day. The oldest names of the two parties are *Whig* and *Tory*, words of uncertain, or, at least, disputed origin. The modern names for these two parties respectively, are *Liberal* and *Conservative*. The older names are, however, still occasionally used, though

frequently in an opprobrious sense. If it be recognised that Orderand Progress, Preservation and Improvement, are each needful for good and wise Government, then it may be said that Order and Preservation are the ideas which direct the policy of Tories and Conservatives, while Progress and Improvement rather inspire the policy of the Whigs and Liberals. Not, indeed, that either party, and still less that the individual members of either party, are wholly wanting in regard for the principles of their opponents. So often, however, as these principles come into direct conflict with their own, or seem to do so, then they prefer to base their practical policy upon their own principles.

There are a few Members of Parliament, mostly in the House of Commons, called *Radicals*. They are far more indifferent to the maintenance of the state of things as it is and long has been than are either of the other parties; and are less averse to introducing, as the public good seems to require, the most sudden and far-reaching changes. Their political influence in Parliament is mostly due to the power of resistance or of help which they can give at any moment they choose to whichever of the other parties seems likely to help their immediate ends. They naturally incline, however, in sentiment rather to the Liberals than to the Conservatives.

In an assembly composed of such various, mixed, and numerous elements as the House of Commons, it is only by what is called "party Government" and party organisation that any continuous policy or consistent principles of Government can be maintained even for a short period of time. But for the tendency by which all individual differences become merged and re-expressed in the fixed opposition of large bodies of persons to one another, the result of any division could be no certain clue to the mind of the House, or, rather, the House could scarcely be said to have any mind at all. The majority of to-day might be the minority of to-morrow, and the stability of every department

of home and foreign policy would thus have no better security than that of the dictate of a casual and fluctuating vote. The moral effect on the Members themselves would be equally injurious, the suggestions of self-will, caprice, or passion taking the place of a common allegiance to clearly understood principles, and of a generous and mutual reliance in pursuit of a common aim. Not, indeed, that the claims of party loyalty must or can stifle clear individual convictions, or interfere with their expression on suitable occasions. But a conscientious man and good patriot will be careful to put his convictions to a severe test before he interprets them in such a way that they prevent him joining in common action with his usual associates; and it will only be when he has in vain striven to bring his own party over to his own views, and he is convinced that the question is one in which practical co-operation on his part would involve dishonesty that he will reluctantly take the serious step of renouncing his party and choosing his own path. The nature and limits of party loyalty have been well expressed by Edmund Burke in his "Thoughts on the Causes of the Present Discontents:"—

"Men thinking freely will, in particular instances, think differently. But still as the greater part of the measures which arise in the course of public business are related to, or dependent on, some great, *leading, general principles of government*, a man must be peculiarly unfortunate in the choice of his political company, if he does not agree with them nine times in ten. If he does not concur in the general principles upon which the party is founded, and which necessarily draw on a concurrence in their application, he ought from the beginning to have chosen some other, more conformable to his opinions. When the question is in its nature doubtful, or not very material, the modesty which becomes an individual and (in spite of our court moralists) that partiality which becomes a well-chosen friendship, will frequently bring on an acquiescence in the general sentiment. Thus the disagreement will naturally be rare; and it will only be

enough to indulge freedom without violating concord or disturbing arrangement."

Some Members profess to belong to no party, and sometimes vote on one side and sometimes on the other. These are called "Independent Members." Again, it is only some questions which are considered as party questions, and with respect to which all the Members of the same party vote together, whatever be their individual opinions. Most of the questions proposed by the *Government* (the name now given to the Queen's Ministers as a body) are party questions, on which all the Members who support the Government are expected to vote in favour of the measure, and those who belong to the opposite party to vote against it. It is from one or other of the great parties, that is, the *Liberals* or the *Conservatives*, that the Queen chooses all her Ministers for the time being. It depends upon which party has most votes in the House whether the Ministers are chosen from one party or from the other. The Ministers of the Queen, with their supporters, sit on one side of the House, that is, on the right hand of the Speaker, and are called the "Government." The Members of the opposite party sit on the left hand of the Speaker, that is, opposite the Members of the Government, and are called the "Opposition." The "Independent Members" sit on what are called "cross benches."

The Opposition are usually highly organised among themselves, and criticise searchingly all the measures introduced by the Government, and the details of its administration. If they think it expedient, they move for a resolution of censure on some act of the Government, or of general want of confidence. If such a motion be carried, the Government resign. So when the measures of the Government have been voted against by constant majorities of Members, or when a very important Bill of the Government has been rejected, the members of the Government hold that they have lost the confidence of the House and resign their offices into the Queen's hands. Sometimes a

motion of "Want of Confidence" in the Government is proposed and debated at length. If such a motion be carried, the members of the Government resign as before.

When the members of the Government resign, it is customary for the Queen to call upon some prominent member of the opposite party to "form a Government"—that is, to invite a number of members of his party to join with him in taking the different offices vacated by the members of the "Government" going out. Sometimes it is very difficult, or takes some days, to form a Government, and perhaps it may be almost impossible to form one, owing to members not being willing to co-operate with the proposed "Prime Minister," or to take the offices offered them. In this case, the Queen often urges the members of the former Government to remain in office, and they occasionally consent to do this, and things go on for a time as before.

It is to be noted that the party struggle above described, and the defeats of the Government, go on in the House of Lords as well as in the House of Commons. There are always members of the Government in both Houses. As, however, there is far less business in the House of Lords than in the House of Commons, and as popular passion is less heated, most of the great party contests take place in the House of Commons; and, since the majority of the members of the House of Lords is always "Conservative," a Liberal Government does not necessarily resign on account of defeats or votes of censure in that House.

The task of selecting a member who shall be asked, on a resignation, to form a Government, is the most important part of the Queen's personal work at the present day, though it has long been the constitutional practice to resort first to the most prominent member of the party which is in opposition to the retiring Government. The members of the retiring Government continue to hold office till their successors are actually appointed.

The functions of the "Government" are twofold :—

(1) They take a special part in directing the *legislative* work of Parliament by preparing Bills on public matters affecting the whole community, or by joining to resist Bills introduced by members not belonging to the Government if they think the Bills not likely to be useful.

Thus some of the Bills introduced into the House are called "Government" Bills ; others are Bills of Private Members.

This is not the same distinction as that between a *Public* and a *Private* Bill. A *Private* Bill is a Bill affecting solely the interest of some particular person or body of persons, and not obviously that of the whole community. A *Public* Bill is one in which the interests of the whole community are affected. There is a difference in the procedure with respect to "Public" and "Private" Bills, the House taking especial care in the case of *Private* Bills to ascertain by a judicial process that no person is injuriously affected by it without full consideration.

(2) The other function of the Government is purely *Executive.* Every member of the Government is, with rare exceptions, the head of a department of the public service, and as such has definite work to do during the day. Furthermore, he has to suggest to the other members of the Government the legislation needed in the matters belonging to his own department, and with their consent to prepare Bills for introduction into the House to which he belongs. He has also to be ready to answer questions relative to the business of his department which may be put to him by any Member of the House, and of which proper notice shall have been previously given.

An important part of the work of a member of the Government is the reception of *Deputations* at his office,—that is, receiving a number of persons who have some grievance to complain of, or some request with respect to legislation to prefer, in the matters relating to his depart-

.nent. In such a case a few of the persons attending make speeches in turn, explaining what they complain of or want, and the minister replies, saying that he either agrees or disagrees or partially agrees with the speakers, and possibly saying what he will do in the future. Members of Parliament generally accompany and take part in the Deputations.

The formal meetings of all the members of the Government are called "Cabinet Councils." They take place at irregular intervals, according to the pressure of business.

It is at these councils that all the joint acts and general policy of the Government are debated and resolved upon. It is here that the form of the *Queen's Speech* is agreed upon and settled.*

THE MEMBERS OF THE CABINET AND OTHER CHIEF OFFICERS OF THE EXECUTIVE GOVERNMENT.

It is a matter of some dispute how far the "Cabinet," as a select body of the Queen's ministers, is a recognised part of the Constitution. The Cabinet would seem to be in that semi-congealed condition in which institutions appear when they have come to be practically recognised, but not yet formally and openly adopted. For a long time the Privy Council represented the only body of persons who were responsible for the acts of the Crown, and it was even attempted by the Act of Settlement† to make each member of the Council sign the governmental acts for which he was personally responsible It has been found, however, by a long course of experience,

* See p. 11

† See Appendix A, p. 216.

that there is a fixed tendency in the Crown to select as its advisers from time to time a body of persons less numerous and more confidential than all the public functionaries who are together designated as the "Privy Council." The difficulty has been to prevent the Crown reposing its confidence in persons whose identity is not clearly ascertained, and who are not directly under the control of, and responsible to, Parliament. The modern "Cabinet" is, in fact, an executive committee, appointed by the dominant majority in both Houses of Parliament, and acting as a private and permanent council of advice to the Crown. It is, in fact, chosen, and its numbers determined, by the Prime Minister. The Cabinet now invariably includes the following officers :

1. The First Lord of the Treasury.
2. The Lord Chancellor.
3. The Lord President of the Council.
4. The Lord Privy Seal.
5. The Chancellor of the Exchequer.
6. The Secretary of State for Home Affairs.
7. The Secretary of State for Foreign Affairs.
8. The Secretary of State for the Colonies.
9. The Secretary of State for India.
10. The Secretary of State for War.

A number of other officers of the Government frequently have seats in the Cabinet, those most frequently admitted being :—

11. The Chief Commissioner of Works and Buildings.
12. The Chancellor of the Duchy of Lancaster.
13. The First Lord of the Admiralty.
14. The President of the Board of Trade.
15. The President of the Local Government Board (until lately called the *Poor Law Board*).
16. The Postmaster-General.
17. The Chief-Secretary for Ireland.
18. The Vice-President of the Council.

Taking each of the members of the Cabinet in order, so as to explain their functions, we have :—

1.—*The First Lord of the Treasury.*

This office is now invariably held by the head of the Government or Prime Minister. The holder of it receives 5,000*l.* a year. He selects the other members of the Cabinet in the way before explained. He dispenses nearly all the patronage of the Government—that is, he chooses nearly all the persons who shall hold offices of all sorts under Government, subject to such rules as may be made from time to time with respect to conferring appointments through competitive examination. The Prime Minister is held generally responsible for all the acts of his Cabinet. If he finds he cannot agree with members of his Cabinet, either he and they must resign together or the members disagreeing with him must withdraw from the Cabinet.

The office of the Treasury, over which the First Lord presides, is administered by the following persons :—

1. First Lord.
2. The Chancellor of the Exchequer.
3. } Two Lords Commissioners with 2,000*l.* a year each,
4. } and one Lord Commissioner without a salary.
5. }

The work of the office is the receipt and payment of public money. Thus all public taxes are paid in to the account of the "Exchequer," which is, in fact, though not in name, a department of the Treasury, the Chancellor of the Exchequer being one of the Treasury Board. The supplies for the Army, Navy, and Civil Service are issued under the authority of the Treasury. All the expenses of carrying out the Law, and of prosecuting criminals, are examined by the Treasury. The Treasury has general control over all other departments of the public service in which public money is

collected or spent—as the Board of Customs, Inland Revenue, and the Post-office.*

The Treasury Board now seldom meet, and the work of examining expenses and paying salaries is discharged either by the Junior Lords or by the Secretaries.

2.—*The Lord Chancellor.*

This functionary is the head of the Legal and Judicial Department of the Government. He nominates, for appointment by the Treasury, all the Judges both in the superior and inferior courts in the country. He consults with the other members of the Cabinet with respect to Bills to be introduced into the House of Lords for making important and comprehensive changes in the law.

He is a very ancient and highly dignified officer, though his functions in the Government are now very few and insignificant. He is the Chief Judge in the High Court of Justice and in the Court of Appeal, and usually presides in the House of Lords. It is he who affixes the "Great Seal" where it is required to give validity to Acts of the Crown. He is appointed by the Crown on the advice of the First Lord of the Treasury. His salary is 10,000*l.*

3.—*The Lord President of the Council.*

This is in the present day an almost honorary office, that is, there is little work of necessity attaching to it. The Council is the "Privy Council,"—at one time, as has been already seen, an important body of the Sovereign's advisers, but now, except for the purposes stated below and a few ceremonies, obsolete, except in name. The members of the Privy Council are very numerous, every member of the Cabinet being a Privy Councillor, and continuing such for life. There are certain small committees, or select bodies,

* See Appendix B

of Privy Councillors which are of considerable importance. Such are :—

(1.) The *Judicial Committee* of the Privy Council, consisting of about seven or eight members, who form a Court of Appeal for cases decided in the Colonies and India, and for Ecclesiastical cases decided in this country. This Court has lately been reconstructed, and, when complete, will include the four Lords of Appeal in Ordinary. (See p. 82.)

(2.) The *Committee for Education*, the purpose of which is, to ascertain the condition upon which State help shall be given for the education of the poor, and to regulate the working of certain Acts of Parliament with reference to National Education.

(3.) *The Board of Trade.* — The Board of Trade is strictly a Committee of the Privy Council. Its chief officers are :—

1. A President, salary 2,000*l.*
2. A Permanent Secretary, salary 1,500*l.*
3. A Parliamentary Secretary, salary 1,900*l.*

Its functions are very miscellaneous. It is consulted when any work is to be undertaken by Government, in which the general interests of Trade are concerned. The following matters are especially laid before it :—

1. The negotiation of Commercial Treaties.

2. Alterations in the "Excise" Laws; that is, the laws affecting inland taxation, as assessed on certain things, as on sale of spirits, malt, beer, tea, and tobacco.

3. Bills relating to railways, canals, docks, harbours. The Board reports upon them.

4. Statistics respecting the extent of commerce, manufactures, and produce.

5. The supervision of the construction and working of Railways.

6. The regulation of the examination of masters and mates of foreign-going vessels, and the registration of seamen.

4.—*The Lord Privy Seal.*

The *Lord Privy Seal* is the keeper of one of the *Seals* of the Crown, used to give authority to certain classes of documents. It was used by Elizabeth and by some of her predecessors to give authority to modes of taxing the people under the guise of raising voluntary loans, when the Sovereign attempted to tax without authority of Parliament. The other seals are (1) the Great Seal already mentioned; (2) the "Signet," or Seal used for the Queen's private letters. The office is now almost wholly an honorary one.

5.—*The Chancellor of the Exchequer.*

This minister is chief of the department called the *Exchequer*, that is, the department concerned with collecting the taxes. The chief business of the Chancellor of the Exchequer is preparing for the House of Commons a statement of the contemplated expenses of the year, and devising a scheme of taxation. This statement is produced some time in April, and is called "the Budget." The Chancellor of the Exchequer usually introduces some changes in the taxes from year to year, according to the amount of the last year's or the coming year's expenses, and to the amount derived from a particular tax in the last year.*

6.—*The Secretary of State for the Home Department—originally "The Secretary of State."*

This official has the following departments under his special control:—

1. The *Police.*

2. The *General Administration of Justice;* whereby if any prisoner has been wrongfully convicted, it is always in the power of the Home Secretary (when the matter is

* See, afterwards, "Taxation and the Revenue," and Appendix B.

brought to his notice) to recommend the Queen to "pardon" him, on the principles already described.

3. The "Signet" Office, in which the instruments for making certain grants and appointments are prepared.

The Home Secretary has a quantity of multifarious work to do with respect to furnishing information to Parliament, issuing Commissions of Inquiry, protecting Public Health and Public Order, and preventing Crimes. He sees that the sentences of Criminal Courts are rigidly carried out. He appoints Inspectors of Prisons, and approves of rules for their regulation.

7.—*The Secretary of State for Foreign Affairs.*

This minister conducts all the correspondence between the Government and English Ambassadors in Foreign States, sending messages through the Ambassadors to the Governments of those States. He is also the organ of communication between the Government and Foreign Ambassadors resident in this country. He expounds to the House of Commons or to the House of Lords (to whichever he belongs) the state of relations of this country with foreign States from time to time, and, if difficulties arise, explains the policy of Government with respect thereto. Similarly he answers questions of Members of Parliament with respect to foreign affairs. He grants *Passports* to British citizens travelling abroad, and provides for their protection when travelling or resident abroad. In the event of a war or of a Treaty being made, it is he who explains the circumstances to Parliament, and either asks for money to carry on the war, or invites the concurrence of the House in the terms of the Treaty. He nominates all Ambassadors, Consuls, and other Diplomatic Representatives in foreign countries.*

8.—*Secretary of State for the Colonies.*

This minister conducts all the correspondence of Government with the Governors of British Colonies, which are very

* Appendix C.

numerous, important, and widely scattered. He answers all questions in the House respecting Colonial matters. Where the Colonies have local Legislatures, he advises the Crown as to such of their Acts as cannot become law without the Royal assent; and where they have no such Legislatures, he organises a Government for them. He appoints all Colonial Governors, and directs their action as occasion requires. He consults with his colleagues as to the introduction of Bills into the House of Lords or Commons affecting the Colonies, and explains the purpose of such Bills to the House to which he belongs.

9.—*Secretary of State for India.*

This minister does very much the same in respect of *Indian* matters that the Secretary of State for the *Colonies* does in respect of them. He is assisted, though not absolutely controlled, by a Council of fifteen members, consisting chiefly of persons who have occupied distinguished positions in the public service in India.

10.—*Secretary of State for War.*

This minister proposes and explains all Bills affecting the constitution and management of the Army. He submits to Parliament the estimates and expenses for the current year. He has the general *civil* administration of the Army, as distinguished from the military command, which belongs to the Commander-in-Chief.

11.—*The Chief Commissioner of Works.*

The Board of Works and Public Buildings consists of the Chief Commissioner (salary 2,000*l.*) and the President and Vice-President of the Board of Trade, who are *ex-officio* Commissioners. The duties of the Board are the erection

and repair of Royal Palaces and of the buildings used for various branches of Government; the management of public museums and parks; the making of new streets and roads, and other public works and structures.

12.—*The Chancellor of the Duchy of Lancaster.*

The Chancellor of the Duchy of Lancaster holds a purely sinecure office, though he often has a seat in the Cabinet. This affords a useful means of retaining a Minister whose counsels may be valuable, but who may not be able through want of health to superintend an administrative department. The Duchy Chamber of Lancaster over which the Chancellor or his deputy presides has a special jurisdiction in relation to lands held of the Crown in right of the Duchy of Lancaster.

13.—*First Lord of the Admiralty.*

This minister has much the same to do in respect of the Navy that the Secretary of War has to do in respect of the Army.

There are six Lords of the Admiralty, of which the above-named minister is the first.

The Admiralty has a variety of functions to discharge,—as that of managing and distributing naval prize-money (that is, the value of ships captured in war); raising and maintaining the forces employed in the Navy and Coast-guard; controlling the construction of piers and harbours; repairing and building ships, as directed by the Government; making contracts for the hire of vessels and supply of stores.

14.—*President of the Board of Trade.*

The functions of this minister have already been indicated in the description of the *Board of Trade* as a department of the Privy Council.

15.—*President of the Local Government Board.*

This minister recommends to Parliament all legislation for the purpose of promoting public health, convenience, or the relief of the poor, by the institution and management of "Local Boards," elected by the ratepayers of districts throughout the country. The Central Board has to approve of the rules made by the Local Boards, and in some cases to press their formation, and generally to supervise and control the Boards.

The Local Government Board consists of a President, salary 2,000*l.*; Permanent Secretary, salary 1,500*l.*; Parliamentary Secretary, salary 1,500*l.* This was, up to 1871, called the *Poor Law* Board. The functions of the Board are in course of becoming largely extended.

The following are the sorts of purposes for which Boards under the control of the Local Government Board are at present constituted :—

1. Relief of the Poor.
2. Promoting of Sanitary Arrangements, Removing Sewage, Providing for Cleanliness, Building Hospitals.
3. Making and Repairing Roads.
4. Making Bridges, Canals, Viaducts.
5. Lighting and Improving Streets.
6. Preventing Smoke, and other nuisances.

The Local Government Board, in London, has a general supervision over the Local Boards. Its special functions are as follows :—

1. To appoint Inspectors, upon whose report Local Boards may be established, even against the wishes of the majority of the ratepayers.

2. To regulate the election of Local Boards, as by fixing the number of the members.

3. To appoint certain officers in connection with the Public Health and the Relief of the Poor, as :—

1. Medical Officers.
2. Registrars.
3. Surveyors.
4. Overseers of the Poor.

4. To regulate Public Vaccination.

5. To provide for the building and management of Houses for the Reception of the Poor; also for the Education of Children in those houses, and for the care of the Sick.*

16.—*Postmaster-General.*

This minister is the head of the whole letter-carrying and telegraph service in the country. He appoints all subordinate officials. He recommends Bills to Parliament for facilitating the transmission of letters or altering the price of postage (where not left to his discretion). In his name are made all contracts with carriers for the conveyance of letters and packages.

The Post-Office is a large institution for carrying letters and small parcels all over the kingdom and to foreign countries. With the Post-Office are now connected :—

1. *The inland Telegraph* system.

2. The *Money-Order* system, by which people can send money from one part of the country to the other, and to some foreign countries or the English Colonies, by merely paying it into the Post-Office, and sending an order to their correspondent, which is presented and paid at the Post-Office nearest him.

3. A system of Savings Banks, by which small sums can be put in, and a small rate of interest is given. A system of Government Annuities is also attached to the Post-Office.

17.—*Chief Secretary for Ireland.*

The Chief Secretary for Ireland (salary 4,000*l.*) is the Chief Secretary of the Lord-Lieutenant of Ireland in Dublin

* See, afterwards, "Local Government."

and London. He is the chief medium in one of the Houses of Parliament (generally the House of Commons) between the Irish Government and the House, and, assisted by the Irish Law Officers, has to advocate all measures needed for the maintenance of public order in Ireland and the general improvement of the country, and to defend them against objections.

18.—*The Vice-President of the Privy Council.*

The functions of this official can be understood from what has been said of those of the Lord President of the Council. As the Lord President is always a member of the House of Lords, the Vice-President represents the Privy Council Board, especially the Education Board, in the House of Commons.

CERTAIN SPECIAL GOVERNMENT OFFICES.

Civil Service Commission.

The Civil Service Commission consists of :—

1. First Commissioner, salary 1,500*l.*
2. Second Commissioner, salary 1,200*l.*

Their functions are to provide for the admission and examination of candidates for employment in Government offices. It depends upon the several Government offices themselves whether they will or will not adopt the scheme of the Commissioners. In some offices the appointments are open to general competition; in others the appointments are not open to competition, though upon nomination an examination has generally to be passed.

The Charity Commission.

The Charity Commission consists of :—

1 Unpaid Commissioner.
1 Chief Commissioner, salary 1,500*l.*
2 Commissioners, salary 1,200*l.* each.

Their work is :—

1. Generally to supervise the management of, and occasionally to reconstruct, charitable institutions which have been endowed, that is, have had funds given and left to them for ever.

2. To give authority to the trustees of such institutions to sell or buy land, to make leases, and generally to deal with the funds of the charity.

Such institutions are endowed poor-houses, hospitals, and schools.

The Lunacy Commission

Consists of six Commissioners, with salaries of 1,500*l.* Their work is :—

1. To inspect and license all buildings used for the confinement of lunatics.

2. To secure lunatics in every way against abuses, either through undue detention or cruelty.

3. To provide that proper lunatic asylums, or houses for the confinement of lunatics, are built in places needing them.

The Ecclesiastical and Church Estates Commission.

The "Ecclesiastical Commission" at present consists of the Archbishops and Bishops, and a limited number of Cabinet Ministers, Judges, Deans, and eminent laymen.

The "Church Estates Commission" consists of two paid Commissioners (salaries 1,200*l.* and 1,000*l.*), and one unpaid Commissioner.

The purpose of both these Commissions is to maintain a standing body of responsible trustees of funds or other property which, under different Acts of Parliament, or otherwise, arise from the sale, or surrender of Church property. The Commissioners have special powers given them of dealing with the funds placed in their hands in carrying out general ecclesiastical objects prescribed and limited by law. Such are the increase of poor livings, the building and repairing of churches, the foundation of new bishoprics and the like.

The Mint and Coinage Department

Has for its purpose the coining of money. It is under the superintendence of the Chancellor of the Exchequer.

The National Debt Office

Is concerned with the reduction of the National Debt. The National Debt is very large, amounting to about 760,000,000*l.* Some of it is constantly being paid off. It has arisen through the borrowing of money to carry on war. The yearly interest is abont 26,000,000*l.*

When a nation finds itself engaged in war, there are two modes in which it can provide itself with money for the purpose : one is by additional taxation, which is called raising the money "within the year;" the other is by a loan. In the last case, the money may be lent by persons who are members of the borrowing State or of any other State. The borrowing State usually pledges its honour and credit to repay the principal within some time named, and, till repayment, to pay a fixed amount of interest regularly. This interest is raised by taxation, and often absorbs, as in England, a large share of the taxes. The liability to pay the interest and to repay the principal passes on from one generation to another; and as a State always holds itself entitled to charge posterity in this way in order to carry on a necessary and just war (or what it holds to be such), so each generation is held morally bound to recognise the debts contracted by a previous generation.

It is always a question whether the State at any given time should make special exertions to pay off the National Debt which has been transmitted to it. This must depend upon the comparative easiness of the terms upon which the money can be borrowed or obtained for the purpose, upon what access of taxation can be submitted to, and upon whether or not a better period for making such exceptional efforts seems likely soon to be at hand. The whole amount of the debt, looked at from the creditors' point of view, as a claim, and in which each creditor has a certain share, is called "stock," or "funds." These shares are capable of being

transferred from one person to another with the utmost facility, and command a price in the market, which varies, like other saleable things, according to the supply and demand, that is the quantity at any time for sale and the number of persons wishing to purchase. The interest is generally about 3 per cent. Any circumstance which might affect the security of the country, or which might make it likely that the Government should need a fresh loan, and therefore might induce creditors in respect of the existing National Debt generally to sell their shares in order to buy more valuable shares in the new stock, tends to make the price of stock as it is called "go down." The opposite class of circumstances tend to make the price go up. The price of 100*l.* stock at 3 or $3\frac{1}{2}$ per cent. interest generally varies at the present day from 89*l.* to 93*l.* The National Debt was little over half a million at the time of the accession of William III. in 1689. Over 15,000,000*l.* debt was added in his reign. Over 120,000,000*l.* debt was contracted during the war with the American Colonies commencing 1775. Over 600,000,000*l.* debt was contracted during the French war commencing in 1793.

One mode of reducing the debt practised of late has been by converting a portion of it into—that is, by selling—annuities for terms of years or for the duration of a certain number of lives. In this way the interest is increased while the annuities last; but when they expire, the part of the debt which they represented is extinguished with them.*

Patent Office.

A *Patent* right is the right of some one to produce and sell the result of a valuable invention, without other persons being allowed to produce and sell it. It is granted for a certain number of years. The invention must be *new* and *useful*. The "Patent" has to be described in a written paper, which is deposited under the care of the Government, and the Patent is registered.

* Appendix D

The management of this is committed to the above office, under the care of the "law officers," that is, the responsible legal advisers, of the Crown.

Public Record Office.

This office has the care of all the public documents of the State. Of these there is an enormous number, dating from very ancient times. They are now deposited in a great building in Fetter Lane. A number of clerks (men and women) are attached to the office, and are daily employed in making catalogues of the records, and in assisting persons who wish to consult portions of them.

Office of the Registrar of Friendly Societies.

By certain Acts of Parliament, persons joining together for mutual assurance against the pecuniary accidents of sickness, age, or death, can, by complying with certain rules, become *registered*,—the effect of which is that they can be treated as corporate bodies, and bring actions at law, or hold property. The object of this registration is to afford a protection to ignorant or incautious persons against societies having a fraudulent purpose or based on unsound economical principles. The principle of these societies is that every member pays in a certain sum every week, month, or year, and if he becomes ill, or unable to work through age, he receives a large weekly or monthly payment from the common fund, or his family receives a sum on his death.

Commissioners of Woods and Forests.

These are persons who manage the Woods and Forests belonging to the Crown, that is to the State. Their function is to appoint subordinate keepers and servants, as may be needed, and to make the regulations under which the public shall make use of the Woods and Forests. They also have to undertake all business connected with selling wood, or selling, exchanging, or purchasing lands, forming, or to form, portions of the Crown Woods and Forests.

Customs—Inland Revenue.

The two offices to which these departments belong are concerned with the Public Revenue of the State. The *Customs* is that part of the Public Revenue which is derived from foreign imports of all sorts, as spirits, tea, tobacco, wine, and all the foreign products which are taxed on being introduced into this country.

The *Inland Revenue* includes the part of the National Revenue which is derived from all other sources, as the income tax, excise (that is, a tax on *home* products, as home-made spirits, malt, and certain other like things), and *Stamps and Duties*, that is, payments to Government on certain transactions or events, as (1) succeeding to landed property on the death of the last owner, (2) taking money by Will, (3) making certain transfers and contracts.*

Education, Science, and Art.

This office (1) makes grants to schools in certain cases. It also controls the South Kensington Museum, which contains scientific and artistic specimens, and in which public lectures are given, under the control of the Government, on scientific and artistic subjects.

The Government offices are all independent one of another, though, for the management of some of them, certain of the individual members of the Cabinet are (as has been seen) directly responsible. Thus the Prime Minister is the First Lord of the Treasury Board, and the Chancellor of the Exchequer is also one of the Board. The Chancellor of the Exchequer is now head of the Department of the Mint. He is also responsible, as representing the Treasury Board, for the management of the National Debt Office, the Customs, and the Inland Revenue. The Post Office is subject to the superintendence of the Postmaster General, though the monetary side of it, as an instrument of revenue, is under the control of the Treasury, represented by the Chancellor of the Exchequer.

* See, afterwards, "Taxation and the Revenue."

The Patent Office is under the general control of the Treasury, with the assistance of the Law Officers of the Crown.

Commissioners in every case sit by the force of the Royal Commission under which they are appointed, and are wholly independent of any Minister of the Crown. It is true that the Cabinet always nominates the Commissioners, in the Queen's name.

JUDICIAL ORGANISATION.

The subject of the Judicial Organisation of England may be divided into that relating to the *Superior Courts* and that relating to the *Inferior Courts*. The former differs from the latter (1) (as to civil cases) in the amount of money at stake in the causes tried in them; (2) in the degree of perplexity of the legal questions involved; or (if the matter of investigation be a crime) in the magnitude of the crime, and, therefore, of the penalty. One function of some of the Inferior Courts (as Police Courts and Courts of Petty Sessions) is to take the initial steps in a Proceeding the full conduct of which belongs to a Superior Court.

SUPERIOR COURTS.

The present must be regarded as a peculiarly transitional period in the growth of Judicial Organisation in this country, especially as concerns the Superior Courts. The most vital changes have been recently made in the structure, procedure, and mutual relations of all the Superior Courts, but the names and formal jurisdiction of these several Courts are preserved as much as possible. The great instruments of change have been the "Supreme Court of Judicature Acts" of 1873, 1875, 1876, 1877, and 1881, and the "Appellate Jurisdiction Act" of 1876.

To understand the nature of the alterations made by

this Act and the present condition of things, it is necessary to notice that up to the time of the Act coming into force, the following were the Superior and Central Courts of Justice; with the Judges appertaining to each Court or group of Courts.

THE COURT OF CHANCERY, with seven Judges, including the Lord Chancellor; the two Lords Justices of Appeal; the Master of the Rolls (an official of high antiquity, originally the keeper of the Rolls on which the King's grants were entered, or even occasionally of the Great Seal, and assessor of the Lord Chancellor, and still chief of the department of Public Records); and three Vice-Chancellors.

THE COURT OF QUEEN'S BENCH, with five Judges, including the "Lord Chief Justice of England" and four "puisne" Judges.

THE COURT OF COMMON PLEAS, with five Judges, including a "Lord Chief Justice" and four puisne Judges.

THE COURT OF EXCHEQUER, with five Judges, including a "Lord Chief Baron" and four "Barons of the Exchequer."

THE HIGH COURT OF ADMIRALTY, with one Judge.

THE COURT OF PROBATE.
THE COURT FOR DIVORCE AND MATRIMONIAL CAUSES. } With one "Judge in ordinary."

THE LONDON COURT OF BANKRUPTCY, with one "Chief Judge."

The rules of Law administered in the classes of causes in respect of which the COURT OF CHANCERY had exclusive or concurrent jurisdiction have been long named "Equity" as opposed to the rules of Law administered in all the other Courts and called "Common Law." So also any division of the Court of Chancery is often called a "Court of Equity."

The opposition between "Common Law" and "Equity," as species of Law, is originally an historical one, and grew out of the different classes of Courts in which justice was administered. This distinction of Courts was due to the

King's Head Secretary, or "Chancellor," interfering, as occasion required, to correct the hardships or supply the defects of the Law as administered in the ordinary Courts. In modern times the Court of Chancery greatly enlarged its jurisdiction, and drew within its cognizance large classes of matters (especially those involving questions of Fraud, Trust, or the cross claims of a large number of persons) which seemed to demand, for their judicial settlement, a kind of discretionary power which could not usefully be conceded to a Jury, or which was alien to the constitution of the Common Law Courts. The rules of Equity are, however, now as fixed and unswerving as rules of Common Law.

It is to be observed that the expression "Common Law" is often also used to express all that part of the law of England which is not made by Statute; that is by Acts of Parliament.*

The Court of Chancery was subdivided into a number of Component Courts, of Original Jurisdiction and of Appeal. The Courts of original Jurisdiction were severally presided over by the Lord Chancellor, the Master of the Rolls, and each of the Vice-Chancellors. The two Lord Justices, and the Lord Chancellor, constituted a variety of co-ordinate Courts of Appeal, according as they sat together or separately.

For some time past there has been an increasing tendency, strengthened by the operation of Acts of Parliament, to recognise in Courts of Common Law, where it was conducive to the ends of justice, the rules of Law (that is the principles of "Equity,") recognised in Courts of Equity. One of the most important changes brought about by the Supreme Court of Judicature Acts is concerned with getting rid entirely of the practical inconveniences following from the distinction between Law and Equity, and so, gradually, of the distinction itself. This is achieved by (1) according to each Judge, in every division of the new Court constituted by the Act, jurisdiction in all matters whatever, irrespective of the class of Courts to which alone

* See pp. 108, 109.

they could have been referred previous to the Act coming into force; (2) enabling every Judge to grant, in respect of any matter before him, every kind of remedy and relief which could previously have been obtained in any Court; and (3) facilitating to the utmost, and with the smallest amount of delay and trouble to suitors, the transfer of causes from one divisional Court to another to which the cause seems to be more appropriate.

The Judges of any two of the three Courts of QUEEN'S BENCH, COMMON PLEAS, and EXCHEQUER constituted a Court of Appeal, called the "Court of Exchequer Chamber," for points of Law decided in the third Court.

All the Judges of the three Courts of Queen's Bench, Common Pleas, and Exchequer constituted a Court of Criminal Appeal on points of Law, called the Court for the "consideration of Crown Cases reserved."

The HIGH COURT OF ADMIRALTY was a very ancient Court, and had its jurisdiction extended and defined by recent Statutes. The Court was concerned with suits for the enforcement of wages due to the master or crew of a ship, or money due in respect of pilotage or towage services; or for recovering of compensation in cases of collision and of damage done by ships. The High Court of Admiralty also acted as a "Prize Court" in time of war for the purpose of ascertaining whether "prize of war" or booty taken at sea by English ships properly commissioned was taken in a way conformable to the rules of International Law, and thereupon to adjudicate if necessary between the original owner of the prize and each of a variety of claimants who may have contributed to the capture. The procedure of the High Court of Admiralty was always based rather upon the methods of Roman, than upon those of English, Law.

The COURT OF PROBATE and the Court for DIVORCE AND MATRIMONIAL CAUSES were presided over by the Judge of the Court of Probate, who in the Court for Divorce and Matrimonial Causes sits as "Judge Ordinary."

In the latter Court the Lord Chancellor and all the Judges of the three Common Law Courts were associated with him as Judges.

The operation of the Supreme Court of Judicature Acts is to constitute three Courts which absorb all the Courts above mentioned, except the Court of Bankruptcy, of which all the Judges of these Courts were the first Judges.

One of these Courts is styled "Her Majesty's High Court of Justice," and is presided over by the following "Justices":

The Lord Chancellor.

The Lord Chief Justice of England.

The 3 Vice-Chancellors.

The Judge of the Court of Probate and of the Court for Divorce and Matrimonial Causes.

The several puisne Judges of the Courts of Queen's Bench.

The Judge of the High Court of Admiralty.

The other Court is styled "Her Majesty's Court of Appeal." It is presided over by the following Judges:

5 *Ex-officio* Judges, that is:

The Lord Chancellor.

The Lord Chief Justice of England.

The Master of the Rolls.

The President of the "Division" for Probate, Divorce, and Admiralty.

"Ordinary" Judges, called "Lords Justices of Appeal," not exceeding five, to be appointed by the Queen from time to time

"Additional Judges," not exceeding four, to be selected at the request of the Lord Chancellor from time to time from the Judges of the High Court (excepting those of the Chancery Division) by the Judges of the Division to which they belong.

The House of Lords, as an appellate Court, has been remodelled. There must always be present at least three Lords of Appeal, out of the following list:—The Lord Chancellor, Peers holding or who have held "high judicial office,"

two (and hereafter four) "Lords of Appeal in Ordinary." These last are specially created Peers for the purpose, rank as Barons, and are entitled to a Writ of Summons to attend and to sit and vote in the House of Lords, but their "dignity as a Lord of Parliament does not descend to their heirs."

The Judicial Committee of the Privy Council (see p. 64) consists of certain high Lay and Ecclesiastical officials, and, when the changes are completed, of the four Lords of Appeal in Ordinary.

Notwithstanding the formal changes, however, the general character of the old distribution of Courts, and even the names of the Courts, are preserved as much as possible. The real differences between the old and the new system are in the simplification of detailed Procedure in all the Courts and in the constitution of the new Court of Appeal.

The High Court of Justice is distributed into five divisions, corresponding severally to the previously existing Courts. These five divisions are called respectively the Chancery Division; the Queen's Bench Division; the Common Pleas Division; the Exchequer Division; and the Probate, Divorce, and Admiralty Division. The general business apportioned to the several divisions corresponds as nearly as possible to the business which usually came before the several Courts the names of which before the change are still preserved; but a large amount of liberty is left to suitors to choose the division in which they will prefer to proceed or be proceeded against, subject to a right on the part of the Judge to transfer causes from the division selected to a more suitable one.

The general rules of Procedure in all the Courts are to be of the simplest and most uniform character. They will be described further on. Subject to certain leading principles for securing such simplicity and uniformity, the more detailed rules of Procedure are settled by the Judges, and become law on not being objected to by either House of Parliament after lying for forty days "on the table" of both Houses.

The Superior Criminal Courts and the Circuit Courts

which sit by special Commission from the Crown, are formally incorporated in the High Court of Justice, but otherwise they are not affected by the Act. These Courts are :

1. The *Court for the Consideration of Crown Cases Reserved*, of which all the Judges of the Common Law Divisions of the Supreme Court are members, and which has cognizance of appeals in a prisoner's favour on points of *law* specially reserved by Judges of Assize or Courts of Quarter Sessions. Either the judgment of the "Court below" is postponed, or execution of the judgment is respited, till the question has been finally decided. There is no appeal of this sort where the question is one of *fact*, or where dissatisfaction on any ground is felt merely with the verdict of a Jury.

2. The *Central Criminal Court*, which sits monthly in London, and has cognizance of all offences committed in London and Middlesex, and in portions of the adjoining counties. There is also provision made for criminal cases being brought before the Court, even though the offence was committed at a distance from London, if there is good reason to fear that the local feeling is so strong as to prevent the trial being impartially conducted in the neighbourhood. All the Judges of the Common Law Divisions of the Supreme Court are Judges of the *Central Criminal Court*, and sit in rotation. A number of other persons are also formally described as Judges of the Court, and one or other of them usually sits on the Bench with the presiding Judge, or, as in the case of the "Recorder of London" and the "Common Sergeant," themselves preside in other divisions of the same Court sitting at the same time. Such persons are the Lord Chancellor, the Lord Mayor, and the Aldermen of the City of London.

3. The *Circuit* or *Assize Courts*, which sit by force of constantly renewed Commissions from the Crown, and form one of the most ancient features in the judicial system of the country. Twice, or sometimes three times, in the year—that is, about February, July, and (possibly) December,—two

Judges of the Common Law Divisions of the Supreme Court, attended by a certain number of barristers (who have selected that "circuit," and become permanently and exclusively connected with it) visit all the chief towns in a certain district of the country, called a "circuit," into eight of which the whole of England and Wales is, for this purpose, partitioned. The Judges hold their Courts by virtue of five separate commissions or written authorities from the Crown. Two of these Commissions empower them to hold civil Courts for the trial of that part of a civil cause which turns upon disputed facts, and is determined by a jury under the presidency of the Judge. One Commission gives the Judges all the customary powers of a Justice of the Peace. The other two Commissions empower the Judges to hold Criminal Courts. These are called Commissions of (1) "Oyer and Terminer,"—old Norman expressions for "to hear and to determine;" and (2) of "general gaol delivery." The two Commissions together empower the Judges to try and either sentence or liberate every prisoner who shall be in the gaol when the Judges arrive in the circuit town, whatever the crime which may be alleged against them. A number of the more eminent members of the Bar attending the Circuit are usually named in the Commission together with the Judges, to help the Judge, if necessary, in completing the work of the Assize, or (as it is called) in "clearing the *calendar*," that is the list of prisoners with the crimes alleged against them, the dates of their committal, their ages and amount of instruction. Sometimes, on the sudden breaking out of an aggravated class of crimes, and owing to the importance of not keeping the public mind in a state of continued suspense and agitation, special or extraordinary Commissions of *Oyer* and *Terminer* and of gaol delivery are issued by the Crown.

A description of the usual course of the proceedings both in a civil and a criminal trial in the Superior Courts is given on pp. 89, 99.

For the Ecclesiastical Courts see p. 175.

INFERIOR COURTS.

The inferior Courts, Civil and Criminal, may be arranged as follows:

Civil.	*Criminal.*
1. County Courts.	3. Quarter Sessions.
2. Quarter Sessions.	4. Petty Sessions.
	5. Police Magistrates' Courts.

1. *County Courts.*

There are fifty-nine circuits of County Courts scattered all over the country. In connection with each *circuit* there are from one to sixteen different Courts. The circuits are so arranged that there shall be a County Court in every large town, and that no place, however small, shall be very far from a court. There are 521 places in which courts are held. They are held generally once a month, and one Judge belongs to each circuit. The causes tried are nearly all civil causes in which the matter in dispute does not exceed a certain value. These courts were originally intended to be used chiefly by tradesmen for the recovery of small debts; but their jurisdiction has been constantly extended, so that there are very few matters indeed, at one time appropriated to the Superior Courts of Law and Equity and the High Court of Admiralty, which are not now in practice adjudicated upon in County Courts. The procedure is generally simple, and less expensive than in the Superior Courts.

2 and 3. *Quarter Sessions.*

This court is both a Civil and a Criminal Inferior Court. It is held in the chief town in each county at least four times a year. The Judges are the "Magistrates," or "Justices of the Peace" of the County. A number of such Justices are appointed for each county by the Government. They must be chosen from residents in the county owning land

worth at least 100*l.* a year. The Lord Chancellor appoints in the name of the Queen, and a person called the "Lord Lieutenant" of the County, who has very little else to do,—though in former times he had important powers in the administration of county (especially military) affairs,—names the persons who seem fitted to be Justices of the Peace.

These Justices sit in two classes of Courts, those of *Quarter Sessions* and those of *Petty Sessions*. At the Court of Quarter Sessions, the presence of two Justices is sufficient, though a large number more are generally present, and all the Justices of a county have a right to be present and to take part in the proceedings. They choose a permanent chairman, who presides and acts as chief judge. The matters coming before this Court are partly *Administrative* and partly *Judicial*.

As an *Administrative* body, the Court of Quarter Sessions has to apply Acts of Parliament relative to such matters as the following:—County Gaols; County Lunatic Asylums; Highways; Public Halls or Buildings and Courts of Justice. They have to regulate the expenditure of County funds, and to appoint subordinate officers of all sorts.

The *Judicial* functions of the Court of Quarter Sessions are partly *Civil* and partly *Criminal*.

The *Civil* business is concerned with Appeals from Courts of *Petty Sessions* (to be presently described) and from the orders of Justices of the Peace made in certain cases in accordance with certain Statutes. The subject-matter of the Appeals is—(1.) Charges and rates imposed for the relief of the *Poor*. (2.) Stopping or diverting *Highways*. (3.) Rates imposed on particular places for general County purposes.

The *Criminal* business of the Court of Quarter Sessions is concerned with the Trial of a vast number of Crimes, those being excepted and reserved for Courts of Assize which are of the heaviest kind, or on which the points of

Law to be discussed are peculiarly intricate. The mode of trial is the same as that in Courts of Assize.

In the Corporate Towns, the Courts of Quarter Sessions are presided over by a "Recorder," who is a barrister of not less than five years' standing. In some few populous towns a paid Chairman of special legal capacity is appointed by the Crown.

4. *Petty Sessions and Police Courts.*

A Petty Sessions is a meeting of two or more Justices of the Peace for the execution of some power vested in them by law. It is thus a "Court of Justice," and generally meets once a week in all the towns or even large villages of every county. One of the Justices present acts as chairman, and conducts the proceedings, consulting the other Justices, and being assisted by a "Clerk of the Sessions." There is no jury. The work done at Petty Sessions is of a great variety of kinds, being partly *Judicial* and partly *Administrative.*

The *Judicial* work is two-fold, being concerned with (1) *Summary Convictions*; that is, investigating and finally deciding trifling offences, the penalty seldom being more than two months' imprisonment with hard labour, or a fine of 20*l.* (2) *Committals for Trial* at Quarter Sessions or at the Assizes in the case of all other offences than those which are matter of "Summary Conviction."

In both classes of cases the proceedings commence alike. They are as follows:—The accused person is first *summoned to appear* on the charge of some person injured, or of a policeman, the *summons* being obtained from a Justice and served on the accused person. The information upon which the summons is granted need not (generally) be upon oath. In many cases, however, the prisoner may be brought up at once by "warrant" (or formal written authority of a Justice), without previous summons.

If the prisoner do not appear in obedience to the "summons," and oath is made that the "summons" was duly served, the Justice issues a "Warrant" for the appre-

hension of the accused. This "warrant" empowers any policeman using it to seize and detain the *person* of him or her who is named in it. If the warrant is executed in another county than that in which it is granted, it must be "backed" —that is, be signed at the back by a Justice of that county. The "warrant" entitles the policeman using it to break open doors in case of necessity. If it is necessary to search houses for stolen goods, a special warrant for the purpose, called a "Search Warrant," specifying the place and particulars, must be obtained. If a crime has just been committed, and a policeman strongly suspects a person of having committed it, he may seize him at once, and get a "warrant" afterwards for his confinement till he can be brought before the Petty Sessions or (as in London) the Police-Magistrate, who, in his proper court, exercises all the powers of Justices of Petty Sessions.

When the prisoner appears either in obedience to the summons or on a warrant for his apprehension and detention, his accusers (the policemen or others) are put upon their oath, and after giving their account of the facts, the prisoner or his lawyer is invited to "cross-examine" them; that is, to ask them any fresh questions in order to show the untruth of the story, or generally to impair their credit. The prisoners' witnesses are examined and cross-examined in exactly the same way. The prisoner is thereupon asked whether he would like to say anything. He is, however, carefully warned that anything he says may "hereafter be used against him." Sometimes the prisoner "reserves his defence," that is, says nothing, but waits for his Trial to defend himself.

Every word both of the witnesses and of the prisoner (if he makes a statement) is carefully taken down in writing and read over to the speakers. The whole papers together are called the "Depositions." These are sometimes read in full at the Trial.

If the Justices are of opinion that there is not sufficient evidence to convict the prisoner, they can either dismiss the

prisoner or adjourn the case, in order to obtain further evidence. This is called "remanding" the prisoner. He can either be sent to prison in the mean time, or, at the discretion of the Justices, be let loose on *bail*, that is, on his friends or himself engaging to pay large sums of money if he do not appear at the proper time.

If the Justices are of opinion that there is sufficient evidence for "summary conviction" or "committal for trial," they will proceed, in the one case to assign the penalty, and in the other case to sign a "Warrant of Committal"—that is, a warrant empowering the proper officers to remove the accused person to prison in order to await his Trial at *Quarter Sessions*, the *Assizes*, or the *Central Criminal Court*. A prisoner may here also be let out on "bail."

The *Administrative* functions of the Court of Petty Sessions—then called *Special Sessions*, as all Justices in the district must be specially summoned—are very numerous, and are concerned with carrying out Acts of Parliament, such as the Poor Laws and the laws for licensing public houses and theatres, and hearing appeals against rates.

THE COURT OF THE CORONER.

The Coroner is a judicial officer chosen for life by the freeholders of a County or part of a County, or by the Council of a Borough having a separate Court of Quarter Sessions. He is only removable for definite reasons by the Lord Chancellor. He holds a Court for inquiry into the causes of sudden deaths, into shipwrecks and discovered treasure. He has a jury of twelve or more, twelve of whom must assent to the verdict, and, in case of a person being suspected of intentionally causing death, must affix their seals to the "inquisition" to be laid before the Court of Assize.

GENERAL COURSE OF PROCEEDINGS IN A CRIMINAL TRIAL.

If the offence charged be not one which can be disposed of as has been seen by the "Summary Jurisdiction" of the

Justices of the Peace in Petty Sessions, the accused is either kept in prison till the time of his trial, or is allowed to go home on condition of himself or his friends forfeiting a sum of money if he does not appear for trial. This is called (as was said above) "Bailing" the prisoner. It depends generally on the discretion of the Justice, according to the nature of the crime charged, the evidence forthcoming in support of it, and the punishment annexed to the crime, whether a prisoner shall be allowed to go out on "Bail" or be kept in prison till his trial, though an Appeal is allowed to a Judge of the Queen's Bench Division of the Supreme Court.

At the time of trial, that is, at the next sitting of the Court of Quarter Sessions or of Assizes, the prisoner's case is laid before a number of gentlemen, called the "Grand Jury." These are persons living in the county and satisfying certain conditions to be described lower down. There must be at least twelve, but there are generally a good many more, yet they must not exceed *twenty-three.* They have to determine whether there is sufficient evidence to make it necessary to have the prisoner tried at all. If they think not, the prisoner is released, and the Bill of the Indictment is said to be "ignored." If they think there is, "a true Bill" is said to be "found," and the real trial is proceeded with. Before they retire to hear the evidence, they are instructed by the Judge in what is called "a charge," as to the quality and amount of evidence requisite and sufficient (if uncontradicted) for conviction in the several cases coming before them.

At the trial there is what is called a "Common Jury," composed of twelve sworn men impartially selected from those living in the county, who have to listen to the evidence for and against the prisoner, to the speeches of the advocates on both sides, and to the comments of the Judge. After hearing the case thus argued and commented upon, they have to decide by all agreeing together whether they think the prisoner is guilty or not. If they give as their "verdict" that

the prisoner is guilty, the Presiding Chairman or Judge pronounces the punishment which is affixed to the offence by law. This punishment is generally variable within certain limits, and the amount depends on the discretion of the Judge. In case of Murder, Piracy, and Treason, the Judge must pronounce sentence of *Death.*

If the Jury give as their verdict that the prisoner is "Not guilty," the prisoner is released.

Sometimes Juries cannot agree on their verdict, though they are left together sometimes for a whole night in the hope of making them agree. If they are finally dismissed without coming to an agreement, the trial will have to take place again, probably at the next Quarter Sessions or Assizes. Many persons at the present time think it very desirable that a simple majority of the Jurymen—two-thirds of them or some other large fraction—should be sufficient to find a verdict. This is the practice in Scotland.

Every prisoner may be assisted by a lawyer, if he can pay for it. It is weli urged that every prisoner ought to be assisted by one, whether he can pay or not.

The following is the order of the Proceedings :—

(1) The Advocate* for the Crown, that is for the *Prosecution*, makes a speech explaining the nature of the accusation and the general state of the facts.

(2) The witnesses in support of the *Prosecution* are called one by one and sworn. Each one is first asked questions by the Counsel for the Prosecution, and then asked some very searching questions testing his opportunities of knowledge, and the reasons for his belief, by the Prisoner's Advocate, or (if he has none) by the Prisoner himself. (Cross-examination.) The Judge may ask questions at any time.

(3) The Advocate of the *Prisoner*, or the Prisoner himself, makes a speech explaining the defence and arranging the facts from the point of view of the Prisoner.

* Appendix E

(4) The witnesses for the *Prisoner* are examined and cross-examined in exactly the same way as were the witnesses for the Prosecution.

(5) The Advocate of the *Prisoner* or the Prisoner makes a fresh speech, drawing what conclusions he thinks proper from the evidence, and inviting the jury to look at the whole case from the Prisoner's point of view.

(6) The Advocate for the *Prosecution* does exactly the same.

(7) The Judge or Chairman at Quarter Sessions sums up; that is, assists the jury by recalling to them all the evidence, shows where it is inconsistent or worthless, criticises the arguments of the Advocates, and tells the jury what is the law applicable.

(8) The Jury consider and finally deliver their verdict of "Guilty" or "Not Guilty."

(9) If the verdict is Guilty, the Chairman or Judge passes sentence of Punishment.

If the Prisoner produces no evidence, the Advocate for the Prosecution sums up his case immediately after his witnesses have been examined and cross-examined, and the Prisoner or the Advocate simply makes a single speech in defence.

TRIAL BY JURY.

The institution of Trial by Jury is one of those which it is the custom of Englishmen to prize more than almost any other, and for foreigners especially to envy or to copy.

The early history of Trial by Jury is shrouded in considerable obscurity. It probably had two or three different parentages, and it is most likely that the jury in criminal cases and in civil cases cannot be traced to the same source. Among the sources of Trial by Jury generally may be mentioned (1) the general custom among the Teutonic races of referring questions in dispute to the body of the people,

especially in cases of crime; (2) the custom, growing out of the former one, of appointing some definite number of the people (often twelve or some multiple of twelve) believed to be specially acquainted with the matter in dispute to give a decision on behalf of the rest; (3) the "inquests" and "recognitions" which, so familiar in Norman administration, can even be traced to the Roman Law as incorporated in the laws of the Barbarian Emperors, and by which a body of men (generally twelve) were nominated, as occasion required, on the ground of their presumed familiarity with the subject-matter, to inquire into the truth of facts in dispute, whether judicially or otherwise.

The political value of the jury at the present day is supposed to rest in the fact that no man can be deprived of his liberty or life in a criminal process, or of his land or goods in a civil process, without the unanimous verdict of twelve men who are chosen from the body of the people with the utmost impartiality. The fact is not exactly true at the present day, inasmuch as the large and constantly increasing mass of cases capable of being summarily decided by magistrates without a jury, and the modified resort to the jury system in the County Courts, must be held (whatever else may be the recommendations of these Courts) to impair the general value of the institution as a positive safeguard.

The Jury in a civil case may be either a "Common Jury" or a "Special Jury." The only difference is that the latter are supposed to come from rather a better informed class of society, and a Jury of this kind can be generally had (at the risk of adding to the expenses of the action) by either party in the cause.

Both in a civil case and in a criminal trial the Jury may be "challenged" by either of the parties; that is, the Jury or some member or members of it may be objected to, and a new Jury or fresh Jurymen may have to take the place of the former.

The challenge may be either to the "array," that is to

the whole jury, when it is alleged that the jurors have not been impartially chosen or properly procured; or to "the poll" when exception is taken to individual jurors on such grounds as infancy, partiality, crime, or where a "lord of Parliament" is empannelled.

In criminal cases challenges may be made for all these causes assigned, and in a trial for treason or felony jurors may be objected to by the prisoner without any cause assigned. In high treason generally as many as thirty-five such peremptory challenges are allowed; but in the heaviest kind of treason, as where the Queen's death is alleged to have been attempted, in murder, and other felonies, only twenty peremptory challenges are allowed.

In criminal cases the Grand Jury "of presentment," which is still spoken of as "the county," reproduces the "body of the people" of the old Teutonic times, or the body of freeholders in the Saxon County Court. The Common Jury reproduces the ancient inquest.

Jurymen are either (1) *Grand* Jurymen,
or (2) *Common* Jurymen,
or (3) *Special* Jurymen.

(1) *Grand* Jurymen must be *freeholders*—that is, must have an estate in land for life at least—resident in the county. They are usually taken from among the Justices of the Peace. It has already been seen that their function is to determine at Quarter Sessions or at Assizes whether a trial of a prisoner shall take place or not.

(2) and (3) *Common* Jurymen and *Special* Jurymen must have the following qualifications:—

1. They must be between the ages of twenty-one and sixty.

2. They must have either 10*l.* a year in land, freehold; or 20*l.* a year leasehold, for twenty-one years or a longer term; or be householders rated for the support of the poor, or (in Middlesex) pay "house duty" on not less than 30*l.*

Special Jurymen are persons described as "Esquires," "Bankers," or "Merchants."

Special Jurymen are only summoned for the trial of civil cases where the pecuniary interests at stake are very large, or where the proceedings are peculiarly intricate and requiring special education and experience for understanding them.

The following persons are exempt from the duty of serving on juries:—Peers, judges, practising lawyers, gaolers, clergymen of the Established Church and Catholic Church, and ministers of dissenting chapels registered, officers in the army, physicians, surgeons, officers in the customs, and members of the House of Commons.

Jurymen are fined if they do not attend when they are summoned.

There are many complaints now made from time to time that the same jurymen are summoned over and over again, and that many persons who ought to be summoned are never summoned at all. A Bill for the remedy of this has recently been brought into the House of Commons.

THE HABEAS CORPUS ACT.

This Act was passed in the reign of Charles II. (1679) for the purpose of giving facilities for granting the old writ of "*Habeas Corpus ad subjiciendum*," so called from the words in which it ran, "*You may have the body* brought up before you." The writ was obtained from a Court of Justice, that is, the Court of Chancery, the Queen's Bench, the Exchequer, or the Common Pleas, on proof that there was some cause to believe that a prisoner was unjustly detained in prison. The effect of the Act, with its later amendments, is to facilitate the process by which any prisoner who thinks that he is unjustly detained, either by a gaoler or by anyone else, can have his case at once judicially investigated, in order to see whether he ought legally to be in prison or not. The Judge, on the

application of the person detained, grants the writ, which commands the persons detaining the prisoner to bring him up before some judge, in order to have the cause of his imprisonment investigated. When the prisoner is brought up, the persons detaining him allege (generally with the help of lawyers) the reasons for detaining him,—as, for instance, that he was sentenced to be imprisoned by a competent Court of Justice, or that he is being detained waiting for a trial under the Warrant of Committal of a Justice of the Peace. If this is proved to be the case, the prisoner is sent back to prison. If it is proved not to be the case, or if the prisoner can show any other reason why he should not be detained in prison, he is immediately set free.

The operation of the Habeas Corpus Act is to threaten heavy penalties on judges not granting the writ on the demand of a prisoner. In such a case a judge is liable to be fined 500*l.* The Act also threatens with a fine of 100*l.* and (on a second offence) 200*l.* any officer not delivering up prisoners in accordance with the terms of the writ, or not giving to the prisoner or his agent, within six hours after demand, a copy of the warrant of commitment.

If the prisoner is committed for treason or felony, as expressed in the warrant, the judge need not grant the writ.

The Act further provides that every person committed for treason or felony shall be brought to trial in the next term or session after his committal, unless the witnesses for the Crown cannot be produced at that time; and if he is not tried in the second term or session, he must be discharged from his imprisonment. No person once delivered by *habeas corpus* can be re-committed for the same offence, on penalty of 500*l.* No inhabitant of England "can be sent as prisoner out of the country within or without the British dominions, on pain that the party committing, his advisers, aiders, and assistants, shall forfeit to the party aggrieved a sum not less than 500*l.* to be recovered with treble costs; shall be disabled to bear any office of trust or profit; shall

incur the penalties of *præmunire*; * and shall be incapable of the Queen's pardon."

The Amending Act passed in the fifty-sixth year of George III.'s reign extends the benefit of the Act to persons confined "otherwise than for some criminal or supposed criminal matter," and empowers a judge in vacation time to examine into the truth of the facts alleged in the "return" to the writ, so as to obviate the injustice which might be facilitated by giving false returns.

In times of great civic disorder (as occasionally in England in the reigns of the Georges, and not long ago in Ireland) the action of the Habeas Corpus Act is *suspended*; that is, persons are allowed to remain in prison for an indefinite time on mere suspicion, without the question of their guilt or the reason of their confinement being investigated.

This suspension of the Habeas Corpus Act is very rarely resorted to, and is in the highest degree unpopular, inasmuch as it puts any person in the country at the mercy of the police and the Government.

The writ of Habeas Corpus does not run into a colony or foreign dominion of the Crown, where Courts are established having authority to grant and execute the writ themselves.

The Punishment and Reformation of Criminals.

A very important topic of government is the policy with respect to the Punishment and Reformation of Criminals. The only punishments or modes of correction known to the English Law are—

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* This celebrated offence (so called from the words of the writ preparatory to the prosecution thereof, "*præmunire* [or *præmonere*] *facias*, cause A.B. to be forewarned"), was originally that of introducing a foreign power into the realm by paying obedience to Papal process. The penalties, which were exorbitantly severe, and included forfeiture of lands and goods, complete outlawry, and imprisonment at the pleasure of the Crown, were extended by statute to a variety of very different offences.

1. Death by Hanging. In cases of treason, this is accompanied by "drawing" the criminal on a hurdle to the place of execution, afterwards severing his head from his body, and then dividing his body into four quarters. The Sovereign may, however, after sentence, change the whole punishment into beheading.

2. Penal Servitude.

3. Imprisonment with hard labour.

4. Flogging.

5. Imprisonment without hard labour.

6. Reformatory or Industrial Schools for juvenile offenders, convicted or not convicted of crime.

7. Fine.

Death is only inflicted for treason, piracy, and killing with malice aforethought; that is, for murder. The execution is private, and takes place within the walls of the prison where the convict was last confined, in about three weeks after the trial and sentence.

Penal Servitude implies imprisonment with hard labour in certain Government prisons. The work is hard, though adapted to the capacities and health of the convict. It must be at least for a period of five years, and may be for life. The length of the term is generally determined by the Judge who tries the prisoner, and depends on the character and frequency of the offence, or the previous habits of the criminal. Sometimes good behaviour during the term of servitude may lead to a slight shortening of it. In this case the prisoner obtains what is called "a ticket of leave." He is allowed to go abroad, but must report himself to the police at regular intervals. If he omit to do so, his "ticket of leave" is cancelled, and he is sent back to prison again as soon as apprehended. A term of *imprisonment with hard labour* cannot be for longer than two years. It takes place in a county or borough gaol, and not in a Government prison. The labour may be of different sorts, and sometimes is wholly unprofitable, as in the case of the

treadmill, unless something is ground by it. The "silent and solitary" systems are used only as occasional punishments for misbehaviour or insubordination in gaol, and to a very limited extent, it being believed to be hurtful to the health or reason of prisoners. Juvenile offenders can be sentenced to be whipped, or can also be sent to a "reformatory school."

Flogging is at present inflicted only for particular sorts of brutal attacks on the person. It is proposed to extend it to attacks of all sorts upon women or children; but the use of this punishment is opposed in some quarters, on the ground that it is a cruel punishment resembling torture; that cruel punishments never diminish crimes, because they infuriate and brutalise the class who perpetrate them; and that it is desirable rather to pacify and tame than to excite those brutal feelings in society which give rise to crimes against the *person*. On the other hand, the necessity of absolutely repressing this class of crimes, at almost any cost, cannot be over-estimated, supposing it to be proved that this or any other remedy were adequate to the purpose.

The whole subject of Reformation and Punishment is one of great interest both in this country and in America. Within the last few years persistent and intelligent efforts have been made to improve the internal management and the construction of gaols; to educate and teach ignorant prisoners, and especially the young, and to withdraw children from the scenes of temptation; to watch over those who come out of prison; and to select for infliction those classes of punishment which seem most likely to be compatible with the moral reformation of the offender.

GENERAL COURSE OF PROCEEDINGS IN A CIVIL TRIAL, AND OF MIXED CIVIL AND CRIMINAL PROCEEDINGS.

The whole course of a Civil Trial extends over three stages, which are simpler and shorter, or more intricate and longer, according to the nature of the subject matter of the

contention, and the corresponding character of the Court which has jurisdiction in respect of it These three stages are (1) *Pleading;* (2) *Hearing of Evidence and Decision of disputed matters of Fact;* and (3) *Consideration and Decisions of disputed points of Law.* The two latter stages are generally intermingled in practice, though they can always be clearly distinguished. It will be more convenient to treat them together.

(1) *Pleading.*

By "Pleading" is meant the process by which the parties to a suit endeavour to ascertain out of Court, though subject to general rules and the control of the Court, the real points in dispute between them. The object of the process is to prevent needless disputation upon matters which really are not in controversy at all, and to reduce the questions, whether of fact or of law, which really are in controversy, to as simple a form as possible, for the purpose of distinct adjudication upon them.

The system of Pleading, especially in the "Common-Law" Courts, was down to a time still recent, so complex and artificial that it was a scandal to the administration of justice. Unless a plaintiff or defendant observed with the utmost strictness the most technical rules, unless he used the precise terms required, unless he exactly expressed all that was essential, and rigidly abstained from assertions that were superfluous, he lost his cause, whatever might be its moral merits. By a series of reforms this state of things has been gradually brought to an end. In the first place the requisite modes and forms of pleading were largely simplified, and facilities given for amending pleadings or repairing accidental mistakes and omissions. Then, in newly-introduced Courts, —such as the County Courts and the Courts of Probate and Divorce,—a simple form of statement, answer, and reply, (substance being in all cases preferred to form), was substituted for the stricter methods of Pleading still retained in the Superior Courts of Law and Equity. Finally, the Supreme Court of Judicature Act substituted the simple form of an inartificial

statement, answer, and reply, for all the methods previously in use in any Court whatever.

It is to be observed that the Pleadings in the Court of Chancery have always been less severely strict and technical than those in use in Common-Law Courts. This was partly due to the influence in the Court of Chancery of the methods known to the later Roman Law; partly to the fact that the necessity of reaching a single definite "issue" was less pressing in a trial by an accomplished Judge than (as in Common-Law Courts) in a trial by an untrained Jury; and, partly, to the vast complication of interests, and, therefore, of disputed facts, out of which proceedings in the Court of Chancery usually arose, as contrasted with the simpler matters of fact in dispute in Common-Law Courts.

Under the new procedure the method, already largely in use in the Court of Chancery, of allowing the parties at the time of Pleading to put written questions (called "Interrogatories") to one another, and to obtain written answers on oath, is recognised and adopted. This process of what is called "Discovery," if controlled by the discretion of a Court, is often of the utmost value in bringing out the real matter in dispute, and preventing a sudden surprise as to the nature of the claim or the defence, after the real trial has commenced.

(2) *Hearing of Evidence and Decision of disputed matters of Fact, and* (3) *Consideration and Decision of disputed points of Law.*

The general order of the proceedings at a Civil Trial is the same in all Courts as already described for a Criminal Trial, the plaintiff and the defendant severally taking the place of the prosecutor and the prisoner. The plaintiff or his advocate opens the proceedings by explaining the origin of the suit, the precise nature and extent of the claim, and the general character of the evidence he is about to produce. The evidence on the side of the plaintiff is then produced.

Before the Supreme Court of Judicature Act came into operation, the evidence produced in the Court of Chancery was almost invariably the written and sworn testimony of witnesses examined by an officer of the Court before the time of hearing, while evidence of this sort (except in the rare cases of enforced absence, or serious illness, or approaching death) was wholly excluded in Courts of Common Law, and only the testimony of witnesses actually present in Court and sworn was admitted. The general rule in all Courts excluded, under the name of "hearsay," all evidence consisting of the words and writings of absent persons, that is, all evidence whatever which rested for its value not only on the personal credit of a witness examined and sworn in Court at the time of the trial, but also on the credit of some other person not present, whose words or handwriting are reported or produced by a present witness. The chief exception to this rule was (1) the admission of "confessions" and "dying declarations," when precautions were taken, or otherwise assumed to exist, sufficient to guard the witness against the operation of any improper inducement to make them; (2) of "common report" in pedigree cases; and (3) of words spoken in cases where the mere fact of the words being spoken, whether true or not, is an essential fact to be inquired into.

The operation of the Supreme Court of Judicature Act is to render the mode of taking evidence uniform in all Courts, and to select the method of examining the witnesses *viva voce* in open Court, as previously practised in Common-Law Courts and in Criminal Courts, as the general type to be followed. The general rules regulating the exclusion of "hearsay" remain as before.

Besides oral testimony, evidence may consist of documents, extracts from public registers, judgments of Courts of Justice, certificates, and physical monuments, such as historical inscriptions or notices on tombstones. These are not "hearsay" evidence, as they do not rest for their value

on the credit due to absent persons, but rather have an independent value of their own due to their antiquity, their publicity, or a special authority conceded to them by Law.

After each witness on the side of the plaintiff has been examined by the plaintiff or his advocate, the witness may be, and usually is, "cross-examined" by the other side as to his opportunities of observing the facts he relates, and as to his general credit. He may also be further re-examined by his own side as to matter brought out in cross-examination. The Judge may ask any questions he pleases of any witness at any time.

If the testimony is written, it is read to the Court, generally by an officer of the Court.

If the defendant produces no evidence, the plaintiff or his advocate then makes a speech commenting upon or "summing up" the effect of the plaintiff's evidence, and then the defendant or his advocate simply makes a single speech pointing out the worthlessness of the plaintiff's case.

If the defendant produces evidence, he or his advocate makes a speech immediately after the witnesses for the plaintiff have finished giving their evidence, and explains the nature of the defence and the general effect of the evidence about to be produced. The witnesses for the defence are then called, examined, cross-examined by the other side, and (possibly) re-examined exactly in the same way as were the plaintiff's witnesses. The defendant or his advocate then makes a speech, summing up what he takes to be the effect of the evidence produced on his side, and the plaintiff or his advocate then makes a final speech on the whole case.

Thereupon the Judge sums up the effect of the evidence on both sides, and informs the Jury (if there is one) of the legal effect of the material facts according as the Jury may hold them to be established one way or another.

The Jury (if there is one) then consider, and, with more

or less delay, deliver their "verdict," upon which they must, as in a criminal case, be unanimous. If there is no Jury (as to which a large option is permitted to the parties if agreed) the Judge either delivers "judgment" at once, or reserves it for further consideration and delivers it at a future day. The "verdict" and "judgment" may take a variety of forms according to the matter in dispute. A "verdict" declares either that the plaintiff has not made out his case, when the verdict is said to be "for the defendant;" or that he has made it out, and then it is said to be "for the plaintiff." In this last case the judgment assigns the amount of compensation or damages to be paid by the defendant. Sometimes, indeed, the verdict is "special," and only substantiates the evidence of a certain condition of facts, leaving the consequences as affecting the claims of the plaintiff or the defendant to be fixed by a Superior Court.

A "judgment," on the other hand—also in some Courts called a "decree"—not only ascertains barely which party is in the right and how much compensation (if any) the defendant has to give, but also often dictates a course of conduct in which a number of persons are to take part, and provides for the satisfaction of a number of claims and the protection of a variety of interests which the facts of the case have brought to light.

The ordinary rule is that the losing party pays the reasonable "costs" of the proceedings, but a wide discretion is reserved to Judges to qualify or even to reverse this rule when the proceedings disclose that, though there was a technical wrong, there was no substantial grievance to complain of; or where the losing party has been needlessly embarrassed in the conduct of the suit; or where the action was brought in a higher Court than was strictly appropriate to it.

When the result of the trial is that the defendant has to pay a sum of money or to do, or abstain from, a certain act, the order to pay, to do, or to abstain, is said to be a

judgment, or *order*, and can be enforced either by *execution* (that is, by seizure at the hands of the *Sheriff* of the goods or the person of the defendant), or by imprisonment of the defendant for contempt of Court. Some discretion is left to judges as to hastening execution or deferring it beyond the usual date, according to the merits of the case, the situation of the defendant, or the probability of an Appeal being undertaken.

The *Sheriff* is an official of high standing in every County, chosen annually by the Crown out of three persons proposed by the Judges of the High Court of Justice and certain members of the Privy Council. When appointed, he cannot refuse to serve. His functions are to enforce the sentences of Courts, to make certain judicial inquiries under "writs" issued for the purpose, to summon jurymen, and generally, to help in maintaining public order. He is assisted by an "under-sheriff," a "deputy-sheriff," and by inferior officers called "bailiffs."

The legal aspects of the proceedings of a trial before a single Judge or a Judge and Jury may now be carefully reviewed before a Court composed of a large number of Judges. The result of such a revision of the proceedings may be a new trial, or a simple reversal of the *judgment* of the Court below, or an entry of the *verdict* for the side opposed to that for which it was originally given. The grounds of such a revision of the original proceedings are such as the laying down of unsound law by the Judge, the admission of improper evidence, irregularities in the pleading or in the order of proceeding at the trial, or a verdict given against the weight of evidence or for "excessive" damages.

A plaintiff who even on his own showing, and apart from all consideration of the defendant's reply, is held by a Court not to have made out his own case—is said to be "non-suited."

There are certain special and extraordinary proceedings which take place in one or other of the divisions of the High Court of Justice, which are often supplementary to, or

take the place of, the ordinary proceedings. Such are "*Certiorari*," "*Mandamus*," "*Quo Warranto*," and "*Informations*."

Certiorari.

This is an ancient writ by which an inferior Court is commanded to "certify" or formally remit a cause pending in it to a superior Court to be tried there. It is by this writ that the trial of peers indicted for treason, felony, or misprision of treason is removed into the Court of the Lord High Steward, and ordinary criminal indictments in certain cases of special importance or difficulty are removed into the Division of the Queen's Bench.

Mandamus.

This writ (which is called a "prerogative" writ, as issuing under the prerogative of the Crown) issues from the Division of Queen's Bench, and directs persons, corporations, and courts, not easily reached by any ordinary process, to do certain specified acts; as, for instance, to admit to office, or to replace, a properly qualified officer, to proceed to pronounce judgment, and the like.

Quo Warranto.

This writ is a very ancient one, though the procedure in respect of it has varied from time to time. Its original purpose was to command some one who claimed or exercised any office or franchise to show by what authority he supported his alleged right. The writ was largely used in Charles II.'s time to procure a forfeiture of the Charters of corporate towns by alleging a neglect or abuse of the franchises created by them. The proceeding by "information" in the nature of a "quo warranto" is now principally used to determine disputes between corporations and their officers, or to ascertain the validity of existing Charters.

Informations.

"Informations" are of various sorts; but they are all extraordinary modes of obtaining civil remedies or criminal con-

victions by a direct application for justice made by the Attorney-General to a division of the Supreme Court. Their purpose may be (1) (if made in the Division of the Exchequer) to recover money due to the Crown, or to obtain satisfaction for a wrong committed upon the lands or goods of the Crown; (2) (if made in the Division of the Queen's Bench), to obtain a penalty due partly to the Crown and partly to the informer upon a penal Statute; or (3) to secure the immediate and certain trial of an alleged offender either against the Crown directly, or—as in cases of riot, libel, and atrocious immorality—against the Crown and a private person jointly. In these last cases the effect of granting leave to file "a criminal information" is to put the accused immediately on his trial without requiring a true Bill to be found by a Grand Jury. The purpose of the procedure is to avoid the delay, uncertainty, or even popular prejudice which may attend a more regular course of proceeding. It is entirely in the discretion of the Court to grant the application; and in determining how to exercise their discretion, they take into consideration the time that has elapsed, the evidence on which the charge is founded, the motives of the applicant, and the sufficiency, for the purposes of doing complete justice, of the ordinary mode of proceeding. When the information is filed, the trial takes place either "at Bar," or, like an ordinary civil case, at Nisi Prius, in the county where the offence is charged to have been committed. In either case judgment is given by the Division of the Queen's Bench. A "Trial at Bar" is a trial before the Judges of the Court in which the action is brought. The Judges sit together (or in *banco*). This mode of trial is resorted to only in cases of great difficulty or importance, or where the Crown has its interests involved and insists on such a mode of trial. As any criminal case may be removed by *certiorari* into the Division of the Queen's Bench,—the highest Criminal Court of original Jurisdiction in the country,—any criminal case may, in the discretion of the Court, be tried at the Bar of the Court.

GENERAL VIEW OF THE INSTITUTIONS AND PRINCIPLES OF ENGLISH LAW.

The constitution and government of England are implicated at so many points with the system of English Law, that it is not possible thoroughly to understand the former without a comprehension of the general character of the latter. On this account, and in particular connection with the Judicial organisation of the country, a description of the leading institutions and principles of English Law is here interposed. The subject may be conveniently and succinctly treated under the following heads, it being understood that *Constitutional Law*, which forms the main topic of the whole of this treatise, and *Laws of Procedure*, of which an account has just been given, are omitted from what would otherwise be their proper places.

I. Sources of English Law.
II. Law of Property.
III. Law of Contract.
IV. Law regulating certain special relationships, as those of Husband and Wife, of Guardianship, and of Trusteeship.
V. Law of Civil Injuries.
VI. Criminal Law.

I. SOURCES OF ENGLISH LAW.

The word *Source* in reference to Law is used sometimes (1) to signify the facts to which the existence of particular laws is immediately due ; and sometimes (2) to signify the authorities to which reference must be made in order to know what the state of the Law is.

In the first sense of the word "source"— that of the facts to which particular Laws immediately owe their existence— the Sources of English Law are –

(1) *Ancient and General Customs or institutions*, such as those of the feudal system as gradually modified by the suc-

cessors of William I., and such as those implied in the relation of the Church of England to the State.

(2) *Statutes or Acts of Parliament*, that is, formal expressions of the will of the Legislature.

Some parts of the Law are wholly due to this source. Other parts, such as the law regulating commercial contracts, Jury trial, and procedure generally, are only partly due to it. Some parts, again, are not affected by this source in the least.

(3) *Public engagements* made at critical epochs by persons held to represent conflicting claims and interests in the State. Either the fact of these engagements is tacitly recognised or express evidence of them is preserved. They thus share the character both of Statutes and of universally binding customs.

(4) *Judicial decisions* on cases actually controverted in Courts of Justice, where such decisions are generally acquiesced in by successive races of Judges, or supported on appeal to the highest tribunal.

(5) *Foreign Law* accidentally introduced in early times into this country, and still maintaining in some Courts and in some portions of the Law a distinct amount of influence. Thus Roman Law has prescribed many of the rules of procedure and some of the principles adopted in the Court of Chancery and the High Court of Admiralty, while the Canon Law (which was a system introduced by Papal decrees for the government of the Clergy, and largely fashioned after the type of Roman Law) originated many of the rules of procedure adopted in the Ecclesiastical Courts, and has largely affected that part of the Law which relates to wills, intestate succession, marriage, and divorce.

The result of the process by which English Law has been gradually built up from the above various materials is, that in order to know what the state of the Law is on any given point, reference must be made to one or other of the following authorities, or (it may be) to both conjointly. Hence the following are Sources of English Law in the second of the senses of the word *Sources*.

(1) *Statutes of the Realm*, including the great constitutional documents of Magna Charta, as successively confirmed; the Petition of Rights; and the Bill of Rights.

The Statutes are scattered through a large number of bulky volumes. They are now in course of being revised and subjected to a sifting process by which the repealed parts are separated from the still subsisting parts.

(2) *Reported Decisions of Courts of Justice.*—These are said to be scattered through 1,300 volumes, and to apply to 100,000 cases. It is to these decisions that recourse must be had to ascertain (i) what universal customs have been incorporated into the Law of England, and become either the "Common Law" or the principles and rules of "Equity," as the case may be; (ii) what sorts of local or class customs are incorporated into the Law; (iii) what logical rules for the interpretation of written language are recognised by Law; and (iv) what is the actual meaning impressed by Courts of Justice on the language of Statutes.

This distinction between Law as gathered from the decisions of Courts of Justice and Law expressed in the form of Statutes is sometimes marked by calling the one "Unwritten," and the other "Written," Law.

The principles of "Equity" are those which, up to the time of the Supreme Court of Judicature Act coming into force, were recognised only in the Court of Chancery. They grew, as has been indicated elsewhere, out of the somewhat arbitrary jurisdiction of the Lord Chancellor, who originally represented the King in controlling the rigour, and enlarging the contracted field of operation, of the Common Law. The Lord Chancellor was originally an ecclesiastic, and versed in the principles of the Roman and the Canon Law, which thus became to some extent the basis of the system applied in his Court. The Court of Chancery gradually gathered to its jurisdiction most of the more complicated matters to which an advancing social condition gave birth, and more especially those matters for which the procedure of trial by Jury was inadequate or unsuitable. Such matters were

those in which "Trusts" or "Fraud" were involved, or in which the competing claims and interests of a number of persons needed protection and reconciliation. The operation of the Supreme Court of Judicature Act in abolishing the practical consequences of the distinction between Equity and Common Law has already been described.

II. LAW OF PROPERTY.

All the things that can be owned are, according to English Law, distributed under the two main heads of *real property* and *personal property*. There are some few things, indeed, which have the legal qualities of *real property* for some purposes, and of *personal property* for others.

Real property includes lands and houses, and mostly coincides with what are sometimes called *Immovable* things as opposed to *Movable*. *Real* property includes the things which were the chief or sole subject of attention in primitive times, and, in consequence, the modes of dealing with it are less simple and (as it were) natural than the modes of dealing with *personal* property. But, for some time past, the tendency has been to assimilate the laws relating to *real* and to *personal* property, and, so far, to abolish the distinction between them. The chief practical differences between the two sorts of property lie in the modes in which they descend on the death of the owner without his leaving a Will, and in which they can be disposed of in his life-time.

On a person's death, if he leaves no Will, his *real property* descends to his eldest surviving son; or if he has no son, to his daughters in equal shares; or, if he has no children, to his father, grandfather, uncles, aunts, cousins in succession; always tracing back to the nearest surviving ancestor; and children throughout taking the place (according to their seniority if males and in equal shares if females) of their deceased parents. His personal property, on the other hand, in the event of his leaving no will, is distributed among all his children, whether sons or daughters, equally, if he

leave no widow; if he leave a widow, one-third goes to the widow, and the remaining two-thirds to the children; and if he leave a widow, and no children, half goes to the widow, and the remaining half to persons described as "next of kin." These persons are the deceased's father and mother, grandfather and grandmother, brothers and sisters, uncles and aunts,—each generation from a common ancestor being reckoned as one "degree" of relationship, and all persons related to the deceased in the same degree sharing equally.

In the life-time of the owner, *real property* can be disposed of only by *deed*, that is by a solemn and precisely written document, usually on parchment, properly witnessed and signed, certain formal words being used by the parties at the time of signature. In certain cases these deeds have to be registered in a public office before the expiration of a fixed time.

Personal property, on the other hand, can be parted with in a variety of ways according to its nature. Most movable things pass from one person to another by simple delivery. With respect to the ownership of other things, belonging to the class of personal property,—as leases for a term of three years or more,—the transfer can be effected by deed only.

The largest interest or "estate" which a person can have in *real property* is what is called "a fee-simple" estate. Such an estate is said to be vested in a man "and his heirs." He can sell, or give away in his life-time, the land (if it be land) to whom he likes; or, by making a Will, he can choose the person or persons who shall succeed to his rights at his death; or, if he makes no Will, the land descends to his heirs in the way above described.

The next largest estate is an "estate tail." The person in whom this kind of estate is vested could till lately neither sell the land nor choose his successor on his death. The land must descend, at the death of the last "tenant in tail," to his eldest son or daughter or their representatives, or, in their default, to other persons mentioned in the document

creating the entailed estate. In the present day great facilities are allowed for either "cutting off the entail" (that is, converting the estate tail into an estate in "fee simple"), or for selling the property and investing the proceeds of the sale on trust.

Other and minor interests in real property are estates for life, for years, for a year or portions of a year, and at the will of another person. An estate for a less period than for the life of the owner or some one else is said not to be a "freehold," and is classed as "personal property," so that the same piece of land may be treated in respect of one person (that is, of him who has the fee-simple estate in it) as *real property*, and in respect of another person (that is, of him who has a lease of it for a number of years) as *personal property*.

There is now little difference in form or solemnity between a Will for the disposal of Real Property and a Will for the disposal of Personal Property. In each case the Will must be in writing and signed by the testator in the presence of two witnesses who sign their names in each other's presence. The Will operates from the date of the testator's death. If any addition is made to it or alteration made in it, these may be embodied in what is called a "Codicil," which must be signed and witnessed in the same way as the original Will. No gift can be given under the Will to one of the witnesses. A Will can be rendered of no effect by (1) destroying it intentionally; (2) by making a fresh Will; (3) by subsequent marriage.

The main difference between a Will of Real Property and a Will of Personal Property is that the former vests the property passed by it at once in the persons in whose favour the Will is made, while the latter vests the property in the first instance in one, two, or more quasi-official persons specially charged with the functions of carrying all the details of the Will into effect. These quasi-official persons are called *Executors*, or, when not named in the Will, but appointed by the proper Division of the Supreme Court in

order to carry into effect a Will otherwise complete, *Administrators with the Will annexed.*

The first duty of the Executors, after providing for the funeral of the deceased, is to obtain "Probate" of the Will; that is, to take the Will to a Public Office, where it is copied out, a copy being given to the Executors (who are thereupon sworn to administer their trust faithfully), and the original document being retained. The other duties of the Executors are to ascertain, and pay within a year, the debts of the deceased, and to transfer to the different persons in whose favour the Will is made the goods or money allotted to them. Executors are usually near relatives or intimate friends of the deceased. They receive no payment or profit for their trouble, though a small legacy is often left them in consideration of it. They may decline to act, if they choose; but if once they have undertaken the functions, they cannot free themselves from them at their will, nor decline the legal responsibilities which attach to them. These responsibilities belong to the general topic of Trustees, to be considered lower down.

If there is no Will, the Real Property descends at once to the legal heirs as already described; but the Personal Property can be distributed to the legal successors only by the intervention of a semi-official person called an *Administrator.* He is appointed by the proper Division of the Supreme Court, and is usually chosen from among the nearest relatives of the deceased. His duties resemble as closely as possible those of an Executor.

It was from early days of English history a fixed principle of policy to prevent land coming into the hands of religious corporations. The grounds of this policy were that land was thus withdrawn for ever from the general market; that corporate bodies were held to be less competent than individual persons to perform the duties accompanying ownership; and that an undue influence was liable to be exercised over dying persons to induce them to divert the

succession to their property away from their natural heirs to those who had comparatively small moral claims upon them. Gifts of this sort were called gifts "in mortmain," or in *mortuâ manu*—in a dead hand—because the corporate bodies who acquired the gifts were looked upon as not less unserviceable to the State in some respects than if they were dead.

Severe statutes were enacted from time to time for the prevention of such gifts, though many exceptions were introduced into them, a license from the Crown being always held sufficient to save the forfeiture that would be otherwise incurred, and lands left to "charitable" as opposed to "religious" uses being generally exempted from the application of the statutes. The law now is that no lands can be given even for charitable uses unless the deed of gift proves to have been executed in the presence of two witnesses at least twelve months before the death of the donor, and enrolled in the proper office within six months after execution. Stocks in the public funds may be transferred by a deed made only six months previous to the donor's death. The gift must be made to take effect absolutely on the donor's death after the expiry of six months, and must not contain any reserved power of alteration. The Universities of Oxford and Cambridge, their Colleges, and the scholars upon the foundations of the Colleges of Eton, Winchester, and Westminster, are excepted from the operation of the law. Other public institutions have recently been also excepted, among which are the British Museum, Greenwich Hospital, and the Foundling Hospital.

III. LAW OF CONTRACT.

A very important part of English Law, as of every system of Law, is concerned with the public regulation of *Contracts*, —that is, the engagements which people make with one another for the purpose of binding each other's future conduct, and to which, if made in a proper way and for purposes which the Law countenances, Law lends its support.

The simpler purposes of contracts are buying and selling, letting and hiring, carriage, service, agency, and deposit. Other less simple purposes are Partnership, the Negotiation of Bills of Exchange and of Promissory Notes, and Assurance. A Partnership contract is one in which two or more persons make certain contributions either in money or labour towards a definite work, with the understanding that each is to bear a certain proportion of the losses and to reap a certain proportion of the profits. An important form of partnership is what is called a "Joint-Stock Company," with either limited or unlimited liability. A Joint-Stock Company is a partnership of not less than seven persons, who bind themselves together by the terms of a document registered in the proper office and entitled the "Memorandum of Association." The purpose of such companies is to enable a vast number of persons to take part in a common concern, with the utmost facility for adding to, or varying, the members and with securities for simplicity of government, and for the protection of individual members against the consequences of one another's fraud or negligence. The property of the company is divided into "shares," which, by the simple process of registration, may be transferred from one person to another. The person to whom the transfer is made becomes thereupon a member of the company, and is liable for the losses of the company, either to the amount of his share—in which case his liability is said to be "limited,"—or to the amount of his whole property—in which case his liability is said to be "unlimited." Careful provisions are made for the choice and regulation of directors, and for the dissolution or "winding-up" of the companies.

A Bill of Exchange is a simply written document in which a debtor promises that another person indebted to himself will, at some future time named, pay over to the creditor, or to any person into whose hands the bill may come, the amount expressed on the face of the bill. An ordinary Cheque on a bank is a species of bill of exchange. A Promissory Note is similarly a simply written document

by which a debtor promises to pay to his creditor or to any person into whose hands the note may come, at some future time named, the sum expressed on the face of the note. A common Bank-note is a promissory note. The peculiarity of both a bill of exchange and a promissory note is that the original creditor to whom the one or the other is made payable can, by simply transferring the document (and, generally, also signing his name at the back of the bill or note), make a fresh contract of the same nature as the original one with the person to whom the transfer is made. This may take place any number of times, and a multiplicity of distinct contracts may be the result. Thus the last possessor of a bill has, in the event of its not being paid "at maturity," a succession of alternative actions against (1) the acceptor of the bill, that is, the person who is indebted to the "drawer" of the bill, or has money of his in his hands; (2) the "drawer" of the bill; and (3) each of the persons successively whose names stand at the back of the bill. The last possessor of a note similarly has a succession of alternative actions against (1) the "maker" or promisor; and (2) all the "endorsers" in succession.

In the case of an Assurance contract, one person engages to pay a fixed sum of money or "premium" at definitely recurring periods to another person, or associated company of persons, on the understanding that, upon a certain event happening—whether it be certain to happen sooner or later, or whether it be such an one as may never happen at all—the person paying the premium (or his representatives) is to receive a stipulated amount by way of compensation for loss sustained, or supposed to be sustained, through the happening of the event. The events most commonly insured against (as it is called) are death, and destruction of property by fire, shipwreck, hailstorms, and other accidents.

Marriage is sometimes said to be a contract, though it is only incorrectly so called in this country, as all the circumstances of the parties are fixed for them by law and not

by themselves, and the engagement cannot be dissolved (as in the case of true contracts) by the mere consent of the parties. A mutual promise to marry is, however, a legal contract for all purposes.

Contracts may, or must, be made in a variety of ways sufficient (or held essential) to signify a common understanding by the parties. Such ways are by word of mouth, by simple writing, and by formal deed. No contract for a sale of goods exceeding the value of 10*l.* is good, for instance, unless part of the price is paid or part of the goods received by the buyer, or unless some note or memorandum of the bargain is made and signed by the party charged by the contract. In some few cases, as in making leases of land for a certain term of years, the contract must be made by deed.

If a contract is broken, an action may be brought against the person breaking it, and the remedy may take a variety of forms, as that of compensation (involving imprisonment if the compensation is unpaid and the goods of the debtor are insufficient to make it up), or a compulsory process in which a performance of the actual engagement is enforced.

If it should seem likely that a person will not be able to fulfil a particular contract or his contracts generally, there are certain special remedies provided by law. Such are *Lien* and *Bankruptcy*.

The process of *Lien* enables in certain cases a contractor to retain hold of the property of his co contractor, which is accidentally or temporarily in his hands, until the obligation of the co-contractor is performed.

Bankruptcy is a summary proceeding by which a person who seems unable to fulfil all his contracts is made to desist from any further operations, to surrender all his property into the hands of trustees, and, under the control of the Division of the High Court of Bankruptcy, to submit to have it distributed fairly among the creditors, according to the nature of their several claims upon the terms of having

his person protected (except in case of special misconduct) from imprisonment, and of being allowed subsequently to make money afresh free from all interference on the part of his former creditors.

Friendly "compositions" with creditors, that is, special agreements for part payment of debts, are also favoured and supported by law, precautions being taken to provide against fraud, unjust preferences, and collusion of all sorts.

IV. LAW REGULATING CERTAIN SPECIAL RELATIONS.

1. *Husband and Wife.*

(1) First, as to the conditions of entering into the relationship of Husband and Wife:

The man must be at least 14 years of age, and the woman 12 years of age. They must have the amount of reason or mental capacity needed for other voluntary legal acts, and must neither of them have a wife or husband (as the case may be) living. They must, furthermore, not be related to one another within what are called the prohibited degrees of consanguinity or affinity.

The mode of reckoning degrees of relationship practised in the Roman Law is that adopted for this purpose. According to this mode the number of degrees separating two related persons is the sum of the number of generations between each person and a common stock. The common stock counts as one generation, and one alone of the two persons is included in the calculation. Thus brothers and sisters are in the second degree, uncles and nieces in the third, first cousins in the fourth degree, and so on.

Marriage is forbidden (i) between persons in the ascending or descending line, that is, persons related to each other as parent and child, grand-parent and grand-child; (ii) between those related to each other in a degree within that of the third degree inclusive; (iii) between equally close connexions through marriage (relations by *affinity*). Thus a man may not marry his sister nor his wife's sister,

each being related to him, either by consanguinity or affinity, in the second degree; nor his sister's daughter nor his wife's sister's daughter, each being related to him in the third degree. But a man may marry his first cousin, for she is related to him only in the fourth degree.

The consent of parents or guardians of persons under 21 years of age is not essential to the validity of the marriage; but, if one of the parties be under that age, the party who procures the marriage to take place is made responsible, by the exaction of an oath or other security, for the consent of the minor's father, guardian, or mother, or (under special circumstances) of a Judge of the Division of the Court of Chancery having been obtained; and if such consent has not been obtained, special proceedings can be taken by way of forfeiture to intercept any pecuniary advantage he or she might derive from the marriage.

(2) As to the *formal modes* of entering into the marriage state, they are,—

(i) By *Banns* [the word *Ban* is an old French word for proclamation or proscription], that is, an oral publication or notice of the intended marriage for three successive Sundays in the parish churches of the places where the parties are residing, followed by marriage in one of those churches according to the forms of the Church of England.

(ii) By "Licence" to marry without Banns, whether "Special," that is, obtained directly from the Archbishop; or "Common," that is, obtained from an ecclesiastical officer in the neighbourhood called a Surrogate. The marriage is according to the forms of the Church of England.

(iii) By a "Superintendent Registrar's" Certificate, obtained after compliance with rules as to residence in the district and public notice. The marriage consists of either a religious ceremony in a place of worship registered for the purpose, or a civil ceremony at the office of the Superintendent Registrar. Except in the case of some

privileged religious bodies (as of Quakers and Jews), the marriage must take place before two or more credible witnesses in addition to the Registrar, or, for the civil ceremony, to the Superintendent Registrar, with open doors, and between the hours of eight and twelve in the forenoon.

Careful provision is made for the registration of marriages and for the punishment of ministers of religion or others assisting in the celebration of a marriage without first obtaining the formal securities that the legal conditions for the marriage have been complied with.

(3) As to the *consequences* of marriage, they affect either (i) the *person* or (ii) the *property* of the married persons.

i. In respect of the *person*. Each of the parties to a marriage has a general legal claim to considerate treatment and conjugal fidelity on the part of the other. These claims can be enforced before a Justice of the Peace, who can require sureties for good behaviour on the part of the husband or wife threatening to beat the other, and also in the Court of Divorce, though the remedies are in both cases necessarily very insufficient. These remedies in the last case may take one of two forms ; that is, either what is called a "judicial separation" or a "divorce." The effect of a "judicial separation" is to relieve both of the parties from all the general legal liabilities consequent upon the marriage, though new and special liabilities in respect of supporting one of the parties or of maintaining the children may be imposed at the discretion of the Court. The other remedy, that of *Divorce* or dissolution of the marriage, is only granted on the grounds of conjugal infidelity on the part of the wife, or like infidelity, coupled with cruelty, on the part of the husband. This judicial act enables each party to marry again. When a Divorce is decreed, special arrangements, suggested by the conduct of the parties and all the circumstances of the case, are made for the protection of the monetary interests involved and for the guardianship of children. Special

precautions are taken to provide against a Divorce being obtained through collusion of the parties, and no Divorce is decreed if both parties are proved to have been equally in the wrong. The first part of the proceedings takes place before a single Judge—the Judge of the Division of Divorce, assisted or not by a Jury, at the will of either of the parties. The final decree is made by the full Court of the Division.

Besides these compulsory remedies, private arrangements, carried into effect by "deeds of separation," are sometimes made by married persons indisposed to live together, to which a qualified effect is cautiously given by Courts of Justice.

ii. In respect of *property*, the effects of marriage are determined, partly, by the old "Common-Law," partly by certain doctrines and practices which have during the last 100 years acquired recognition in the Court of Chancery, and partly by the operation of Statutes recently passed for the amendment of the older law.

According to the old English Common-Law,—which still subsists in force so far as it is not affected by the new principles and rules, presently to be mentioned,—the personality of the wife was so completely merged in the husband by the marriage, that all her personal property and the proceeds of her real property as they became payable instantly vested in the husband. He was irresponsible in his use of the property which came to him ; and on the birth of a child, he became entitled (by the "curtesy of England") to an estate for life, on his wife's death, in any lands of which she was absolute owner at any time during the marriage. The only compensation which a wife received was that, on the death of her husband, she had an estate for life in one third part of any lands of which her husband was absolute owner. This was called the wife's right of "dower." The wife had special actions for enforcing her claim, and, however short the duration of the husband's ownership, it was

hardly possible to exclude the wife's claim. But now, through recent legislation, there are very few cases in which the claim can attach.

The gradual limitation or subversion of the above doctrines has been brought about partly by the action of the Court of Chancery, and, partly, by express legislation, especially by a Statute passed in the year 1870.

The Court of Chancery has gradually elaborated the doctrine that property may be settled "in trust" for a married woman, either at the time of her marriage or afterwards, and either by her husband or by any other person, in such a way that the wife should in some respects be as free to use the income of it independently of the consent of her husband as an unmarried woman, but, in one respect supposed to be beneficial to herself, should be less free than any other woman, whether married or unmarried. Thus, if money or land were settled on a married woman "for her sole and separate use, without benefit of anticipation, and free from the control of her present or any future husband," the Court holds her to be free to do what she likes in respect of the income even as against her husband, but holds her restricted in respect of the capital, even though desirous of dealing with it with her husband's concurrence. The policy is to make her free so far as in the concerns of daily life she might wish to act independently of her husband, and restricted so far as a state of freedom might afford a temptation to his prejudicial interference.

The objection to these doctrines is that, first, they only apply to those married people who are rich enough to afford the expense necessarily involved in making even the simplest form of marriage settlement, and, consequently, they bring no relief to the wife of the receiver of weekly wages, whose circumstances, in the present respect, are as perilous, and whose moral claims are of course as great, as those of the wives of the wealthiest. Secondly, it becomes, in certain classes of society, a fixed practice to "tie up" the money of

persons about to marry in all cases, including, very frequently, those in which absolute freedom to deal with it, as circumstances from time to time dictate, would be in the highest degree expedient for the interests of husband, wife, and children. The inconvenience of interposing trustees, the difficulty of procuring competent and considerate ones, and the family discord or irritation to which the discharge of their functions very frequently gives rise, suggest further objections to this mode of redressing the inequalities of husband and wife.

A Statute passed in 1870 improved the law on the whole, but, inasmuch as it preserved the old Common-Law doctrines in their integrity, and only affected to qualify their operation in special cases, it was cumbrous in its structure, and the remedy accorded was very insufficient.

The way in which the Act operated was two-fold. As to some species of property which, but for the Act, would have passed to the husband, the Act secured it in all cases for the separate use of the wife just as effectually as if a marriage settlement had been made or as if the wife were unmarried. As to other species of property, the Act gave the wife the power of making a simple declaration, which had the same effect of settling the property to her separate use.

To the former kind of property belong, for example, all money or goods under 200*l.* and the rents and profits of landed property descending to a married woman. To the latter kind of property belong, for example, money amounting to 20*l.* at least, invested in the public stocks or funds at or after marriage. This Statute was largely extended by an Act of 1882, by which a married woman is enabled to hold or acquire all real or personal property of whatever kind, and to dispose of it by will or otherwise, just as freely as if she were unmarried. All distinctions introduced by the former Act as to amount and kind of property were abolished.

The wife is now entitled, counter to the principles of the Common-Law, to maintain an action. in her own name, in respect of her separate property. She is made primarily liable, on the other hand, to pay her own debts contracted before marriage ; and she may, under certain circumstances, have to maintain her husband and to contribute to the maintenance of her children.

(2) *Guardians.*

Under ordinary circumstances the Father is treated as Guardian of his children under the age of twenty-one or till their marriage under that age. He is entitled to the custody of them as against other persons up to the age of twenty-one, and up to the age of sixteen they cannot leave him against his will. He is obliged to provide adequate food, clothing, medical aid, and lodging for his children up to the age of fourteen, under pain of six months' imprisonment ; and he is liable, under pain of a continuing fine, to provide for, and maintain, his children and orphan grandchildren, up to any age, if blind, lame, impotent, or otherwise unable to work. Under recent laws, he is also obliged to have his children educated up to the age of fourteen. The same liabilities in most respects fall on the mother or grandmother in the case of their surviving the father or grandfather, or in case of their having separate property under the Married Women's Property Act of 1870. Though the mother is not considered to be a guardian during the father's life, yet she can claim access to her infant children (that is, children under the age of twenty-one), at such times and subject to such regulations as the Court of Chancery may think proper ; and she has a right to the entire custody of them under the age of seven years.

The father may, by Will, appoint the mother or any one else, or the mother in addition to some one else, to be guardian to his children after his death. If a child has

property and the father have appointed no guardian, the Court of Chancery will appoint one.

The general rights and duties of Guardians in respect of the custody of the children, and—if they have funds for the purpose in their hands—of maintaining and educating them, are exactly the same as those of the Father. In respect of the management of the Ward's property, the subject is included under the general head of "Trustees."

(3) *Trustees.*

It was previously seen that the policy of the "Mortmain" Acts was to prevent lands coming into the hands of religious corporations. A persistent effort to evade these Acts was made by means of interposing persons who could legally become owners, and leaving it to their honour or good faith to allow the religious corporations for whose benefit a gift was made to enjoy the fruits of lands conveyed or devised to themselves. These efforts, though favoured by the Court of Chancery, which was presided over by ecclesiastics, were resolutely withstood by the Legislature, which at last succeeded in sweeping away the whole system. But the notion that a gift might be made to one person *in trust* for the benefit of another became familiarly recognised in the Court of Chancery, which, in cases of gifts so made which did not fall within the Mortmain laws, compelled the persons who were the immediate recipients of the gifts to fulfil the trusts imposed upon them. The varieties of these trusts were, in course of time, largely multiplied, and at the present day the topic of Trusteeship and of the rights and duties of Trustees is one of the most important branches of Law. The Court of Chancery keeps a watchful, or rather severely critical eye on the acts and omissions of trustees, and employs its most potent and searching mechanism to secure that trustees shall draw as little, and those on whose behalf the trust is held (the *cestui que trusts* in old Law French) as much, per-

sonal benefit as possible from the trust. Trustees are thus bound (under the penalty of being liable to make compensation out of their own private resources) to take the utmost care of property committed to their charge, to protect it from waste, to invest funds safely and advantageously, and to incur such expenditure as, and no more than, is strictly necessary and profitable.

Trustees may be distributed into two classes, passive and active, according as they have merely to be intermediate organs for the receipt of money entrusted to them from one quarter and the payment of it to another, or as they have, in addition to this, a variety of active duties cast upon them. To the latter kind of trustees belong guardians of children and lunatics, executors and administrators, and assignees in Bankruptcy (that is, the persons to whom all the insolvent's money or goods are transferred in trust for distribution among his creditors). Nevertheless, as has been seen above, all trusts have some active duties attached to them, though where more than one trustee is appointed, it is usually one of them only who acts in the name of the rest, the rest remaining none the less responsible. Trustees must generally assent to undertake the trust imposed upon them, though there are numerous cases in which persons interfering with the property of others, or accidentally having funds of theirs in their hands, are treated as trustees even against their will.

V. LAW OF "TORTS" OR CIVIL INJURIES.

The notion of a *Tort*, or Civil Wrong, is that of such a violation of a right as is neither a Breach of Contract nor a Crime. The rights which afford occasion to this violation thus fall under one of three classes, that is (1) rights of ownership; (2) rights of special classes of persons; and (3) those universal rights which appertain, in a greater or less degree, to every member of the community, such as rights to personal security, to free locomotion, to the conditions of

a healthful existence, and to that amount of fair reputation to which their character and conduct entitle them. The violation of these different classes of right—which are sometimes made to be *crimes* as well as torts—are such as trespass to property or to the person, false imprisonment, malicious arrest and prosecution, nuisances in all their various sorts, slander and libel. The remedy is pecuniary compensation, accompanied (in some cases) with restitution of a thing detained.

VI. CRIMINAL LAW.

A crime is an act which the State absolutely forbids, and which it employs all the machinery of police, prosecution, and punishment, which it has at hand, either wholly to prevent or at the least to render as infrequent as possible.

In English Law every crime is said to be either a Treason, or a Felony, or a Misdemeanour. The two first of these terms are old feudal words, the first implying an active breach of good faith on the part of a vassal towards his lord, and the second implying such a breach of feudal duty as carried with it forfeiture of the lands held. As society progressed the older classification of crimes was felt to be no longer sufficient to meet the growing forms of violence, and gradually a new class of crimes, that is, the class of "misdemeanours," founded on the notion of a civil injury sustained by the Crown, was added to the old ones. The class of "felonies" and the class of "misdemeanours," especially the latter, were gradually enlarged as fresh manifestations of fraud, malice, and violence accompanied the growing commercial and social complexity of modern life. At the present day the distinction between misdemeanours and felonies is little more than nominal, involving as it does only a slight difference of procedure. All forfeitures for felony have been recently abolished.

The crime of Treason may be generally described as an offence directed against the constitution or administration

of the State. It is more particularly described by a number of Statutes, commencing with that of the twenty-fifth year of Edward III This Statute was very general in its terms, and included under the head of "treason" a number of acts of very different moral complexion and political importance. Consequently, a number of successive Acts were needed to interpret the first one and to protect personal liberty against abusive constructions of it. Some of these Acts prescribe the number of witnesses requisite for conviction, and the number and quality of essential facts to which their testimony severally must relate. Others secure that the accused is furnished at a definite period before his trial with a list of the jurors and the adverse witnesses, and with a copy of the "indictment," or formal statement of the offences charged against him. In spite, however, of these statutory precautions, a tendency constantly manifested itself in Courts of Justice (which were largely under the influence of the Crown) to extend the construction of the Treason Statutes, so as to bring under them all sorts of offences, even of the nature of riot or of the mere free expression of political opinion. These doctrines of what is called "constructive treason" were repudiated by the Bar in the reign of George III.; but in that reign Statutes were nevertheless passed giving legislative substance to these very doctrines.

A more lenient tendency has, however, prevailed of late. Recent Statutes have relegated to the general head of *felonies* a number of acts which, by constant judicial construction, had come to be treated as treasons. A double advantage is thus gained. Innocent persons are less exposed to slanderous State prosecutions; and persons really mischievous can be tried by the less complicated process common to felonies generally.

Felonies and *Misdemeanours* are offences directed against either person or property, or against both conjointly. Provision is made for the punishment of *accessories* to crimes, whether before or after the fact, of those who *attempt*

to commit crimes, and for the aggravated punishment of those who commit repeated crimes. An anomalous form of offence is that styled "misprision of treason." It consists in the bare knowledge or concealment of treason, and is evidenced by a person apprised of treason forbearing to communicate it to a judge of assize or justice of the peace.

A large number of acts are made felonies or misdemeanours for the purpose of indirectly securing ulterior moral and political ends. Such acts are bigamy, false entries in public registers, frauds by trustees or bankrupts, and cruelty to animals.

Besides "crimes," which are technically classified as treasons, felonies, and misdemeanours, and are the subject-matter of indictments at Courts of Quarter-Sessions, Courts of Assize, and the Central Criminal Court, there are many other offences which are described by successive Acts of Parliament, and are tried by a Court of Petty Sessions or by a Police Magistrate. They are said to be cases for summary conviction, though in most of these cases the accused has the option of having the trial reserved for a supe ior Court; and in some cases an appeal to a Court of Quarter-Sessions is specially allowed.

The offences forming the subject-matter of summary convictions are very various, including acts of the merest civic irregularity as well as those which involve moral guilt. They cover what are called "breaches of the peace," frauds against the revenue, and offences against Acts for the regulation of the Metropolis, of public health, of public education, public morals, and game preserving.

The rapid multiplication of offences punished summarily is a danger to public liberty which ought to be jealously watched. No Jury is needed, and the Judges are either unskilled country gentlemen, or lawyers appointed, removable, and capable of promotion, by the Executive Government. In the course of rapidly discharging a multiplicity of routine business of this sort, the Judge and the policeman

must almost inevitably come into an easy *rapport* with one another, highly convenient for the ready and agreeable discharge of their functions, but very perilous to public liberty, and unfavourable to the patient discrimination of the character of individual cases. No doubt it would be impossible to reserve every transgression of a bye-law or police regulation for a formal trial by jury. But none the less the jurisdiction in question demands to be jealously watched and rigidly circumscribed. As few offences as possible should be included under such jurisdiction; every protection to the accused in the way of favourable presumptions, and, if possible, of re-hearing before a differently constituted tribunal, should be afforded; the Judges should be known to be impartial, disinterested, and qualified for their office by good legal training; and the police should be carefully selected, strictly supervised, and made readily accountable for misconduct.

The topic of Criminal Punishments has already been treated in connection with Criminal Procedure.

SECURITIES FOR THE "LIBERTY OF THE SUBJECT."

It is always held to be a valuable characteristic of the English Constitution that, under it, the maintenance of what is called the "Liberty of the Subject" is treated as a matter of peculiar consideration and consequence. The expression "Liberty of the Subject" does not, of course, mean that there is any member of the State who can do everything he likes, or is exempt from the control of the Laws. It means that the Laws are (if the true principles of the Constitution be observed), or are intended to be, made and executed in such a way that no individual person's freedom is impaired to a greater extent than is absolutely needed in order to secure the largest possible amount of freedom and benefit for all. The doctrine thus both discredits all laws which interfere with personal liberty without an adequate reason for such interference based on considerations of the

public good, and also discredits all methods of putting laws in force which expose individual citizens, however obscure or even undeserving of general moral sympathy, to arbitrary aggression on the part of the police or of the judicial administrators of law.

The chief safeguards of the Liberty of the Subject concern (I.) the mode of making laws ; (II.) the judicial administration of laws, that is, the trial of accused persons; (III.) the general prevention of illegal imprisonment ; and (IV.) the definition and circumscription of the duties of the police, especially in respect of subjecting suspected persons to a preliminary judicial examination.

I. The first class of safeguards is found in the existence and mode of composition of the House of Commons, the popular and representative branch of the Legislature. The infirmities of this safeguard are (1) that it is a most arduous, or even impossible, task to obtain a body of persons which shall do more than very roughly represent the desires and sentiments of even the majority of the persons in the community, let alone those of all persons; and (2) that the constant temptation besetting a popular body,—through its unwieldy size, its want of information, its consequent reliance on authorities the value of which it cannot gauge,—is to legislate in respect of public liberty as heedlessly and tyrannically as an aristocratic body or even a despotic autocrat.

II. The second class of safeguards includes the provision for Trial by Jury in the more important criminal cases. This institution has been already explained. The political value of it is that the ultimate judges of whether an accused person is "guilty" or "not guilty" are not appointed by the Executive Authority, but are chosen (subject to certain restrictions and exemptions) at random out of the body of the people ; and that, inasmuch as they can be individually objected to or "challenged" by the accused (as well as by the prosecution) at the time of trial, with or without reason given, according to the quality of the offence charged and

the number challenged, the personal proclivities of particular persons who might be summoned as jurymen are provided against, and any attempt to "pack," or choose unfairly, a jury in order to secure a verdict in favour of the Executive is frustrated.

To the same class of safeguards belongs the protection accorded to jurymen by which they cannot be made civilly or criminally responsible for their verdicts. The only relief against the consequences of an adverse verdict is in civil cases, when, if a very strong case can be made out for it, a "new trial" is granted. To this same class also belongs the protection of the functions of jurymen against possible encroachment by Judges. Such a protection was emphatically accorded by Mr. Fox's Libel Act, the effect of which is to entitle a jury, on an indictment for criminal Libel, to find whether upon the whole evidence a prisoner is guilty or not guilty, without confining themselves (as it had been argued and even judicially decided that they must do) to the mere question of publication, the libellous quality of the matter published being absolutely determined by the Judge.

To this class of safeguards also belongs the independence of the Judges of the Superior Courts, secured by the clause of the Act of the reign of William III. by which the succession to the Crown was settled in the present reigning family, enacting that thereafter "judges' commissions should be made *quamdiu se bene gesserint* (during good behaviour), and their salaries ascertained and established; but, upon the address of both Houses of Parliament, it might be lawful to remove them." The Judges were thus taken out of the reach of temptations which either fears or hopes from the Crown might present, and up to that time had notoriously presented.

III. The third class of safeguards are those which provide against illegal imprisonment or confinement. These safeguards either take the form of securing that any one whose liberty is restrained shall have an opportunity (such as that

presented by the proceedings for obtaining the writ of *Habeas Corpus*, already described) of having the ground of his restraint judicially investigated; of being speedily brought to trial if accused; and of the executive being restricted as to the place of his imprisonment: or they take the form of securing compensation in a civil action for illegal detention. The general principle that "excessive bail must not be required" is an acknowledged, if not very available, safeguard for the same end. It would seem that every offence is "bailable," though the allowance and amount of bail demanded must depend upon the circumstances of the case.

IV. The fourth class of safeguards concerns the definition and circumscription of the duties of the police, especially in respect of subjecting suspected persons to a preliminary judicial examination. There are three ways in which an accused person may be brought before Justices of the Peace sitting in Petty Sessions, with a view either to summary conviction or to committal for trial before a Superior Court. Either (1) the accused may be '*summoned*" and appear voluntarily in obedience to the summons; or (2) be brought up, whether with or without previous summons, by a policeman pursuant to a *warrant* or written document which states the name of the accused, the character of the offence, and the name of the policeman executing it, and which is signed by the Justice who grants it; or (3) the accused may be brought up by a policeman or other person *without warrant*. Which of these processes may be resorted to in a given case depends partly upon general principles of the Common Law, and partly upon the provisions of any special Act of Parliament (of which there are a vast number) directing the particular procedure applicable. Generally speaking a policeman is justified in arresting a suspected person *without warrant*, if he has reasonable ground to suspect that a felony has been committed; and any private person may similarly arrest a suspected person if a felony has actually

been committed. This means that if a private person were sued in such a case for malicious arrest or false imprisonment, the only sufficient defence would be proof of the fact that a felony had actually been committed, and that there was reasonable ground for suspecting the plaintiff. There are, however, a vast number of cases, under special Statutes, in which policemen and even private persons may make an arrest without warrant. Such cases are those of persons believed to be on the point of committing treason or felony (as by loitering about in a highway or yard for the purpose); of persons offending against certain municipal regulations for public health, locomotion, decency, and convenience; and of persons resisting a policeman in the execution of his duty.

The purpose of a *warrant* is to secure the responsible co-operation and assent of a judicial officer at the earliest stage of the proceedings. Thus the judicial officer (who for this purpose may be a Secretary of State) has to judge of the sufficiency of the grounds of suspicion before he grants the warrant; and in some cases he can only grant the warrant when the information on which it is founded is given on oath. It is on this principle that what is called a "general warrant," that is, a warrant to apprehend *all* persons suspected, without naming or describing any person specially, or to apprehend all persons guilty of a crime therein specified, are illegal, and will not, like legal warrants, protect the officer who executes them.

It is a common maxim that an "Englishman's house is his castle:" this means, however, no more than that an Englishman's house or private room cannot be forcibly entered by the police except for a few clearly defined purposes and for important public ends. Thus a policeman, in pursuit of one whom he believes to be a felon, may break open any doors which obstruct his course; or he may search anyone's premises for goods believed to be stolen, on procuring from a Justice of the Peace a search-warrant specifying the premises and the character of the goods; but no such

warrant can be issued (as was contended in a celebrated case) by a Secretary of State to seize the papers of an author of a seditious libel.

Extradition.

A peculiar case affecting the liberty of the subject is presented when a foreign State demands the surrender or extradition of a person who is alleged to have committed a crime in the territory of that State, and who has taken refuge in this country. There is much reason to doubt whether, apart from special treaties for the purpose, one State can be said by International Law to have any legal right to the surrender of persons who are in the territory of another. As a matter of fact, the right (if any) is defined, its measure ascertained, and the procedure for giving it effect described, by "Extradition Treaties," which are becoming increasingly numerous. In the year 1870 a statute was enacted in this country for the purpose of supplying a uniform procedure, in view of which all future Extradition Treaties between England and Foreign States should be made, and to which they should bear reference; it having been previously the custom to enact a separate Statute for the purpose of giving effect to each successive Treaty. This Statute was amended in 1873.

The Statute of 1870, as amended in 1873, secures (1) that no accused person shall be apprehended or given up to a foreign State unless the evidence is of the same quality as that which, even if uncontradicted, would be needed to procure the issue of a warrant for the apprehension or the committal for trial of a person charged with the same crime committed in this country; (2) that either the police magistrate or the Secretary of State at whose hands the surrender is sought shall be empowered to refuse the surrender, if, in the view of either of them, it appear that the real purpose of the requisition is to punish the fugitive for a political offence; (3) that a sufficient period, that is, fifteen days, be allowed to intervene between the committal of the accused

to prison and his surrender, in order to afford him a fair opportunity of having the grounds of his committal judicially investigated on the return to a writ of *habeas corpus*; (4) that power be reserved to the Secretary of State at any time during the proceedings to order the prisoner to be discharged from custody.

LOCAL GOVERNMENT.

It will be convenient to interpose in this place an account of the chief institutions for the conduct of Local Government. This portion of the whole Government of the country is carried out by a variety of local authorities appointed in different ways; some of which trace their origin to the most ancient institutions in the country, while others have been called into being by a series of modern Statutes.

The subject is rendered a perplexing one by the fact that, owing to the hap-hazard way in which legislation has proceeded, the same geographical area is distributed for purposes of local government according to a number of different systems for different purposes; and sometimes the same local authority is charged with a variety of very different functions, or a number of different local authorities exist side by side charged with functions scarcely distinguishable in their general nature.

Some of the divisions into which the territory of England and Wales is distributed are very ancient, and have thus become, owing to changes in population, unsuited to the wants of the present day. Thus for many purposes the old divisions have been altered, large and populous districts being broken up into several parts, and smaller districts being united together. The general principle in local government is that they who pay a tax shall take part in administering the proceeds of the tax, or, at least, shall elect those who administer such proceeds. The chief excep-

tion is in the case of Justices of the Peace, who are chosen by the Crown out of the County gentlemen who have a certain amount of property, and who at their Court of Quarter Sessions have command over all the money collected by taxes for the general use of the County,—as for instance, for building gaols, prosecuting offenders, and payment of salaries to County officials.

The largest division of the country is into *Counties* or *Shires*. A *County* or *Shire* seems to have been at first a separate kingdom. In Henry the Eighth's reign counties were placed, for military purposes, under the control of the Lord Lieutenant. A county has an organization of its own, the centre of which is the Court of Quarter Sessions. Large Counties are for many purposes further subdivided, as, for instance, Yorkshire into Ridings. There are 52 Counties in England and Wales. Each County is divided into a number of *parishes*—of which there are 11,099 in England and Wales—and, if the parishes are small, they are often, for certain purposes, joined together into *districts*; or, if the parishes are very large, they are broken up into districts, so that in some cases a large parish may contain a number of districts—or a small parish may be united with other small parishes to form a district. These *districts* are always made by special Acts of Parliament, while the parishes and the counties are very ancient, and preserve their old limits.

The purposes of Local Government may be classed as follows :—1. Relief of the Poor. 2. Public Health. 3. Education. 4. Making and repairing highways, constructing public buildings, halls, libraries, gaols, lunatic asylums, and workhouses for the poor. 5. Taxation.

1. RELIEF OF THE POOR.

The professed principles upon which the poor are relieved out of the proceeds of taxation are that only those poor are supported who by reason of extreme youth or age, or accident, or sickness, are unable to work, or who, though able to work, cannot obtain work. This principle is carried out

by a number of parishes being joined together into a district called a "Union;" or if the parish be very populous (as in London) by making a single parish into a "Union." Every Union is liable to support its own poor; that is, all the householders in each parish of the Union, living in houses worth above a certain value, are taxed in proportion to the value of their houses for relieving the poor on the principles above described. No poor person can be charged upon a Union unless he or his parents were born in a parish belonging to the Union, or unless he or they have gained a "settlement" in certain definite ways, as (for instance) by renting a tenement of the *minimum* value of 10*l.*, having resided therein for forty days, and having been assessed to the poor-rate and paid the same for one year. Should a person become chargeable to a Union who does not satisfy these conditions, he can be *removed* to his own Union at the expense of that Union, but not if he has resided for three years in the new parish.

The officers who administer the Poor Law in each Union are a Board of Guardians, one Guardian at least being elected annually by the ratepayers of each parish. The number of Guardians to be elected for each Union, and the qualifications of Guardians, are fixed by the "Local Government Board" in London. In each *parish* there is also a special set of officers called *Overseers*. There may be only *one*, or, in the case of a large parish, there may be as many as *four*. They are appointed annually by the Justices of the District, generally on the nomination of the parishioners. In some cases Guardians are enabled to appoint a paid Assistant-Overseer. The Guardians and Overseers are not paid. Every Union is constructed by the Local Government Board in London, and all the officers of the Union are under its direct and constant control. The duties of the Guardians and Overseers are as follows:—

1. *The Guardians* have (1) to investigate the claims of applicants for relief; (2) to provide houses for the reception

of the poor; (3) to provide for the due education of pauper children; (4) to provide for the proper care of the sick poor or for the lunatic poor; (5) to provide that paupers able to work should do certain tasks set them while resident in the workhouse; (6) to send poor not belonging to the Union to their proper parishes.

2. The work of the *Overseers* is (1) to grant relief in pressing cases, and before the case can be examined into by the Board of Guardians, and (2) to make and collect the rates assessed upon the parish for the relief of the poor. These are called the "Poor Rates;" but the money when collected has to be applied by the Overseers not only to the use of the Guardians, but to a vast number of other purposes not strictly connected with the relief of the poor.

There are constant complaints of the inefficiency of the existing systems of poor relief. It is said that the operation of the poor laws is to multiply paupers by teaching persons to rely upon the support of the State instead of upon their own exertions. It is said that the really unfortunate poor are neglected and badly treated, while the idle, improvident, and fraudulent are relieved. It is said also that Union workhouses and hospitals are badly managed, and that the aggregation of children in pauper schools tends to perpetuate a race of paupers. It is further complained that the unscrupulous mode in which relief is given by private persons tends to aggravate many of these evils. To meet this it has been suggested that no out-door relief should ever be given, except to the sick and aged, and that private persons and charitable bodies of persons should endeavour to co-operate with the poor-law authorities so as to assist them in discovering the real character and wants of applicants for relief. Some such scheme has been tried with excellent results in some parts of Germany, in Paris, New York, and Glasgow.

2. PUBLIC HEALTH.

The policy of recent Acts of Parliament has been to extend the facilities for forming, and to increase the power of, Local Boards for the purpose of promoting public health. These Boards are formed by the Local Government Board in London, upon a resolution of the ratepayers, or of some permanent local authority, as the "Town Council" of a Borough, or (in some cases) upon a petition to a Secretary of State signed by one-tenth of the resident ratepayers, and supported by evidence.

It is the function of a Local Board to provide for the general cleanliness and health of the district, for the cleansing of cesspools, the removal of nuisances, the sale of good meat, the supply of fresh water, the construction of a sound system of sewerage, the regulation of slaughter-houses and common lodging-houses, the widening of streets, and the laying out of pleasure-grounds.

Local Boards have considerable powers of making rates and entering into contracts, borrowing money, and building and pulling down premises, though in some cases they can only act with the approval of the Local Government Board in London.

3. EDUCATION.

The national education of the country is now conducted partly by the Church of England, partly by voluntary bodies, and partly by School Boards. School Boards are Local Boards elected by the ratepayers every three years, by what has been already described as "cumulative voting." There is a School Board for each of the greatest towns in the country, and School Boards are elected in other towns and districts, if, upon a report of a Government inspector, it appears that there is not sufficient school accommodation, or if the inhabitants generally desire a Board. The Board when constituted has considerable power of making rates,

and of building schools, and has to appoint the masters, and to determine the plan of education. It can also, subject to approval by the Privy Council, make attendance at school compulsory, the parents of absent children being punishable by fine. The School Boards consist of different numbers of members, according to the size of the district. In London there are as many as between fifty and sixty. In small places there are from ten to fifteen.

4. MAKING AND REPAIRING HIGHWAYS, AND CONSTRUCTING PUBLIC BUILDINGS, HALLS, LIBRARIES, GAOLS, LUNATIC ASYLUMS, AND WORKHOUSES FOR THE POOR.

These tasks are performed either by Justices of the Peace at Quarter-Sessions, or by Local Boards, or by similar local authorities elected by the ratepayers under Acts of Parliament, as those styled "Improvement Commissioners."

5. LOCAL TAXATION.

The present modes of local taxation in the country are very various, and, owing to historical causes, the whole matter is confessedly in such a complex state that there is an urgent demand for fresh legislation. At present the following is the general plan of local taxation. The taxes are required (1) for *general county* purposes, as, for repairing bridges, building gaols, prosecuting offenders, the maintenance of pauper lunatics, the payment of salaries to county officials: or (2) for the purposes of *particular districts*, as parishes or unions of parishes. Such purposes are, the relief of the poor, the repair of highways, lighting and watching, carrying out the Public Health and the Local Government Acts, and establishing museums and public libraries under special Acts of Parliament. The amount of money needed is determined by the Board charged with the particular duty in the performance of which it is to be expended.

This is generally either a Local Board, or Justices sitting at Special Sessions, or some special Board created under particular Acts of Parliament.

In the case of the *County Rate*, the amount to be paid by each district in the county is estimated by a committee of not less than five Justices, acting under the direction and appointment of a Court of General or Quarter Sessions.

The amount payable by each individual person is assessed upon the value of his property in the district, the property upon which he is liable to be rated being generally land or houses. The *occupier* of a house is the person who is treated as the owner, and obliged to pay the tax. The value of a house or piece of land is "assessed" by the "overseer" of the parish, and the amount "in the pound," that is, the amount everyone has to pay for each pound of rateable value of his land or house, is fixed at a meeting of ratepayers.

The local government of certain towns, now very numerous, has long differed much from that of county districts. At different periods the Crown has granted them "Charters," that is, has, by a public document, engaged that they shall be governed, for some purposes, by persons chosen out of their own body, have magistrates of their own, and, to a proportionate extent, be exempted from the operation of the general law. Some of these towns have long ceased to be as important as they once were. Others have become more important; while great abuses had sprung up in the old (so-called) corporations. In 1835 an Act was passed for the regulation of corporate towns, and it has been introduced into about 200 towns. According to this Act, the Local Government is managed by a Town Council chosen by persons who for about three years shall have occupied any house or shop within the borough, and also been inhabitant householders within the town or within seven miles of it, and been rated in respect of the premises, and paid rates. The Councillors

elect a "Mayor," or Chief Magistrate, and "Aldermen." Aldermen are elected for six years. The Mayor is in office for one year, but may be re-elected. Every three years one-half of the number of Aldermen retires.

The general functions of the Council, Aldermen, and Mayor are to do what has already been described as the work of Local Boards. The Mayor is always a Justice of the Peace. Any town is empowered to have lunatic asylums and prisons of its own. The general powers of acting and taxing belonging to a Town Council are similar to those of a Local Board.

The City of London has had a long series of Charters granted to it commencing with that of William the Conqueror. The fifth Charter of King John "granted and confirmed to the Barons of London the right of choosing a Mayor every year, and at the end of the year of removing him and substituting another if they will, or electing the same again." The last Charter, that of George II., constituted all Aldermen for the time being Justices of the Peace.

The "City of London" is, however, only a small part of the whole metropolis, and it is now one of the most pressing political problems to ascertain how to extend to the whole metropolis the advantages of municipal institutions without impairing their characteristic value or bringing them into competition with the Central Government.

ORGANISATION OF THE POLICE.

In early times the duty of keeping the peace and preventing wrong-doing was held to lie equally upon all the inhabitants of the country; but, as all could not be constantly on the watch, the inhabitants of each Parish elected one man as *Parish Constable*, to preside over the affairs of

the Parish ; and four others were to be under his authority. When he "raised the hue-and-cry" everybody was bound to help to catch the offender within the bounds of that Parish, and the duty was passed on to the neighbouring parishes. But as time passed, and the country became more thickly populated, fresh arrangements were made, gradually superseding this popular election of constables, and tending to lay the responsibility of keeping order upon paid officials. The strongest traces left of the old doctrine, that everybody was bound to help to keep order, exist in the swearing in of *Special Constables* (see later on), and in the nearly obsolete institution of *Parish Constables.* These are entitled to no payment—though the Vestry, or body of assembled ratepayers, may vote them payment—and they are liable to a penalty if they refuse to serve or to find a substitute, unless they come within the class of exempted persons. The persons exempted from service as constables are—(1) members of either House of Parliament; (2) lawyers; (3) clergy and ministers ; (4) schoolmasters ; (5) medical practitioners ; (6) persons employed in the civil service ; (7) officers of the army and navy, and officers and men serving in the yeomanry. The persons disqualified for serving as constables are all who have been convicted of any infamous crime, dealers in excisable liquors or in beer (retail), licensed victuallers, and gamekeepers. Parish constables are now no longer appointed, except under the special direction of a Court of Quarter Sessions.

The powers and duties of the Police are divisible into (I.) the execution of the criminal law, and (II.) the fulfilling of duties under other portions of the law.

I.—They are to arrest without warrant (1) "disorderly persons," as defined by an Act of Parliament ; (2) persons whom they see committing a breach of the peace ; (3) persons who are charged with a breach of the peace ; (4) persons whom they reasonably suspect to be guilty of *felony.* They are to arrest any person on the warrant of a

Justice of the Peace. For the purpose of executing a warrant or of arresting on suspicion of felony they are authorised to break open doors, and even to kill the suspected felon if he cannot be otherwise taken. "If the constable or his assistants be killed in attempting such arrest, it is murder in all concerned." Persons refusing to help a policeman in making an arrest or in keeping order are punishable. A constable cannot be sued for anything he does in execution of a Justice's warrant; nor, after six months have elapsed, for anything he does during the performance of his duty.

II.—A large number of duties have been laid upon the Police by different Acts of Parliament, among which are the following:—(1) to take care that houses for the sale of liquors are shut at the legal hours; (2) similarly to report gambling houses; (3) to keep order in the London streets where there is a great concourse of vehicles, and generally to assist in regulating the traffic of London streets; (4) to keep order in the streets of towns on the occasion of processions or great public ceremonials; (5) to enforce bye-laws for regulating the use of public parks and pleasure-grounds.

Special Constables have, during their time of office, exactly the same powers, duties, and privileges as ordinary policemen, unless it is otherwise expressly stated when they are appointed.

In all the large centres of population a certain number of constables, chosen for their superior ability and education, are set apart for the purposes of tracking suspected persons, and endeavouring to find the unknown perpetrators of crimes. They are dressed in plain clothes (not uniform), are more highly paid, and are named Detectives.

The whole Police Forces of the Country may be distributed into the following classes:—

I. Borough Constables.
II. County Constables.
III. Metropolitan Police Constables.

IV. Constables for the City of London.
V. Parish Constables.
VI. Special Constables.

I. The Borough Constables are in the proportion of 1 to 800 of the population of Boroughs.

II. The County Constables are in the proportion of one to 1,348 of the population of Counties, exclusive of Boroughs.

III. The Metropolitan Police (deducting 614 who are employed in the Dockyards) are in the proportion of one for every 420 of the population of the Metropolitan Police District.

IV. Constables for the City of London are in the proportion of one to 349 of population during the day in the City. (N.B.—So large a proportion of the day population of the City sleep beyond its bounds that the proportion of the City Police to the population in the night is one to 106.)

The cost of maintaining the forces in the year averages :—

	£
I. Borough Police . . .	540,000
II. County Constabulary . .	770,000
III. Metropolitan Police . . .	880,000
IV. City of London Police . .	65,000
Total .	£2,255,000

These expenses include clothing and accoutrements, salaries and pay, superannuation allowances, station-house charges, and all incidental expenses.

I.—The Borough Police in each Borough consist of—
1. A Head Constable. } (Appointed by the "Watch"
2. Serjeants. } Committee of the Town
3 Constables. } Council.)
4. Inspectors. (Appointed by Government.)

The expenses are paid partly by a Borough Rate and partly by Government.

This payment by Government amounts to one-fourth of the expenses of constabulary certified as efficient, and serving a population of not less than 5,000.

II.—The County Constabulary in each County or Parliamentary Division of a County consists of—

1. A Chief Constable (appointed by the Justices in Quarter Sessions); or two Chief Constables, if the County has been so divided as to send Members to Parliament for each Division.

2. Superintendents.
3. Serjeants.
4. Constables.

(Appointed by the Chief Constable.)

5. Inspectors. (Appointed by Government.)

The expenses are paid partly out of a Special County Rate and partly by Government.

The Borough and County Police may be consolidated on agreement, and then the Chief Constable for the County takes supreme control, and can dismiss men belonging to the Borough Police Force, though vacancies must be filled up by the Watch Committee.

If no such agreement be come to, under certain circumstances application may be made to the Secretary of State to compel consolidation.

Superannuation allowances, gratuities, and grants to widows are provided, after different lengths of service, in favour of members of the Police Forces. The fund out of which they are paid is composed of a proportion of the salaries and wages, stopped for this purpose, and of certain judicial fines.

III.—The Metropolitan Police consists of—

1. The Chief Commissioner.
2. Two Assistant Commissioners.
3. Four District Superintendents.

4. Superintendents.
5. Inspectors.
6. Serjeants.
7. Constables.

(Appointed by the Home Secretary or by his subordinates.)

It is not necessary to give further illustrations of the mode of Police Organisation.

TAXATION AND THE REVENUE.

The taxes of the United Kingdom may be thus classified :—

I.—DIRECT TAXES, that is, taxes paid personally by those on whom the real burden falls, as, for instance, by occupiers of houses of a certain value, or having a certain amount of income from other sources, or owning certain articles of luxury. Such taxes are—

(1) *The Income Tax*, bringing in a varying sum according to its amount. A penny on every pound of income brings in more than a million pounds revenue. All incomes under 150*l.* a year are at present exempted from taxation, and, for incomes under 400*l.* a year, some relief from the duty may be claimed. This tax varies from about twopence to about sixpence in the pound.

(2) *House Duty* and *Land Tax.*

(3) *Assessed Taxes*, that is, taxes *assessed* or computed according to the classes of luxuries possessed by the persons paying them. These luxuries are carriages, men-servants, armorial bearings, and the like.

II.—INDIRECT TAXES, that is, taxes computed on the value of certain things manufactured, sold, or imported; or by way of payment to the Crown on performing certain transactions. Such are—

(1) *Customs*, that is, taxes upon imported commodities,

varying with their quality and quantity, paid by the importer. Such commodities are—tea, coffee, wine, spirits, and tobacco.

(2) *Excise*, that is, taxes upon the manufacture or sale in this country of certain commodities. Such commodities are—malt, beer, wine, spirits, tobacco, silver plate, and playing-cards.

With respect to both these, though the tax is paid by the maker, importer, or seller, it falls mostly upon the buyer of the commodities, as he has to pay a higher price, and therefore this is called *Indirect Taxation.*

(3) *Stamps*, that is, payments to the Crown upon performing certain transactions. A stamp, or adhesive label properly marked, has to be fixed to the document which is the evidence of the transaction, and this stamp has to be purchased from officers of the Government. The price varies with the character of the transaction, and generally with the amount of the money involved. Taxes are payable on succeeding to property under a Will, or when a person dies without a Will, or upon leave being obtained to carry a person's Will into effect. "Legacy Duty, Succession Duty, and Probate Duty," are reckoned under this head. The rules are detailed, and constantly varying. A legal document unstamped when it ought to be stamped can only be used in a Court of Justice by the payment of a heavy fine.

III.—Besides the products of Taxes, the Revenue is raised from—

(1) The Postal and Telegraph Service.

(2) The Crown Lands.

(3) Certain Miscellaneous Sources.

The following is about the average anticipated receipts from these different sources:—

Direct Taxes.	£
Income Tax at *2d.*	3,000,000
Land and Assessed Taxes and House Duty	3,500,000

Indirect Taxes.

	£
Customs	21,000,000
Excise	28,000,000
Stamps	9,500,000
Post Office and Telegraph Service	8,500,000
Crown Lands	500,000
Miscellaneous	4,000,000

The total is a little over 77,500,000*l.*

The cost of collection of the Revenue is about 5,000,000*l.*, and appears below under the head of Expenditure.

The ordinary Expenditure of the country is distributed under the following chief items :—

	£
The Interest and Management of the National Debt (amounting to a little over 700,000,000*l.*) and Terminable Annuities	26,000,000
Consolidated Fund charges (including expenses of the Royal Household [Civil List]; Annuities and Pensions; expenses of Courts of Justice)	1,500,000
Army	14,500,000
Navy	10.500,000
Civil Service	11,000,000
Collection of Revenue	5,000,000
Post Office	4,500,000
Telegraph Service	1,000,000

The whole amounts to about 74,000,000*l.*

The general mode in which the Direct Taxes are collected is as follows :—At certain times in the year (now generally the beginning of the year) a printed paper is left, by a subordinate officer for collecting the Revenue, with everyone who is liable to pay any direct taxes. The person so charged is requested to "make a return," that is, to give a written statement of all the objects of taxation for which

he deems himself liable to be taxed. This paper has to be sent back to the officer from whom it issued by a given day; and within a short time a fresh paper is left with the person so charged, stating the exact sum of money which he is liable to pay, and mentioning when and where it is to be paid. If the person charged has any complaint to make on account of the amount of taxes imposed, or of the principle of their "assessment," he may appeal to the Justices of the Peace for the District, sitting for the purpose, at a "Special Session." If the person charged makes no return, or is proved to have made a false return, he is liable to pay a heavy fine.

In the case of all incomes paid by Government, as in the case of all Dividends paid by way of interest on the National Debt, a proportionate part is deducted, or "stopped," as Income Tax.

In the case of Indirect Taxes, besides the method of purchaseable "Stamps," two kinds of machinery for their collection, or for the prevention of frauds, are employed. One is that of *licenses*; by which only those persons who have bought a permission or "*license*" from Government are allowed to sell or to use the things the sale or use of which is taxed. The other method is that of *inspection*; by which a vast number of Government officials are appointed for the sole purpose of watching and testing processes of manufacture, and also of estimating the value of things imported.

It is obvious that the latter method of indirect taxation involves the use of very severe laws for preventing evasion of the Revenue Laws, and also very complicated machinery for detecting illicit traffic and smuggling.

GOVERNMENT STATISTICS.

An important function of the Government in its Administrative aspect is concerned with the collection of accurate and exhaustive statistics on all the subjects with which

Government is conversant. The subjects of these statistics and the most characteristic modes of collecting them are here given.

The principal subjects of statistics collected by Government are :—

I. Population.
II. Army and Navy.
III. Police.
IV. Inquests.
V. Civil Law.
VI. Prisons.
VII. Births, Deaths, and Marriages.
VIII. Education.
IX. Revenue.
X. Religion.
XI. Medical and Sanitary Matters.
XII. Emigration.
XIII. Poor Law.
XIV. Trades.
XV. Currency.
XVI. Post Office.
XVII. Diplomatic, Colonial, and Indian Affairs.
XVIII. Exports.

In respect of each of these subjects, the statistics sought fall under a variety of heads, as—

I.—1. Number of population.
2. Proportion of the sexes.
3. Area of each county.
4. Inhabited houses in each county.
5. Occupation of each person.
6. Age of each person.
7. Condition of each person.
8. Distribution of population in towns and country districts.
9. Number of army, navy, and merchant seamen abroad.

10. Number of population in proportion to the area of each county.

(By the Census. For details of process of collection see page 163.)

II.—Army and Navy abroad.
Classes from which they are drawn.
Numbers of, abroad and at home.
Cost of.
Classification of.
Distribution of.
Rate of disease and death in.
Educational and other establishments for.
Cost of administration of military law in respect of.
Religious classification of.
Numbers of Volunteers.
Classification of Volunteers.
Distribution of Volunteers.
Rate of disease and death among Volunteers.
Cost of Volunteers.
Numbers of Militia.
Classification of Militia.
Distribution of Militia.
Cost of Militia.

Number of ships, dockyards, and victualling and transport stations.

Classification of ships, dockyards, and victualling and transport stations.

Cost of ships, dockyards, and victualling and transport stations.

Distribution of ships, dockyards, and victualling and transport stations.

(From the War Office and Admiralty.)

III.—Population, police establishments, and total cost, in each Police District, with the proportion paid by the Treasury.

Number of known offenders and suspected persons at large in each Police District, and of the houses they frequent.

Number of *crimes* committed in each Police District (as far as is ascertainable), number of *persons apprehended*, and modes in which the charges against them were severally disposed of.

Nature of the crimes committed.

Number of persons whose cases were determined "summarily" by Justices.

Result of the proceedings in "summary" cases.

Classes of persons in each district who were proceeded against.

Number of appeals from Justices' convictions.

Number of persons bailed.

Proportion of males and females apprehended.

Age of persons apprehended.

Objects of theft.

Number of each class of verdicts.

Nature of punishments.

Number of appeals, and of consequent reversals of sentence.

Proportion of criminal classes to population.

Proportion of crimes to town and country districts, and to different classes of towns and districts.

Increase or decrease of crime in town or country.

(By the Police Returns.)

IV.—Inquests.—Number of.
" Verdicts of.
" Age and sex of subject of.
" Expenses of.
(By Coroners' Returns.)

V.—Civil Law Proceedings.
In Court of Queen's Bench.
" " Common Pleas.
" " Exchequer.

On Circuit.
In Court of Exchequer Chamber.
„ County Courts.
„ Borough, Hundred, and Manorial Courts.
„ Stannaries Court.*
„ Lord Mayor's London Court.
„ Court of Bankruptcy.
„ Court of Chancery, with its subdivisions.
„ Divorce Court.
„ Probate Court.
„ High Court of Admiralty.
„ Ecclesiastical Court.
„ Appeals to the Privy Council.
„ Judicial Proceedings in House of Lords.
(Returns by Superior Officers of each Court.)

In the case of each of these Courts returns are made as to the—

Number of causes tried or otherwise disposed of.
Nature and result of causes tried or otherwise disposed of.
State of business at the end of each quarter.
Notices of appeal from or appeals to, according to the Court.
Classification of objects of actions.
Amount of Fees paid into Court.
Classes of amounts sued for, and of amounts recovered.

VI.—Prisons.
Number and classification of officers.
Number of persons committed.
„ their previous commitments.

* This is a special court in the tin districts of Devonshire and Cornwall for the determination of civil suits among workers in the mines. The privileges implied in exemption from the jurisdiction of the ordinary courts were confirmed by a charter of Edward I. and explained by statutes of Edward III. and Charles I.

Age, sex, and birthplace of persons committed.
Instruction and occupation of „ „
Number of persons in each prison.
State and condition of prisons with regard to capacity, health, punishments, and number of prisoners sentenced to hard labour.
Details of expenses and total cost of each prison.

Convict Prisons.

Number of convicts in each prison.
Classification of convicts „ „
Officers of each prison.
Expenses of each prison.
(From the Governors' Returns.)

Reformatory and Industrial Schools.

Number
Age
Sex
Instruction
Occupation
Social condition
} of the offenders committed to them.

Offences committed by such offenders.
Number of officers.
Cost of establishments.
(Returns by the Governors or Managers.)

Criminal Lunatic Asylums.

Number, age, sex, of persons confined.
Offences committed by „ „
Officers and cost of establishment.
(Returns by Governors.)

VII.—Births, Deaths, and Marriages.
Number of in each Registration District.
Proportion of births to population.
Proportion of males and females born.

Ages at which persons marry.

Ages at which persons die.

Number of persons able to sign the marriage register.

Proportion of male and female deaths in infancy, and throughout the term of average life.

Proportion of legitimate and illegitimate births.

Numbers, and proportion between the sexes, of deaths from different diseases, dangerous occupations, and accidents.

(From the Registrar-General's Returns.)

VIII.—Education.

As there is no complete national system of education, no trustworthy statistics can be obtained. The best sources at present accessible are the Registrar-General's Marriage Returns, which supply the number, and proportion as between the sexes, of persons able to write at the age of marriage; the Returns of the Education, Science, and Art Department of the Privy Council, obtained from the masters, mistresses, and inspectors of such schools as receive Government aid for their support, and from the various Government institutions for scientific and artistic instruction; the statistics published by the "Schools Inquiry Commission," which had a temporary existence a few years ago.

If ever the whole country is reduced into School Board Districts, much more complete returns will be obtainable; but, even then, there will remain a large amount of unreported education in private families, private schools, the "Public Schools," schools started by bodies of private persons, as "Proprietary Schools," or "Limited Liability Company Schools," "Theological Institutions," and "Training Colleges," under the management and for the supply of various religious sects. and the Universities.

IX.—Revenue.

Expenses attending collection of revenue.

Accounts received from different classes of taxes, as

those on land, houses, income, and commodities of different kinds, varying from time to time.

Amounts of receipts of all persons paying Income-tax.

Amount of landed property possessed by all persons paying Land-tax.

Rents of houses occupied by persons paying House-tax.

Amounts and nature of the transactions entered into by all persons paying Stamp-duty.

Amount of taxed commodities sold and bought in the country.

Number of persons following such occupations as require licenses.

Number of certain sorts of servants employed.

Number and nature of certain sorts of vehicles employed.

Number and nature of certain animals kept.

Number and nature of patents taken.

Value of landed property succeeded to.

Number of Wills proved.

Amount of "personal property" willed in them.

Number of fire insurances.

Value of property insured from fire.

(Returns of Board of Inland Revenue.)

Value, nature, bulk, and measure of taxable articles imported.

Proportion of these entering the country at each port.

List of places where customs are collected.

Expenses and staff of each Customs office.

Number and expense of Coast Guard, and of revenue cruisers.

(Returns of Board of Customs.)

X.—Religion.

There are no available statistics. A certain amount of popular knowledge has grown up, founded on publications issued by different sects, on reports by Royal Commissions

appointed from time to time to investigate particular points, on inquiries made by private persons, and on a very imperfect return made in the census for the year 1851.

XI.—Medical and Sanitary Matters.

The statistics on these heads are very incomplete. Such as they are they include—

Sorts of diseases prevalent.

Number of cases of each sort (as far as ascertainable).

Number of deaths from each sort „ „

Age, sex, locality, of persons affected.

Results of legislative measures on death-rate and general health of localities and occupations.

(Collected from private and public sources by the Board of Trade, and by officers under the Privy Council Medical Department.)

State of towns as to—

Drainage.

Water supply.

Lighting.

Inspection of markets and shops for sale of food.

Offensive trades.

Burial grounds, &c.

Regulation and locality of shambles and bakehouses.

Removal of Sewerage.

(Board of Health.)

XII.—Emigration.

Age, sex, destination of emigrants.

(From Emigration Board.)

XIII.—Poor Law.

Number of Parishes.

Number of "Unions."

Number, and proportion to population, of inmates of Parish or Union Workhouses.

Age and sex of inmates.

Number of Boards of Guardians, and of Guardians in each Board.

Number of Overseers of the Poor.

Expenses of establishments, and salaries of officers, concerned in the relief of the poor, and in the collection of poor-rates.

Number, age, condition of persons relieved.

Number, age, sex, of persons who are helped by the poor-rates to emigrate.

Numbers, age, sex, condition of lunatics in Pauper Lunatic Asylums.

Numbers, age, sex, of children educated in pauper schools.

Number, age, sex, occupation of children apprenticed or put to service out of workhouses.

Numbers and relative proportions of legitimate and illegitimate births in workhouses.

Number, proportion to number of inmates, and causes of deaths in workhouses.

(Returns of Poor Law Board.)

XIV.—Trades.

Numbers of persons employed in the principal industries.

Numbers of factories, workshops, warehouses, used for principal industries.

Nature and amount of "power" used in principal industries.

Numbers and nature of mines, and bulk of their products.

Amount of raw material used for home consumption, amount of raw material exported ; amount of manufactures used at home, amount of manufactures exported.

Value of each of the last-named four amounts.

Agricultural statistics.

Number, condition, class of ships not belonging to the Royal Navy.

Number of merchant seamen.

Dockyards for merchant shipping.

Lighthouses, their number, position, and class.

Numbers and causes of wrecks.

Numbers, limits, &c., of railways.

(Returns of Board of Trade.)

XV.—Currency.

Amount of bullion imported.

(Board of Trade Returns.)

Amount of each metal coined.

Nature of coinage.

Number and value of notes, &c., issued.

Number and value of notes returned to Bank.

(Governors and Directors of Bank of England.)

XVI.—Post Office.

Number of letters transmitted.

Number of telegrams transmitted.

Number of books and other parcels transmitted.

Amount of money-orders issued.

Number of depositors in Post Office Savings Banks.

Percentage of letters, telegrams, parcels, and deposits to the population.

Number and cost of establishments for letter post, telegraphs, and Post Office Savings Banks.

(Postmaster-General's Returns.)

XVII.—Diplomatic, Colonial, Indian Affairs.

These are collected under heads similar to those of Great Britain and Ireland, by the Foreign Office, Colonial Office, and India Office respectively, through their subordinates in

each department of government abroad. Further details would be unnecessary.

XVIII.—Exports.

Amount, nature, and value of articles exported, either raw or manufactured.

Value of such exports to each place of destination.

Proportion of exports to imports of all the principal sorts of commodities.

(Board of Trade Returns.)

SPECIMEN OF MODE OF COLLECTING DETAILS.

I.—*Population.*

The Census is taken on one night in every ten years, when the persons specially appointed for the purpose require an account of the persons in each house or building between certain hours, the ships in harbours being also included. There is no permanent staff of subordinate officers. The Census in England and Wales in 1871, April 3, gave such results as the following:—(*See page* 153 *for explanation of figures.*)

1. 22,704,108 inhabitants.
2. 11,663,705 women; 11,040,403 men.
3. Bedford, 295,582 statute acres.
   Berks, 451,210 „ „
   &c.
4. Bedford, 30,508 inhabited houses.
   Berks, 39,612 „ „
   &c.
5, 6, & 7. "John Smith, tailor, 43, married.
   Jane Smith, no occupation, 41, married.
   Thomas Smith, tailor's apprentice, 16, single.
   Mary Jones, servant, 21, single."
8. Towns, population in, 12,900,297.
   Country districts, population in, 9,803,811

II.—(1) *Army.*

The Secretary of State for War receives statistics from the Commander-in-Chief, and he from the Generals of Division, and so downward, to the lowest rank of military and medical officers.

The following is a specimen of the statistics under this head :—

The whole Army is classified under the two general heads of

Officers on the General and Departmental Staff.

Namely :—General Staff		87
Chaplain's Department ...		77
Medical Department ...		613
Control Department ...		476
Total		1,253

Regiments.

	Officers.	Non-commissioned Officers.	Rank and file.
Royal Horse Artillery ...	120	219	2,498
Life Guards and Horse Guards, &c.	81	192	2,498

(2) *Navy.*

The Board of Admiralty (consisting of the First Lord and four others) obtains statistics, similar to those of the Army, from their Financial and Permanent Secretaries, and they from the heads of different departments, and so down to the subordinate officers, naval, medical, in dockyards, and in the victualling and transport departments.

THE ARMY AND NAVY.

THE English land forces consist of the regular troops, and of reserve troops made up of several distinct elements. The whole management of the army is in the hands of the Crown, but it is illegal,—as declared by the Bill of Rights,—to keep up a standing army in time of peace without consent of Parliament. Therefore an Act of Parliament (called "The Army Discipline and Regulation Act," embodying the "Mutiny Act") is passed every year, by which the number of men (usually between 125,000 and 135,000, exclusive of the troops serving in India) to constitute the regular army is fixed for the year, and the Crown empowered to make regulations called "Articles of War," for the discipline and government of the army.

The reserve forces consist of (1) the Militia, (2) the Yeomanry Cavalry, (3) the Volunteer Corps, (4) the enrolled Pensioners and Army Reserve force. These several forces are regulated, and the modes of their enrolment determined, by law. They are recruited and drilled by local officials, scattered throughout the country, who receive their commission from the Crown. In the case of the number of the Militia being insufficient, the corps can be completed by a compulsory ballot. The regular and the reserve forces are, for purposes of discipline and management, placed under the command of the same higher officers. For this purpose Great Britain and Ireland are partitioned into ten military districts, subject to the command of ten general officers; and each district is divided into eighty sub-districts, sixty-six of which are apportioned to infantry, twelve to artillery, and two to cavalry. In each sub-district the regular and the reserve forces of the several departments of the army are grouped side by side, and subject to a common colonel, who is responsible for the discipline and recruiting of all the forces under his command.

By special statutes the provisions of the Army Discipline and Regulation Act are applied to the reserve forces as well as to the regular troops.

This Act provides for the constitution, by commission from the Queen, of Courts-Martial for the trial of offences against the Articles of War. These courts may be "General Courts-Martial," convened within the United Kingdom or the British Isles, and consisting of not less than nine commissioned officers, of which two-thirds must agree in passing sentence of death; "District or Garrison Courts-Martial," consisting of not less than seven commissioned officers, who are incapable of passing a sentence of death or of trying a commissioned officer; "Regimental or Detached Courts-Martial," consisting of not less than five commissioned officers, unless it is impracticable to assemble that number, when three will suffice; but their power is limited to sentencing soldiers to corporal punishment, imprisonment, and forfeiture of pay.

A substitute for a General Court-Martial with all its powers is provided in what is called "A Detachment General Court-Martial." This court may be organised in any place beyond the seas, for the trial of offences committed against the property or person of any inhabitant or resident in the country in which such troops are serving. It consists of not less than three commissioned officers, and no sentence of death passed by it can be executed without the concurrence of the General commanding the army of which the detachment forms a part.

A considerable number of offences, tending to mutiny, sedition, or insubordination, are punishable with death, penal servitude, or such other alternative punishment as may by a court-martial be awarded, the limits of these punishments being fixed by the Articles of War. No court-martial can sentence a soldier to corporal punishment in time of peace. For the legal assistance of the Commander-in-chief in cases coming before General Courts-Martial, there is an officer appointed by the Crown entitled the Judge Advocate General. All preliminary questions as to the form

of the charge, the value and nature of the evidence, and the modes of proceeding, are submitted to him for his opinion at the outset. He is represented at the trial by a Deputy, who acts as a legal assessor, and is called the Judge-Advocate. The Judge-Advocate General further advises the officer whose function it is to confirm the sentences of General Courts-Martial, and he is the custodian of the Records of General and District Courts.

The law administered in courts-martial is sometimes called "Martial Law," and sometimes (more properly) "Military Law." It is often confounded with the rules of discipline which a military commander is occasionally compelled, in the absence or violent suspension of all law properly so called, to impose on the inhabitants of a district, in order to repress an actual or apprehended insurrection. This arbitrary mode of superseding the procedure of the ordinary courts of justice by military force has always been looked upon in England with the utmost disfavour and suspicion. It can only be justified by necessity, and no further than the necessity exists, nor longer than it lasts. The expression "Martial Law" for the signification of these rules is extremely misleading, as it gives rise to a notion that law still subsists in force, whereas the sole justification of the arrogated authority is to be found in the fact that law has lost or is losing its proper authority, and is in danger of surviving no longer. Of course these remarks apply only to the case of territory of the State occupied by its own armies, and not to that of foreign territory occupied by a hostile army. This last subject belongs to "International" and not to "Constitutional" law. It must be treated with reference to an entirely different class of considerations.

The Navy is not re-created every year by an annual Act, as the army is. Provision, indeed, has to be made for its maintenance by an annual grant of money, as in the case of the army; but the discipline of the navy at present is supported by the "Naval Discipline Act," passed in the twenty-

fourth year of the present reign. This Act provides for Articles of War and Courts-Martial, similar to those provided for by the Mutiny Act. A distinct Mutiny Act is passed annually for the control of the Marines, a branch of the service consisting of soldiers employed on board ships of war.

MERCHANT SHIPPING.

INASMUCH as the High Court of Admiralty has a special jurisdiction in respect of a variety of matters connected with Merchant Shipping, and the Government is often involved in complications with foreign Governments through the same medium, it is important to examine what constitutes a "British ship," and what are the general rules with which the owner and master of a British ship are expected to comply.

In order for a ship to be a British ship, it must belong wholly either to natural-born British subjects or to "denizens" —that is, persons to whom a partial citizenship has been conceded by letters-patent from the Crown—or to bodies corporate, established under, subject to the laws of, or having their principal place of business in, a British possession.

Unless the ship be a small one, or used for mere river or coasting navigation, it must be duly registered. The "certificate of registry" states the name of the ship and of the port to which she belongs, her tonnage and build, the name of her master, and the name and description of her registered owner.

In case of any doubt arising—as in time of war—about the true nationality of a ship, and the good faith of those on board, it is of great importance that what are called the "ship's papers" should all be in order. These papers are: (1) The certificate of registry as above described; (2) the "charter-party," or documentary evidence of the contract of *affreight-*

ment, by which the ship is engaged to undertake a voyage to one or more places, and which stipulates the voyage, freight, burthen of ship, and allowance payable for delay in loading or unloading beyond the specified time ("demurrage"); (3) the "bills of lading," or copy of receipts for goods received on board, and of which the consignor and consignee have other copies, these bills representing the goods, and, when endorsed, transferring the ownership of them; (4) the account of the crew; (5) the agreement with the seamen—to be put up (by English laws) in a place accessible to all of them; (6) the official log-book, in which are entered all the events of the voyage; and (7) the "manifest," or accurate account of all goods shipped, and by whom and to whom consigned. The owner of a British ship is liable to a fine of £500 if it wears the Union Jack flag otherwise than with a white border, or wears any colours usually worn by the Queen's ships.

It is to be noticed that regulations are made for the inspection of ships, and for their being provided with all that is thought needed to ensure the safety of the crew; though a great movement is now taking place to make the requirements in this matter far stricter and more searching. Special facilities are accorded to sailors for obtaining the ready payment of their wages, and for being brought home if taken on an outward voyage.

THE BANK OF ENGLAND.

THE BANK OF ENGLAND is, strictly speaking, a private body of traders, with whom the Government has made a special arrangement, and who enjoy certain privileges in consideration of the services which, in pursuance of that arrangement, they perform. In some aspects, however, the Bank of England is a public institution, and must be treated as belonging

to the mechanism of the administrative side of Government. The Bank is a creditor of the Government for a considerable sum, and it also acts as a sort of agent for the payment of the interest or dividends due in respect of the National Debt. The Bank was founded in 1694, and owes its origin to a loan to Government of the sum of £1,200,000. The subscribers to the loan received 8 per cent. on the sum advanced and £4,000 per year for the expenses of management, and were incorporated into a society denominated "The Governor and Company of the Bank of England." The capital was constantly increased in succeeding years, and exclusive privileges of banking were, first, conceded for eleven years, and then continued by successive renewals of the charter, till the year 1855, after which it was provided that the privileges might be cancelled on a year's notice.

The most important event in the history of the Bank of England is the passing of the Bank Charter Act of 1841. The purpose of this Act is to secure, in all circumstances, the certain and immediate convertibility into coin of bank notes. This was effected—as was believed—by restricting the issue of notes to a number representing £14,000,000 (and a little in addition in the case of certain other banks ceasing to issue notes), unless bullion representing any excess of notes beyond that amount should actually be in the coffers of the Bank. Another object effected by this Act was the entire separation of the "issuing department" of the Bank (that is, the department which is concerned with manufacturing, distributing, and securing the convertibility of bank notes) from the banking department, which receives money deposited or advanced by customers, advances money on loan to them, invests money which is in its hands, and pays money to its customers' orders.

The Bank Charter Act has more than once, in times of commercial distress, had to be suspended in order to enable the Bank of England to meet (should need arise) a sudden demand for notes beyond the number which could be issued

otherwise. The policy of the Act has been severely criticised, both on the ground of the mechanical pressure which it puts upon trade, so preventing an easy and natural self-adjustment, and also because the separation of the two departments prevents the Bank availing itself of much of the bullion actually in its hands. The function which the Bank discharges in reference to the National Debt will be gathered from what has been said under the head of the "National Debt Office."[1]

THE RAILWAY SYSTEM.

RAILWAYS are constructed by private companies under a certain special control of the State.

(1) This control is exercised by restricting the number of railways, and determining in given cases whether a railway shall be made or not. When it is proposed to make a railway through a certain district, the persons who wish to form themselves into a company for the purpose propose that a Bill shall be presented in the House of Commons, in order to carry out their ends. The House (after being satisfied that certain rules of the House called "standing orders"[2] have been complied with) refer the Bill to a Select Committee of the House, which sits from day to day to examine witnesses as to the need and desirability of the railway, and to hear persons who oppose the railway on various grounds—such as there being other railways in the same district, the small number of passengers or quantity of goods likely to require the use of the railway, or the injury it would cause to property lying in the direction in which it would run. The Committee, after thus hearing both sides, decide whether they shall recommend the passing of the Bill or not. If they recommend that it should pass, it generally is passed. The nature and effect of the Bill is to form the persons asking for it into a "Joint Stock Company," capable of holding property, making contracts, and suing or being sued at law; to

[1] See p. 72, and also Appendix D.

[2] See p. 44.

give the company power to buy the necessary land, even against the will of the owners; and to enable them to borrow money up to a certain amount from persons ready to lend money, on condition either of receiving a fixed rate of interest ("debentures"), or a proportion of interest according to the success of the undertaking ("shares").

(2) The restriction exercised by the State has reference also to the control of companies while the railway is being worked: as with respect to the amount of payment by passengers for travelling, and the conduct of inquiries as to the cause of accidents, in which inquiries a State-inspector always takes part. This latter department belongs especially to the "Board of Trade." It is a matter of some controversy in this country whether it is expedient that the railways should all belong as they do to private companies, no more controlled by the State than in the above respects—or whether it would be better, as is the case in most other European countries, for the railways to belong to the State, and either be managed by State officials, or be leased out to private companies to be managed by them. It is said, in favour of the existing system of management by private companies, that the stimulus of profit and the concern that persons always have in matters directly affecting themselves, as well as the fact of free competition, produce a better system of management than Government could supply; and that if the railways were in the hands of Government, the officials charged with the management would be badly appointed, or chosen in view of the private or political interest of the superior Government officials choosing them.

On the other hand, in favour of Government assuming the ownership, and, possibly, the direct management of the railways, it is urged that the Post-office and the Telegraphic system have been better and more cheaply managed since they were taken out of private hands; that the Government alone could afford to make travelling immensely cheaper, as it need not seek to make the highest possible profit, and would not expend so much money in making the railways

or in making more railways than are wanted. In all the Railway Acts passed after a certain date, Government has reserved the power of buying up the lines if at any time it should wish to do so.

THE ESTABLISHED CHURCH.

In England and Wales there is what is called an *Established Church*: that is to say, a particular form of religious worship is favoured by the State, and to a certain extent regulated and conducted by officers appointed or remunerated by the State. At one time the form of religion which is now "established" in England was the religion of the whole people. This is so no longer, and in fact a large proportion of the people, though it is not accurately known *what* proportion, do not profess the same form of religion as that of the Established Church. The effects of the Church being established are the following :—

1. The Queen (or King) must be a member of the Church of England. She is crowned with a solemn religious ceremonial, which the ministers of the Established Church conduct, and it is these ministers who administer to her what is called the "Coronation Oath."

2. The Archbishops and the English and Welsh Bishops, or chief ministers of the Established Church, are *ex officio* members of the House of Lords, with a few exceptions, not including the Bishops of London, Durham, and Winchester.

3. The forms of public worship in the Established Church are fixed by Act of Parliament.

4. A large proportion of the buildings, that is, the churches and cathedrals, used for public worship belong, in some sense (though not a legal one), to the whole nation, and can only be used by the ministers of the Church, appointed from time to time as trustees for the nation.

5. All the appointments to archbishoprics, bishoprics, and deaneries (that is, the presidency of bodies of ministers

attached to a cathedral church, and called "chapters"), and a large number of appointments to minor positions, or "livings," are in the gift of the Crown.

6. All irregularities, or church offences, committed by the clergy are cognisable in special Church Courts, and, in the last resort, in the court of the Judicial Committee of the Privy Council, or by a special process under the Public Worship Regulation Act. An account of the Courts is given on p. 175.

7. The partially representative bodies (Convocations of the provinces of Canterbury and York) by which the internal affairs of the Church—so far as they are not regulated by statute—are managed, can meet only when summoned by the Crown, and can proceed to business only by licence from the Crown.

8. For some purposes all persons are treated, or may be treated if they choose, as members of the Established Church. They are entitled by law to the services of the minister of the parish to which they belong for the baptism of their children, for the solemnisation of marriage in the parish church, and for the burial of the dead according to the ceremonies of the Church.

It is to be noticed that though in England one form of religious worship is "established" by law, yet the utmost toleration is shown to all other forms, of which there are a great many. Any breach of contract or wrong done, through which injury is sustained by members of religious bodies, is cognisable in the ordinary courts of justice. Any place of worship can, by compliance with certain forms, be registered so that marriages can take place in it, and its religious services be protected against disturbance. Clergymen of the Established Church are subject to many civil disabilities, especially that of not being eligible to sit in the House of Commons. A clergyman can now rid himself of his clerical character and of its attendant disabilities by executing a deed to that effect, and enrolling it in the Court of Chancery.

The division of the country into parishes has been largely

used both for civil and for ecclesiastical purposes, and a number of civil functions have in course of time been cast upon persons and bodies such as churchwardens, "overseers," and "vestries," which were at first, and are essentially, of an ecclesiastical character.

ECCLESIASTICAL COURTS.

For determining legal questions of ecclesiastical order and ritual, the following Courts are provided, each of which above the lowest serves as a Court of Appeal from the Court below it:—1. The Court of the Archdeacon, who for some purposes represents the Bishop in the part of the diocese apportioned to him. 2. The Court of the Bishop, called the Diocesan Court. 3. The Courts of the Archbishop, called the Provincial Courts. In the Province of Canterbury the chief court is the "Court of Arches," so called from the arched form of the church in which the Court at one time sate. The Archbishop nominates a lay-judge to preside in this Court. In the Province of York the chief court is the "Chancery Court."

An Appeal from all these Courts lies to the Judicial Committee of the Privy Council.

For determining breaches of order by the clergy in respect of strict conformity "to the requirements of the Book of Common Prayer" in the matter of Public Worship a special Court was established by the Public Worship Regulation Act of 1874. The Judge must be a barrister of 10 years' standing, or a person who has been a Judge of the High Court of Appeal. He is appointed by the Archbishops of Canterbury and York. Proceedings are commenced by an Archdeacon or Churchwarden, or any three parishioners "male persons of full age" who solemnly declare they are members of the Church of England "as by law established." The Bishop's consent is necessary to the proceedings. On conviction the offender is liable to suspension for three months or longer, and, if obstinate for three years, to lose his living.

CITIZENSHIP.

In order to ascertain the limits of the State, it is necessary to have some decisive mark by which citizens can be distinguished from those who are not citizens. A citizen is a member of the State; and, in accordance with the old feudal doctrine that the king was the sovereign lord of all his subjects, who stood to him in the relation of vassals, every citizen is said to owe allegiance to the *person* of the monarch, and not merely to his *office*. The consequence of this was illustrated when James I. succeeded to the throne, and it was held that all those who were born in Scotland after this event (the *post-nati*) were English citizens, there being then only one kingly *person*, though the *offices* of King of Scotland and of King of England for some time afterwards continued distinct. By a statute of Henry VII.'s reign, no person can be adjudged a traitor who shows allegiance to a king actually exercising kingly functions, though his claim to the throne be ever so bad, and though he be ultimately superseded by a king with a better claim.

Allegiance involves the duty of general loyalty to the State, and the liability both to contribute to its support and to render active service (if needed) for its defence against foreign or domestic enemies. The duty of allegiance is generally said to be correlative with the right of every citizen to protection at the hands of the State against violence at home and abroad. A citizen has not, however, a right to interference by his own Government on his behalf in all cases; as, for instance, where, through his own rashness or negligence, he has voluntarily put himself in the way of ill-treatment.

Up to the time of the passing of the Naturalisation Act of 1870, great inconvenience was caused through the nature of the various tests of British citizenship coupled with the operation of the maxim that British citizenship once acquired could

never be lost. The tests of British citizenship were, and still are: (1) birth on British territory; (2) the fact of a person's father or grandfather being a British citizen; (3) naturalisation by Act of Parliament, or in accordance with formalities prescribed by such an Act.

By the operation of the Act of 1870 the position of "aliens," that is, foreigners, is greatly improved, so that the practical distinction between them and citizens is very insignificant. Aliens are now able to own and to convey property with exactly the same facility that British citizens can, the only exception being property in British shipping. A British citizen becoming voluntarily naturalised in a foreign State ceases to be a British subject, unless, within two years, he makes such a declaration of his wish to remain a British citizen as is required by the Act. Provision is made for the resumption of British nationality by performance of the same conditions as are required for the naturalisation of aliens.

THE CONSTITUENT PARTS OF THE BRITISH EMPIRE.

THE British Empire may be distributed geographically and politically into the following parts:—

1. The British Islands, including Great Britain (that is, England, Wales, and Scotland) and Ireland.
2. The British Colonies.
3. The British dominions in India.
4. Other dependencies not falling under either of the two last heads.

1. *THE BRITISH ISLANDS.*

ENGLAND and WALES have been indissolubly united together from the time of Henry VIII. From the time of the final conquest of Wales till the twenty-seventh year of the reign of

Henry VIII., Wales retained many characteristic laws and institutions different from those of England, though a process of assimilation was constantly going on. It was declared by a statute of the reign of Henry VIII. (27 Henry VIII., c. 26) that the "dominions of Wales were for ever united to the kingdom of England; that all Welshmen born should have the same liberties as other king's subjects; that lands in Wales should be inheritable according to the English tenures and rules of descent; that the laws of England and no other should be used in Wales."

SCOTLAND was united to England through having a common Sovereign in 1603, but it was not till the Treaty of Union between England and Scotland in 1707 that the two nations were politically incorporated into one. The result of that treaty was that the Scotch Parliament was abolished, and, in its place, sixteen peers were to be elected by the general body of peers at the summoning of every Parliament, to represent the rest at Westminster for that Parliament; and 45 (now 60) members were to be returned by Scotland to the House of Commons. The Scotch Presbyterian Church was not to be interfered with, and Scotland was to retain the use of its peculiar laws and judicial institutions, subject to a provision for Appeal in certain cases to the House of Lords at Westminster, and to the chances of future alterations hereafter to be introduced by the representative legislature.

Ireland has been subject to the English Crown from the time of Henry II., but it was not till the Treaty of Union in 1801 that it was for all purposes incorporated into the Empire, and shared in the government of it. The result of the Treaty and of the Act based upon it (the latter of which has since been amended), was that twenty-eight "representative peers" were to be elected by the whole body of peers, to sit for life in the House of Lords at Westminster, and 100 (now 105) members were to be elected to the British House of Commons. The laws of Ireland and the Established Church in

Ireland were to remain as they were, that is, identical with those of England. By a recent Act passed in consequence of the glaring inequality in number between the members of the Catholic and Protestant population in Ireland, the "Church of England and Ireland" has no longer any legal advantage over any other religious body in Ireland, and a large amount of the funds previously available for its support have been diverted to other and secular uses.

2. *THE BRITISH COLONIES.*

THE British Colonies may be divided into different classes, according to the modes in which they have been established or the degree of self-government which they enjoy. One mode in which they have been established is (1) Settlement. This applies to most of the Australian colonies, to some of the North American and West Indian colonies, and to a few African colonies, with some others. Another mode is (2) Treaty following upon a war. A third mode is (3) a Treaty not following upon a war, but forming part of a series of negotiations in times of peace. Such colonies as those of the Cape of Good Hope, Jamaica, British Guiana, Canada, and Mauritius were established in one or other of the last two modes.

These differences in the modes of establishing colonies have affected the character of their several governments. In respect of government, colonies are said to be divided into those which are and those which are not *Crown Colonies*. This means that in the case of a colony acquired by treaty, whether upon conquest or peaceful cession, the Crown (that is, the home executive government) is entitled to prescribe for its regulation what system of law and government it pleases, without consulting Parliament, though if once it concedes local representative institutions it cannot withdraw them. With respect to colonies founded by settlement or occupation, the persons who constitute them carry the ordinary English law with them, so far as it is applicable; and no new constitution

can be given them, nor can they frame one for themselves, without the assent of the Imperial Parliament. Many of the most important colonies, especially those in Australia and North America, have thus had conceded to them representative institutions fashioned after the general type of the British Parliament; that is, comprising a Governor (appointed by the Executive Government at home) and two Houses, one elected on principles by which greater influence is given through it to the richer members of the community. The assent of the Governor is needed for the enactment of a law, and also the assent of the English Sovereign, though in some cases the law comes into force before the assent of the Sovereign is actually notified.

In "Crown Colonies" the usual form of government is that which is carried on by a governor and small executive and legislative councils, generally comprising the principal officials in the colony.

There is a great movement in the present day for the consolidation of a number of adjoining colonies into what is called a Dominion. Such a step has already been carried out by help of an Act of Parliament in the case of most of the North American colonies, forming the "Dominion of Canada," and it is probable that the movement will extend elsewhere.

It is sometimes of importance to ascertain the liability in this country of a colonial governor for acts done in the colony. This is the more important as the laws of a colony are not generally the same as those of England.

A governor of a colony is liable in this country for a civil wrong done by him during his government, unless a colonial Act of Indemnity has been passed before the action has been brought in this country.

A governor is, however, always liable to be tried in this country for a felony or murder committed by him in the colony; but in the case of misdemeanors, the trial must take place before the Court of Queen's Bench or before Special Commissioners.

3. *THE BRITISH DOMINIONS IN INDIA.*

THE British dominions in India have been acquired in a variety of ways, including commercial settlement by leave of the territorial sovereign, special grants or cession by the territorial sovereign, and treaty arrangements following upon a war. Up to 1858 the British dominions were practically governed by the Board of Directors of the East India Company, which had been originally incorporated purely for purposes of trade. The authority of the Company was in 1853 specially preserved to it until Parliament should otherwise provide. In consequence of the Mutiny of 1857, a new Government, in direct dependence on the British Parliament, was substituted in 1858 for the mixed Government of the Crown and the Company previously subsisting. This new government is conducted partly at home through the medium of a Secretary of State for India (who is a member of one of the Houses of Parliament, and usually of the Cabinet) assisted by a council of fifteen persons, whose advice the Secretary is required to invite, but not obliged to follow; and partly, in India, through the medium of a Governor-General or Viceroy of India, and local Governors for each of the provinces into which British India is, for administrative purposes, distributed. Two of these local Governors are styled "Governors," three "Lieutenant-Governors," and the others "Chief Commissioners" or "a Commission." There are a number of "protected States," more or less under the control of the British Government. The area of British India is 938,366 square miles, and it includes 487,061 "villages." The whole country is divided for governmental purposes into 53 divisions, into 231 revenue and judicial districts, and into 1,114 executive subdivisions. The present population of British India amounts to about 191,307,000.

4. *OTHER DEPENDENCIES.*

BESIDES her Colonies properly so called, and British India, England comprises within her dominions certain small and outlying settlements, which have been acquired either by war or by voluntary cession in peace, and which serve chiefly as military or naval stations, some being in this respect of considerable importance. Such are Jersey and Guernsey (relics of the old Norman dominions), Malta, Gibraltar, Heligoland, St. Helena, and the Fiji Islands.

INTERNATIONAL RELATIONS.

A LARGE part of the functions of English government is concerned with regulating the political intercourse of England with foreign States and with those partially civilised populations which have not yet acquired the compactness and stability of a true State. These last may be called aboriginal tribes.

The foreign States with which England has intercourse may be distributed into those which make part of the European system of States, and into those which make no part of that system. With the former are also included a few neighbouring States, as Turkey, Egypt, and Persia, and, pre-eminently, the United States of North America.

This mode of distribution arises out of the intimate political and religious relations in the past, based upon a community of progress in civilisation, existing between all the States which enter into the European System. The political relations of England with all these States, as well as the relations of each one of the States with all the rest, are most characteristically marked by the existence of a vast body of legal rules, called "International Law," or "The Law of Nations," to which all the States belonging to the system

profess to make their public acts conform. This body of rules has been slowly and gradually evolved out of (1) the maritime customs to which the necessities of the intercourse of maritime States spontaneously gave birth; (2) the legislation of monarchs for the guidance of their own subjects; (3) the private conventions of particular States; (4) the carefully composed despatches of diplomatists; and (5) the application to a fresh region of the most liberal doctrines of Roman law, as expanded and embellished by large-minded commentators, such as Grotius and his successors. The cherished traditions of the Roman Empire, and the prevalence of a common religion no less than the general institutions of Feudalism and the dictates of commercial policy, all favoured the gradual recognition of some such standard of common action as that which is supplied by the prevailing system of International Law. The absence, indeed, of any one authority competent to revise or to enforce the rules of this law might well seem sufficient to arrest its progress, or to impair its imperative character. But the intrinsic value of most of the rules is so transparent that, in spite of all their incessant rivalries and antipathies, the States of Europe have practically combined to accord the utmost amount of moral, and often physical, support to the integrity of these rules.

The subject matter of these rules extends to most of the topics with which the national laws of any particular State are conversant. They determine what constitutes a State, and by what tests its existence and independence are ascertained; what are the modes of conducting the intercourse between the governments of States, and what are the titles, rights, and duties of the public emissaries despatched by these governments to one another; what are the rights of States generally in respect of territory, of security for their citizens, of the use of the ocean and of other things not susceptible of appropriation, and in respect of general "comity" and friendly consideration at the hands of other

States; what are the modes of making conventional engagements or treaties; what are the various resources for supporting rights, if these are either invaded or menaced; and in what cases alone, if ever, war is held to be justifiable. In the event of war these rules determine what are the signs of its having commenced, and who are the parties to it; what are the consequences to the liberty and property of the citizens of either belligerent State found in the territory of the other at the opening of the war; what are the rights and duties of belligerents in the treatment of each other, and what are the rights and duties of the so-called "Neutral States" which take no part in the war. Lastly, these rules determine the procedure by which the utmost practicable amount of regularity is insured, even in the very heat of the war, in transferring property acquired by capture, and in punishing alleged breaches of the rules themselves.

These rules are sometimes said to be part of the law of England. It would be more correct to say that it is the moral duty of England as a State, as it is obviously her political interest, to make English law conformable to International law, in such a way that any English citizen who commits (so far as a private citizen can) a breach of International law will be readily amenable to English law. It is only of late that England has been roused to an adequate consciousness of her duty in this respect.

An Act has been recently (1870) passed, enforcing upon English citizens (with a strictness never attempted before, and with precautions wholly novel) the duty of co-operating with the Government in maintaining an honest neutrality in any war to which England is not a party. This Act, indeed, which is based on an earlier one of George III.'s reign, only deals with the offences of building or equipping ships for a belligerent, and of assisting him to enlist soldiers in this country. But in the present days of free trade it seems scarcely possible to take satisfactory legal precautions against breaches of neutrality committed in less ostensible

forms. How far English law may still go in this direction remains yet to be seen.

The Ministers which England has resident at foreign courts belong to the following classes, the respective titles, functions, and precedence of the several classes having been fixed by recent European treaties, as those of Vienna in 1815, and of Aix-la-Chapelle in 1818.

1. Ambassadors.
2. Envoys and Ministers Plenipotentiary.
3. Ministers Resident.
4. Chargés d'Affaires.

The first two classes are said to represent the *person* as well as the affairs of the Sovereign sending them ; the third, to represent the affairs, but not the *person* ; the fourth, to be accredited, not to a foreign Sovereign, but to the minister of a foreign Sovereign.

England, at present, sends Ambassadors to the governments of five States, that is, of France, Austria, Prussia, Russia, and Turkey.

Besides the above more important classes of *political* representatives, it is customary for States to establish *commercial* representatives, called "Consuls," in the most important foreign towns. These officials can enter on their functions only by permission of the foreign Sovereign, conveyed in what is called an "*exequatur*." Their functions generally are to supervise or witness those civil acts, such as registrations, conveyances of property, and contracts, in which their fellow-citizens are concerned. and in which their co-operation is required by law. In some cases, as in the Ottoman Empire, China, and Japan, the English consuls have, by treaty, powers of a much more extended character, and even exercise most responsible judicial functions.

The persons and property of foreign ambassadors resident in England are exempt from seizure under any kind of criminal and of civil process. The privilege extends to

their family and suite, though in the case of the suite special provisions are taken to secure that this privilege is not usurped by those who have no claim to it.

It is to be noticed that the relations of England with foreign States and populations are of a threefold description, that is, *legal* (as above described), *political*, and *moral*.

It is a matter of purely *legal* consideration to determine whether or not England may or may not do a proposed act without subjecting herself to general reprobation on the part of all other States as a law-breaker, or incurring on this ground the risk of war.

It is a matter of purely *political* consideration to determine whether in the interest of England, as widely estimated, it be expedient to make or to revise a treaty, to recognise a new form of government in a foreign State, to take part in a war, or to exchange or sell a portion of the national soil.

It is, lastly, a matter of purely *moral* consideration (though this cannot always be distinguished from the last) to determine what England ought or ought not to do in view of the claims of other States, and of the whole world (especially in the future), quite independently of any separate interest of her own.

This last class of considerations has happily been brought out into increased relief of late years. It is justly urged that England's moral responsibilities ought more and more decisively to determine her political conduct; that, for instance, she should gradually prepare the way for the native self-government of her Indian Empire; that she should take steps which may enable her in time to abandon all those outlying possessions which mainly serve to keep up the memory and instinct of national rivalries, while they obstruct the progress and wound the just pride of the States to which they geographically belong; that she should make war (if at all), not to carry out direct or indirect ends of

national aggrandisement, but solely to maintain and promote the permanent peace of the world; that, in reference to the aboriginal populations, she should set her face stedfastly against slavery, at the hands of her own citizens or of others, and should do her utmost in all ways to secure that those populations are justly and humanely treated, instead of being first corrupted by the vices, and then sacrificed to the greed, of those who call themselves a superior and civilised race.

APPENDICES.

APPENDIX A.

(1) MAGNA CARTA,[1]

OR

THE GREAT CHARTER OF KING JOHN, GRANTED JUNE 15, A.D. 1215.

JOHN, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy, Aquitaine, and Count of Anjeu, to his Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Governors, Officers, and to all Bailiffs, and his faithful subjects, greeting. Know ye, that we, in the presence of God, and for the salvation of our soul, and the souls of all our ancestors and heirs, and unto the honour of God and the ad-

[1] The translation given by Sir E. Creasy has been chiefly followed, but it has been collated with another accurate translation by Mr. Richard Thompson, accompanying his *Historical Essay on Magna Charta*, published in 1829, and also with the Latin text.

The explanation of the whole Charter must be sought chiefly in detailed accounts of the Feudal system in England, as explained in such works as those of Stubbs, Hallam, and Blackstone. The scattered notes here introduced have only for their purpose to elucidate the most unusual and perplexing expressions. The Charter printed in the Statute Book is that issued in the ninth year of Henry III., which is also the one specially confirmed by the Charter of Edward I. The Charter of Henry III. differs in some (generally) insignificant points from that of John. The most important difference is the omission in the later Charter of the 14th and 15th Articles of John's Charter, by which the King is restricted from levying aids beyond the three ordinary ones, without the assent of the "Common Council of the Kingdom," and provision is made for summoning it. This passage is restored by Edward I. Magna Charta has been solemnly confirmed upwards of thirty times.

vancement of Holy Church, and amendment of our Realm, by advice of our venerable Fathers, Stephen, Archbishop of Canterbury, Primate of all England and Cardinal of the Holy Roman Church; Henry, Archbishop of Dublin; William, of London; Peter, of Winchester; Jocelin, of Bath and Glastonbury; Hugh, of Lincoln; Walter, of Worcester; William, of Coventry; Benedict, of Rochester—Bishops: of Master Pandulph, Sub-Deacon and Familiar of our Lord the Pope; Brother Aymeric, Master of the Knights-Templars in England; and of the noble Persons, William Marescall, Earl of Pembroke; William, Earl of Salisbury; William, Earl of Warren; William, Earl of Arundel; Alan de Galloway, Constable of Scotland; Warin FitzGerald, Peter FitzHerbert, and Hubert de Burgh, Seneschal of Poitou; Hugh de Neville, Matthew FitzHerbert, Thomas Basset, Alan Basset, Philip of Albiney, Robert de Roppell, John Mareschal, John FitzHugh, and others, our liegemen, have, in the first place, granted to God, and by this our present Charter confirmed, for us and our heirs for ever:—

1. That the Church of England shall be free, and have her whole rights, and her liberties inviolable; and we will have them so observed, that it may appear thence that the freedom of elections, which is reckoned chief and indispensable to the English Church, and which we granted and confirmed by our Charter, and obtained the confirmation of the same from our Lord the Pope Innocent III., before the discord between us and our barons, was granted of mere free will; which Charter we shall observe, and we do will it to be faithfully observed by our heirs for ever.

2. We also have granted to all the freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties, to be had and holden by them and their heirs, of us and our heirs for ever: If any of our earls, or barons, or others, who hold of us in chief by military service, shall die, and at the time of his death his heir shall be of full age, and owe a relief, he shall have his inheritance by the ancient relief—that is to say, the heir or heirs of an earl, for a whole earldom, by a hundred pounds; the heir or heirs of a baron, for a whole barony, by a hundred pounds; the heir or heirs of a knight, for a whole knight's fee, by a hundred shillings at most; and whoever oweth less shall give less, according to the ancient custom of fees.

3. But if the heir of any such shall be under age, and shall be

in ward, when he comes of age he shall have his inheritance without relief and without fine.

4. The keeper of the land of such an heir being under age, shall take of the land of the heir none but reasonable issues, reasonable customs, and reasonable services, and that without destruction and waste of his men and his goods; and if we commit the custody of any such lands to the sheriff, or any other who is answerable to us for the issues of the land, and he shall make destruction and waste of the lands which he hath in custody, we will take of him amends, and the land shall be committed to two lawful and discreet men of that fee, who shall answer for the issues to us, or to him to whom we shall assign them; and if we sell or give to any one the custody of any such lands, and he therein make destruction or waste, he shall lose the same custody, which shall be committed to two lawful and discreet men of that fee, who shall in like manner answer to us as aforesaid.

5. But the keeper, so long as he shall have the custody of the land, shall keep up the houses, parks, warrens, ponds, mills, and other things pertaining to the land, out of the issues of the same land; and shall deliver to the heir, when he comes of full age, his whole land, stocked with ploughs and carriages, according as the time of wainage shall require, and the issues of the land can reasonably bear.

6. Heirs shall be married without disparagement, and so that before matrimony shall be contracted, those who are near in blood to the heir shall have notice.

7. A widow, after the death of her husband, shall forthwith and without difficulty have her marriage and inheritance; nor shall she give anything for her dower, or her marriage, or her inheritance, which her husband and she held at the day of his death; and she may remain in the mansion house of her husband forty days after his death, within which time her dower shall be assigned.

8. No widow shall be distrained to marry herself, so long as she has a mind to live without a husband; but yet she shall give security that she will not marry without our assent, if she hold of us; or without the consent of the lord of whom she holds, if she hold of another.

9. Neither we nor our bailiffs shall seize any land or rent for any debt so long as the chattels of the debtor are sufficient to pay the debt; nor shall the sureties of the debtor be dis-

trained so long as the principal debtor has sufficient to pay the debt; and if the principal debtor shall fail in the payment of the debt, not having wherewithal to pay it, then the sureties shall answer the debt; and if they will they shall have the lands and rents of the debtor, until they shall be satisfied for the debt which they paid for him, unless the principal debtor can show himself acquitted thereof against the said sureties.

10. If any one have borrowed anything of the Jews, more or less, and die before the debt be satisfied, there shall be no interest paid for that debt, so long as the heir is under age, of whomsoever he may hold; and if the debt falls into our hands, we will only take the chattel mentioned in the deed.

11. And if any one shall die indebted to the Jews, his wife shall have her dower and pay nothing of that debt; and if the deceased left children under age, they shall have necessaries provided for them, according to the tenement of the deceased; and out of the residue the debt shall be paid, saving, however, the service due to the lords; and in like manner shall it be done touching debts due to others than the Jews.

12. NO SCUTAGE OR AID SHALL BE IMPOSED IN OUR KINGDOM, UNLESS BY THE GENERAL COUNCIL OF OUR KINGDOM; except for ransoming our person, making our eldest son a knight, and once for marrying our eldest daughter; and for these there shall be paid no more than a reasonable aid. In like manner it shall be concerning the aids of the City of London.

13. And the City of London shall have all its ancient liberties and free customs, as well by land as by water: furthermore, we will and grant that all other cities and boroughs, and towns and ports, shall have all their liberties and free customs.

14. AND FOR HOLDING THE GENERAL COUNCIL OF THE KINGDOM CONCERNING THE ASSESSMENT OF AIDS, EXCEPT IN THE THREE CASES AFORESAID, AND FOR THE ASSESSING OF SCUTAGES, WE SHALL CAUSE TO BE SUMMONED THE ARCHBISHOPS, BISHOPS, ABBOTS, EARLS, AND GREATER BARONS OF THE REALM, SINGLY BY OUR LETTERS. AND FURTHERMORE, WE SHALL CAUSE TO BE SUMMONED GENERALLY, BY OUR SHERIFFS AND BAILIFFS, ALL OTHERS WHO HOLD OF US IN CHIEF, FOR A CERTAIN DAY, THAT IS TO SAY, FORTY DAYS BEFORE THEIR MEETING AT LEAST, AND TO A CERTAIN PLACE; AND IN ALL LETTERS OF SUCH SUMMONS WE WILL DECLARE THE CAUSE OF SUCH SUMMONS. AND SUMMONS BEING THUS MADE, THE BUSINESS

SHALL PROCEED ON THE DAY APPOINTED, ACCORDING TO THE ADVICE OF SUCH AS SHALL BE PRESENT, ALTHOUGH ALL THAT WERE SUMMONED COME NOT.

15. We will not for the future grant to any one that he may take aid of his own free tenants, unless to ransom his body, and to make his eldest son a knight, and once to marry his eldest daughter; and for this there shall be only paid a reasonable aid.

16. No man shall be distrained to perform more service for a knight's fee, or other free tenement, than is due from thence.

17. Common pleas shall not follow our court, but shall be holden in some place certain.

18. Trials upon the Writs of Novel Disseisin,[1] and of Mort d'ancestor,[2] and of Darrein Presentment,[3] shall not be taken but in their proper counties, and after this manner: We, or if we should be out of the realm, our chief justiciary, will send two justiciaries through every county four times a year, who, with four knights of each county, chosen by the county, shall hold the said assizes[4] in the county, on the day, and at the place appointed.

19. And if any matters cannot be determined on the day appointed for holding the assizes in each county, so many of the knights and freeholders as have been at the assizes aforesaid shall stay to decide them as is necessary, according as there is more or less business.

20. A freeman shall not be amerced for a small offence, but only according to the degree of the offence; and for a great crime according to the heinousness of it, saving to him his contenement;[5] and after the same manner a merchant, saving to him his merchandise. And a villein shall be amerced after the same manner, saving to him his wainage, if he falls under our mercy; and none of the aforesaid amerciaments shall be assessed but by the oath of honest men in the neighbourhood.

1 Dispossession.

2 Death of the ancestor; that is, in cases of disputed succession to land.

3 Last presentation to a benefice.

4 The word Assize here means "an assembly of knights or other substantial persons, held at a certain time and place where they sit with the Justice. 'Assisa' or 'Assize' is also taken for the court, place, or time at which the writs of Assize are taken."—Thompson's Notes.

5 "That by which a person subsists and which is essential to his rank in life."

21. Earls and barons shall not be amerced but by their peers, and after the degree of the offence.

22. No ecclesiastical person shall be amerced for his lay tenement, but according to the proportion of the others aforesaid, and not according to the value of his ecclesiastical benefice.

23. Neither a town nor any tenant shall be distrained to make bridges or embankments, unless that anciently and of right they are bound to do it.

24. No sheriff, constable, coroner, or other our bailiffs, shall hold "Pleas of the Crown."[1]

25. All counties, hundreds, wapentakes, and trethings, shall stand at the old rents, without any increase, except in our demesne manors.

26. If any one holding of us a lay fee die, and the sheriff, or our bailiffs, show our letters patent of summons for debt which the dead man did owe to us, it shall be lawful for the sheriff or our bailiff to attach and register the chattels of the dead, found upon his lay fee, to the amount of the debt, by the view of lawful men, so as nothing be removed until our whole clear debt be paid; and the rest shall be left to the executors to fulfil the testament of the dead; and if there be nothing due from him to us, all the chattels shall go to the use of the dead, saving to his wife and children their reasonable shares.[2]

27. If any freeman shall die intestate, his chattels shall be distributed by the hands of his nearest relations and friends, by view of the Church, saving to every one his debts which the deceased owed to him.

28. No constable or bailiff of ours shall take corn or other chattels of any man unless he presently give him money for it, or hath respite of payment by the good-will of the seller.

29. No constable shall distrain any knight to give money for castle-guard, if he himself will do it in his person, or by another able man, in case he cannot do it through any reasonable cause.

[1] These are suits conducted in the name of the Crown against criminal offenders.

[2] A person's goods were divided into three parts, of which one went to his wife, another to his heirs, and a third he was at liberty to dispose of. If he had no child, his widow had half; and if he had children, but no wife, half was divided amongst them. These several sums were called "reasonable shares." Through the testamentary jurisdiction they gradually acquired the clergy often contrived to get into their own hands all the residue of the estate without paying the debts of the estate.

And if we have carried or sent him into the army, he shall be free from such guard for the time he shall be in the army by our command.

30. No sheriff or bailiff of ours, or any other, shall take horses or carts of any freeman for carriage, without the assent of the said freeman.

31. Neither shall we nor our bailiffs take any man's timber for our castles or other uses, unless by the consent of the owner of the timber.

32. We will retain the lands of those convicted of felony only one year and a day, and then they shall be delivered to the lord of the fee.[1]

33. All kydells[2] (wears) for the time to come shall be put down in the rivers of Thames and Medway, and throughout all England, except upon the sea-coast.

34. The writ which is called *præcipe*, for the future, shall not be made out to any one, of any tenement, whereby a freeman may lose his court.

35. There shall be one measure of wine and one of ale through our whole realm; and one measure of corn, that is to say, the London quarter; and one breadth of dyed cloth, and russets, and haberjeets, that is to say, two ells within the lists; and it shall be of weights as it is of measures.

36. NOTHING FROM HENCEFORTH SHALL BE GIVEN OR TAKEN FOR A WRIT OF INQUISITION OF LIFE OR LIMB, BUT IT SHALL BE GRANTED FREELY, AND NOT DENIED.[3]

37. If any do hold of us by fee-farm, or by socage, or by burgage, and he hold also lands of any other by knight's service, we will not have the custody of the heir or land, which is holden of another man's fee by reason of that fee-farm, socage,[4] or burgage; neither will we have the custody of the fee-farm, or socage, or burgage, unless knight's service was due to us out of the same

[1] All forfeiture for felony has been abolished by the 33 and 34 Vic., c. 23. It seems to have originated in the destruction of the felon's property being part of the sentence, and this "waste" being commuted for temporary possession by the Crown.

[2] The purport of this was to prevent enclosures of common property, or committing a "Purpresture." These wears are now called "kettles" or "kettle-nets" in Kent and Cornwall.

[3] This important writ, or "writ concerning hatred and malice," may have been the prototype of the writ of *Habeas Corpus*, and was granted for a similar purpose.

[4] "Socage" signifies lands held by tenure of performing certain inferior offices in husbandry, probably from the old French word *soc*, a plough-share.

fee-farm. We will not have the custody of an heir, nor of any land which he holds of another by knight's service, by reason of any petty serjeanty [1] by which he holds of us, by the service of paying a knife, an arrow, or the like.

38. No bailiff from henceforth shall put any man to his law [2] upon his own bare saying, without credible witnesses to prove it.

39. NO FREEMAN SHALL BE TAKEN OR IMPRISONED, OR DISSEISED, OR OUTLAWED, OR BANISHED, OR ANY WAYS DESTROYED, NOR WILL WE PASS UPON HIM, NOR WILL WE SEND UPON HIM, UNLESS BY THE LAWFUL JUDGMENT OF HIS PEERS, OR BY THE LAW OF THE LAND.

40. WE WILL SELL TO NO MAN, WE WILL NOT DENY TO ANY MAN, EITHER JUSTICE OR RIGHT.

41. All merchants shall have safe and secure conduct, to go out of, and to come into England, and to stay there and to pass as well by land as by water, for buying and selling by the ancient and allowed customs, without any unjust tolls; except in time of war, or when they are of any nation at war with us. And if there be found any such in our land, in the beginning of the war, they shall be attached, without damage to their bodies or goods, until it be known unto us, or our chief justiciary, how our merchants be treated in the nation at war with us; and if ours be safe there, the others shall be safe in our dominions.

42. It shall be lawful, for the time to come, for any one to go out of our kingdom, and return safely and securely by land or by water, saving his allegiance to us; unless in time of war, by some short space, for the common benefit of the realm, except prisoners and outlaws, according to the law of the land, and people in war with us, and merchants who shall be treated as is above mentioned.[3]

43. If any man hold of any escheat,[4] as of the honour of

[1] The tenure of giving the king some small weapon of war in acknowledgment of lands held.

[2] Equivalent to putting him to his oath. This alludes to the Wager of Law, by which a defendant and his eleven supporters or "compurgators" could swear to his non-liability, and this amounted to a verdict in his favour.

[3] The Crown has still technically the power of confining subjects within the kingdom by the writ "ne exeat regno," though the use of the writ is rarely resorted to.

[4] The word *escheat* is derived from the French *escheoir*, to return or happen, and signifies the return of an estate to a lord, either on failure of tenant's issue or on his committing felony. The abolition of Feudal tenures by the Act of Charles II. (12 Charles II. c. 24) rendered obsolete this part and many other parts of the Charter.

Wallingford, Nottingham, Boulogne, Lancaster, or of other escheats which be in our hands, and are baronies, and die, his heir shall give no other relief, and perform no other service to us than he would to the baron, if it were in the baron's hand; and we will hold it after the same manner as the baron held it.

44. Those men who dwell without the forest from henceforth shall not come before our justiciaries of the forest, upon common summons, but such as are impleaded, or are sureties for any that are attached for something concerning the forest.[1]

45. We will not make any justices, constables, sheriffs, or bailiffs, but of such as know the law of the realm and mean duly to observe it.

46. All barons who have founded abbeys, which they hold by charter from the kings of England, or by ancient tenure, shall have the keeping of them, when vacant, as they ought to have.

47. All forests that have been made forests in our time shall forthwith be disforested; and the same shall be done with the water-banks that have been fenced in by us in our time.

48. All evil customs concerning forests, warrens, foresters, and warreners, sheriffs and their officers, water-banks and their keepers, shall forthwith be inquired into in each county, by twelve sworn knights of the same county, chosen by creditable persons of the same county; and within forty days after the said inquest be utterly abolished, so as never to be restored: so as we are first acquainted therewith, or our justiciary, if we should not be in England.

49. We will immediately give up all hostages and charters delivered unto us by our English subjects, as securities for their keeping the peace, and yielding us faithful service.

50. We will entirely remove from their bailiwicks the relations of Gerard de Atheyes, so that for the future they shall have no bailiwick in England; we will also remove Engelard de Cygony, Andrew, Peter, and Gyon, from the Chancery; Gyon de Cygony, Geoffrey de Martyn, and his brothers; Philip Mark, and his brothers, and his nephew, Geoffrey, and their whole retinue.

51. As soon as peace is restored, we will send out of the kingdom all foreign knights, cross-bowmen, and stipendiaries,

[1] The laws for regulating the Royal forests, and administering justice in respect of offences committed in their precincts, formed a large part of the law.

who are come with horses and arms to the molestation of our people.

52. If any one has been dispossessed or deprived by us, without the lawful judgment of his peers, of his lands, castles, liberties, or right, we will forthwith restore them to him; and if any dispute arise upon this head, let the matter be decided by the five-and-twenty barons hereafter mentioned, for the preservation of the peace. And for all those things of which any person has, without the lawful judgment of his peers, been dispossessed or deprived, either by our father King Henry, or our brother King Richard, and which we have in our hands, or are possessed by others, and we are bound to warrant and make good, we shall have a respite till the term usually allowed the crusaders; excepting those things about which there is a plea depending, or whereof an inquest hath been made, by our order before we undertook the crusade; but as soon as we return from our expedition, or if perchance we tarry at home and do not make our expedition, we will immediately cause full justice to be administered therein.

53. The same respite we shall have, and in the same manner, about administering justice, disafforesting or letting continue the forests, which Henry our father, and our brother Richard, have afforested; and the same concerning the wardship of the lands which are in another's fee, but the wardship of which we have hitherto had, by reason of a fee held of us by knight's service; and for the abbeys founded in any other fee than our own, in which the lord of the fee says he has a right; and when we return from our expedition, or if we tarry at home, and do not make our expedition, we will immediately do full justice to all the complainants in this behalf.

54. No man shall be taken or imprisoned upon the appeal[1] of a woman, for the death of any other than her husband.

55. All unjust and illegal fines made by us, and all amerciaments imposed unjustly and contrary to the law of the land, shall be entirely given up, or else be left to the decision of the five-and-twenty barons hereafter mentioned for the preservation of the peace, or of the major part of them, together with the afore-

[1] An *Appeal* here means an "accusation." The Appeal here mentioned was a suit for a penalty in which the plaintiff was a relation who had suffered through a murder or manslaughter. One of the incidents of this "Appeal of Death" was the Trial by Battle. These Appeals and Trial by Battle were not abolished before the passing of the Act 59 Geo. III., c. 46.

said Stephen, Archbishop of Canterbury, if he can be present, and others whom he shall think fit to invite; and if he cannot be present, the business shall notwithstanding go on without him; but so that if one or more of the aforesaid five-and-twenty barons be plaintiffs in the same cause, they shall be set aside as to what concerns this particular affair, and others be chosen in their room, out of the said five-and-twenty, and sworn by the rest to decide the matter.

56. If we have disseised or dispossessed the Welsh of any lands, liberties, or other things, without the legal judgment of their peers, either in England or in Wales, they shall be immediately restored to them; and if any dispute arise upon this head, the matter shall be determined in the Marches by the judgment of their peers; for tenements in England according to the law of England, for tenements in Wales according to the law of Wales, for tenements of the Marches according to the law of the Marches: the same shall the Welsh do to us and our subjects.

57. As for all those things of which a Welshman hath, without the lawful judgment of his peers, been disseised or deprived of by King Henry our Father, or our brother King Richard, and which we either have in our hands or others are possessed of, and we are obliged to warrant it, we shall have a respite till the time generally allowed the crusaders; excepting those things about which a suit is depending, or whereof an inquest has been made by our order, before we undertook the crusade: but when we return, or if we stay at home without performing our expedition, we will immediately do them full justice, according to the laws of the Welsh and of the parts before mentioned.

58. We will without delay dismiss the son of Llewellin, and all the Welsh hostages, and release them from the engagements they have entered into with us for the preservation of the peace.

59. We will treat with Alexander, King of Scots, concerning the restoring his sisters and hostages, and his right and liberties, in the same form and manner as we shall do to the rest of our barons of England; unless by the charters which we have from his father, William, late King of Scots, it ought to be otherwise; and this shall be left to the determination of his peers in our court.

60. All the aforesaid customs and liberties, which we have granted to be holden in our kingdom, as much as it belongs to us, all people of our kingdom, as well clergy as laity,

shall observe, as far as they are concerned, towards their dependents.

61. And whereas, for the honour of God and the amendment of our kingdom, and for the better quieting the discord that has arisen between us and our barons, we have granted all these things aforesaid; willing to render them firm and lasting, we do give and grant our subjects the underwritten security, namely that the barons may choose five-and-twenty barons of the kingdom, whom they think convenient; who shall take care, with all their might, to hold and observe, and cause to be observed, the peace and liberties we have granted them, and by this our present Charter confirmed in this manner; that is to say, that if we, our justiciary, our bailiffs, or any of our officers, shall in any circumstance have failed in the performance of them towards any person, or shall have broken through any of these articles of peace and security, and the offence be notified to four barons chosen out of the five-and-twenty before mentioned, the said four barons shall repair to us, or our justiciary, if we are out of the realm, and, laying open the grievance, shall petition to have it redressed without delay: and if it be not redressed by us, or if we should chance to be out of the realm, if it should not be redressed by our justiciary within forty days, reckoning from the time it has been notified to us, or to our justiciary (if we should be out of the realm), the four barons aforesaid shall lay the cause before the rest of the five-and-twenty barons; and the said five-and-twenty barons, together with the community of the whole kingdom, shall distrain and distress us in all the ways in which they shall be able, by seizing our castles, lands, possessions, and in any other manner they can, till the grievance is redressed, according to their pleasure; saving harmless our own person, and the persons of our Queen and children; and when it is redressed, they shall behave to us as before. And any person whatsoever in the kingdom may swear that he will obey the orders of the five-and-twenty barons aforesaid in the execution of the premises, and will distress us, jointly with them, to the utmost of his power; and we give public and free liberty to any one that shall please to swear to this, and never will hinder any person from taking the same oath.

62. As for all those of our subjects who will not, of their own accord, swear to join the five-and-twenty barons in distraining and distressing us, we will issue orders to make them take the same oath as aforesaid. And if any one of the five-and-

twenty barons dies, or goes out of the kingdom, or is hindered any other way from carrying the things aforesaid into execution, the rest of the said five-and-twenty barons may choose another in his room, at their discretion, who shall be sworn in like manner as the rest. In all things that are committed to the execution of these five-and-twenty barons, if, when they are all assembled together, they should happen to disagree about any matter, and some of them, when summoned, will not or cannot come, whatever is agreed upon, or enjoined, by the major part of those that are present shall be reputed as firm and valid as if all the five-and twenty had given their consent; and the aforesaid five-and-twenty shall swear that all the premises they shall faithfully observe, and cause with all their power to be observed. And we will procure nothing from any one, by ourselves nor by another, whereby any of these concessions and liberties may be revoked or lessened; and if any such thing shall have been obtained, let it be null and void; neither will we ever make use of it either by ourselves or any other. And all the ill-will, indignations, and rancours that have arisen between us and our subjects, of the clergy and laity, from the first breaking out of the dissensions between us, we do fully remit and forgive: moreover, all trespasses occasioned by the said dissensions, from Easter in the sixteenth year of our reign till the restoration of peace and tranquillity, we hereby entirely remit to all, both clergy and laity, and as far as in us lies do fully forgive. We have, moreover, caused to be made for them the letters patent testimonial of Stephen, Lord Archbishop of Canterbury, Henry, Lord Archbishop of Dublin, and the bishops aforesaid, as also of Master Pandulph, for the security and concessions aforesaid.

63. Wherefore we will and firmly enjoin, that the Church of England be free, and that all men in our kingdom have and hold all the aforesaid liberties, rights, and concessions, truly and peaceably, freely and quietly, fully and wholly to themselves and their heirs, of us and our heirs, in all things and places, for ever, as is aforesaid. It is also sworn, as well on our part as on the part of the barons, that all the things aforesaid shall be observed in good faith, and without evil subtilty. Given under our hand, in the presence of the witnesses above named, and many others, in the meadow called Runingmede, between Windsor and Staines, the 15th day of June, in the 17th year of our reign.

(2) "*CONFIRMATIO CARTARUM*"[1] *OF EDWARD* I.

1297.

I. Edward, by the grace of God, King of England, Lord of Ireland, and Duke Guyan, to all those that these present letters shall hear or see, greeting. Know ye that we, to the honour of God and of holy Church, and to the profit of our realm, have granted for us and our heirs, that the Charter of Liberties and the Charter of the Forest, which were made by common assent of all the realm in the time of King Henry our father, shall be kept in every point without breach. And we will that the same Charters shall be sent under our seal as well to our justices of the forest as to others, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the realm, together with our writs in the which it shall be contained that they cause the foresaid Charters to be published, and to declare to the people that we have confirmed them in all points; and that our justices, sheriffs, mayors, and other ministers, which under us have the laws of our land to guide, shall allow the said Charters pleaded before them in judgment in all their points; that is to wit, the Great Charter as the common law, and the Charter of the Forest according to the assize of the Forest, for the wealth of our realm.

II. And we will that if any judgment be given from henceforth, contrary to the points of the Charters aforesaid, by the justices or by any other our ministers that hold plea before them against the points of the Charters, it shall be undone and holden for nought.

III. And we will that the same Charters shall be sent under our seal to cathedral churches throughout our realm, there to remain, and shall be read before the people two times by the year.

IV. And that all archbishops and bishops shall pronounce the sentence of great excommunication against all those that by word, deed, or counsel do contrary to the foresaid Charters, or that in any point break or undo them. And that the said curses be twice a year denounced and published by the prelates

[1] The words of this important document, from Professor Stubbs's translation, are given as the best explanation of the constitutional position and importance of the Charters of John and Henry III.

aforesaid. And if the prelates or any of them be remiss in the denunciation of the said sentences, the Archbishops of Canterbury and York for the time being, as is fitting, shall compel and distrein them to make that denunciation in form aforesaid.

V. And for so much as divers people of our realm are in fear that the aids and tasks which they have given to us beforetime towards our wars and other business, of their own grant and goodwill, howsoever they were made, might turn to a bondage to them and their heirs, because they might be at another time found in the rolls, and so likewise the prises taken throughout the realm by our ministers; we have granted for us and our heirs, that we shall not draw such aids, tasks, nor prises into a custom, for anything that hath been done heretofore, or that may be found by roll or in any other manner.

VI. Moreover we have granted for us and our heirs, as well to archbishops, bishops, abbots, priors, and other folk of holy Church, as also to earls, barons, and to all the commonalty of the land, that for no business from henceforth will we take such manner of aids, tasks, nor prises but by the common consent of the realm, and for the common profit thereof, saving the ancient aids and prises due and accustomed.

VII. And for so much as the more part of the commonalty of the realm find themselves sore grieved with the matelote of wools, that is to wit, a toll of forty shillings for every sack of wool, and have made petition to us to release the same; we, at their requests, have clearly released it, and have granted for us and our heirs that we shall not take such thing nor any other without their common assent and good will; saving to us and our heirs the custom of wools, skins, and leather, granted before by the commonalty aforesaid. In witness of which things we have caused these our letters to be made patents. Witness Edward our son, at London, the 10th day of October, the five-and-twentieth of our reign.

And be it remembered that this same Charter, in the same terms, word for word, was sealed in Flanders under the King's Great Seal, that is to say, at Ghent, the 5th day of November, in the 25th year of the reign of our aforesaid Lord the King, and sent into England.

(3) A.D. 1628. PETITION OF RIGHT. 3 CAR. I. C. 1.

TO THE KING'S MOST EXCELLENT MAJESTY,

HUMBLY show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward I., commonly called *Statutum de Tallagio non Concedendo*, that no tallage or aid shall be laid or levied by the King or his heirs in this realm without the good-will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonalty of this realm; and by authority of Parliament holden in the five-and-twentieth year of the reign of King Edward III. it is declared and enacted, that from thenceforth no person should be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided, that none should be charged by any charge or imposition called a benevolence, nor by such like charge; by which statutes before mentioned, and other the good laws and statutes of this realm, your subjects have inherited this freedom, that they should not be compelled to contribute to any tax, tallage, aid, or other like charge not set by common consent, in Parliament.

II. Yet nevertheless of late divers commissions directed to sundry commissioners in several counties, with instructions, have issued, by means whereof your people have been in divers places assembled, and required to lend certain sums of money unto your Majesty, and many of them, upon their refusal so to do, have had an oath administered unto them not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give utterance before your Privy Council and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted; and divers other charges have been laid and levied upon your people in several counties by lord-lieutenants, deputy-lieutenants, commissioners for musters, justices of peace, and others, by command or direction from your Majesty, or your Privy Council, against the laws and free customs of the realm.

III. And whereas also by the statute called "The Great Charter of the Liberties of England," it is declared and enacted that no freeman may be taken or imprisoned, or be disseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land.

IV. And in the eight-and-twentieth year of the reign of King Edward III. it was declared and enacted by authority of Parliament, that no man, of what estate or condition that he be, should be put out of his land or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law.

V. Nevertheless, against the tenor of the said statutes, and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause shewed; and when for their deliverance they were brought before your justices by your Majesty's writs of *habeas corpus*, there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command, signified by the Lords of your Privy Council, and yet were returned back to several prisons, without being charged with anything to which they might make answer according to the law.

VI. And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn, against the laws and customs of this realm, and to the great grievance and vexation of the people.

VII. And whereas also by authority of Parliament, in the five-and-twentieth year of the reign of King Edward III., it is declared and enacted, that no man shall be forejudged of life or limb against the form of the Great Charter and the law of the land; and by the said Great Charter and other the laws and statutes of this your realm, no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament: and whereas no offender of what kind soever is exempted from the proceedings to be used, and punishments to be inflicted by the laws and statutes of this your realm: nevertheless of late times divers commissions under your Majesty's great seal have issued

forth, by which certain persons have been assigned and appointed commissioners with power and authority to proceed, within the land, according to the justice of martial law, against such soldiers or mariners, or other dissolute persons joining with them, as should commit any murder, robbery, felony, mutiny, or other outrage or misdemeanour whatsoever, and by such summary course and order as is agreeable to martial law, and as is used in armies in time of war, to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death according to the martial law.

VIII. By pretext whereof some of your Majesty's subjects have been by some of the said commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might and by no other ought to have been judged and executed.

IX. And also sundry grievous offenders, by colour thereof claiming an exemption, have escaped the punishments due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborne to proceed against such offenders according to the same laws and statutes, upon pretence that the said offenders were punishable only by martial law, and by authority of such commissions as aforesaid; which commissions, and all other of like nature, are wholly and directly contrary to the said laws and statutes of this your realm.

X. They do therefore humbly pray your Most Excellent Majesty, that no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament; and that none be called to make answer, or to take such oath, or to give attendance, or be confined, or otherwise molested or disquieted concerning the same or for refusal thereof; and that no freeman, in any such manner as is before mentioned, be imprisoned or detained; and that your Majesty would be pleased to remove the said soldiers and mariners, and that your people may not be so burthened in time to come; and that the aforesaid commissions, for proceeding by martial law, may be revoked and annulled; and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, lest by colour of them any of your Majesty's subjects be

destroyed or put to death contrary to the laws and franchises of the land.

XI. All which they most humbly pray of your Most Excellent Majesty as their rights and liberties, according to the laws and statutes of this realm; and that your Majesty would also vouchsafe to declare, that the awards, doings, and proceedings, to the prejudice of your people in any of the premises, shall not be drawn hereafter into consequence or example; and that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.

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(4) A.D. 1679. HABEAS CORPUS ACT.

31 CAR. II. C. 2.

[Some of the purely technical verbiage and clauses are omitted.]

1. That on complaint and request in writing by or on behalf of any person committed and charged with any crime (unless committed for treason or felony expressed in the warrant; or as accessory or on suspicion of being accessory before the fact to any petit treason or felony plainly expressed in the warrant; or unless he is convicted or charged in execution by legal process), the Lord Chancellor or any of the judges in vacation, upon viewing a copy of the warrant, or affidavit that a copy is denied, shall (unless the party has neglected for two terms to apply to any court for his enlargement) award a *habeas corpus* for such prisoner, returnable immediately before himself or any other of the judges; and upon the return made shall discharge the party, if bailable, upon giving security to appear and answer to the accusation in the proper court of judicature.

2. That such writs shall be indorsed as granted in pursuance of this Act, and signed by the person awarding them.

3. That the writ shall be returned, and the prisoner brought up within a limited time, according to the distance, not exceeding in any case twenty days.

4. That officers and keepers neglecting to make due returns, or not delivering to the prisoner or his agent within six hours after demand a copy of the warrant of commitment, or shifting the custody of the prisoner from one to another without sufficient reason or authority (specified in the Act), shall for the first offence forfeit 100*l.*, and for the second offence 200*l.* to the party grieved, and be disabled to hold his office.

5. That no person once delivered by *habeas corpus* shall be re-committed for the same offence, on penalty of 500*l*

6. That every person committed for treason or felony shall, if he requires it, the first week of the next term, or the first day of the next session of *oyer* and *terminer*, be indicted in that term or session, or else admitted to bail, unless the witnesses for the Crown cannot be produced at that time; and if acquitted, or not indicted and tried in the second term or session, he shall be discharged from his imprisonment for such imputed offence; but that no person, after the assizes shall be open for the county in which he is detained, shall be removed by *habeas corpus* till after the assizes are ended, but shall be left to the justice of the judges of assize.

7. That any such prisoner may move for and obtain his *habeas corpus* as well out of the Chancery or Exchequer as out of the King's Bench or Common Pleas, and the Lord Chancellor or judge denying the same on sight of the warrant or oath that the same is refused forfeits severally to the party grieved the sum of 500*l.*

8. That this writ of *habeas corpus* shall run into the counties palatine, cinque ports, and other privileged places, and the Islands of Jersey and Guernsey.

9. That no inhabitant of England (except persons contracting or convicts praying to be transported, or having committed some capital offence in the place to which they are sent) shall be sent prisoner to Scotland, Ireland, Jersey, Guernsey, or any places beyond the seas within or without the British dominions, on pain that the party committing, his advisers, aiders, and assistants, shall forfeit to the party aggrieved a sum not less than 500*l.*, to be recovered with treble costs; shall be disabled to bear any office of trust or profit; shall incur the penalties of *præmunire*, and shall be incapable of the Royal pardon.[1]

[1] See also 56 Geo. III., c. 100.

(5) 1 WILL. & MAR. C. 2.

AN ACT for Declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown.

Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully, and freely representing all the estates of the people of this realm, did upon the Thirteenth day of February, in the year of our Lord One Thousand Six Hundred Eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain Declaration in writing, made by the said Lords and Commons, in the words following, viz. :—

Whereas the late King James II., by the assistance of divers evil counsellors, judges, and ministers employed by him, did endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom :—

1. By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of Parliament.

2. By committing and prosecuting divers worthy prelates for humbly petitioning to be excused from concurring to the said assumed power.

3. By issuing and causing to be executed a commission under the Great Seal for erecting a court, called the Court of Commissioners for Ecclesiastical Causes.

4. By levying money for and to the use of the Crown by pretence of prerogative, for other time and in other manner than the same was granted by Parliament.

5. By raising and keeping a standing army within this kingdom in time of peace, without consent of Parliament, and quartering soldiers contrary to law.

6. By causing several good subjects, being Protestants, to be disarmed, at the same time when Papists were both armed and employed contrary to law.

7. By violating the freedom of election of members to serve in Parliament.

8. By prosecutions in the Court of King's Bench for matters and causes cognisable only in Parliament, and by divers other arbitrary and illegal causes.

9. And whereas of late years, partial, corrupt, and unqualified persons have been returned, and served on juries in trials, and particularly divers jurors in trials for high treason, which were not freeholders.

10. And excessive bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the liberty of the subjects.

11. And excessive fines have been imposed; and illegal and cruel punishments inflicted.

12. And several grants and promises made of fines and forfeitures before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.

And whereas the said late King James II. having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from Popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal, and divers principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and cinque ports, for the choosing of such persons to represent them as were of right to be sent to Parliament, to meet and sit at Westminster upon the two-and-twentieth day of January, in this year One Thousand Six Hundred Eighty and Eight, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted; upon which letters elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare :—

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the Crown by pretence and prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

7. That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

8. That election of members of Parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

10. That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliament ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far

advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties :

II. The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve, that William and Mary, Prince and Princess of Orange, be, and be declared, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said Prince and Princess during their lives, and the life of the survivor of them ; and that the sole and full exercise of the regal power be only in, and executed by, the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives ; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said Princess; and for default of such issue to the Princess Anne of Denmark, and the heirs of her body ; and for default of such issue to the heirs of the body of the said Prince of Orange. And the Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess to accept the same accordingly.

III. And that the oaths hereafter mentioned be taken by all persons of whom the oaths of allegiance and supremacy might be required by law instead of them ; and that the said oaths of allegiance and supremacy be abrogated.

" I, A. B., do sincerely promise and swear, That I will be faithful and bear true allegiance to their Majesties King William and Queen Mary :

" So help me God."

" I, A. B., do swear, That I do from my heart abhor, detest, and abjure as impious and heretical that damnable doctrine and position, that princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, preeminence, or authority, ecclesiastical or spiritual, within this realm :

" So help me God."

IV. Upon which their said Majesties did accept the crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolu-

tion and desire of the said Lords and Commons contained in the said declaration.

V. And thereupon their Majesties were pleased, that the said Lords Spiritual and Temporal, and Commons, being the two Houses of Parliament, should continue to sit, and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted; to which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly.

VI. Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed. adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.

VII. And the said Lords Spiritual and Temporal, and Commons, seriously considering how it hath pleased Almighty God, in his marvellous providence, and merciful goodness to this nation, to provide and preserve their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto Him from the bottom of their hearts their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts, think, and do hereby recognise, acknowledge, and declare, that King James II. having abdicated the Government, and their Majesties having accepted the Crown and royal dignity as aforesaid, their said Majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege Lord and Lady, King and Queen of England, France, and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of the said realms, with

all honours, styles, titles, regalities, prerogatives, powers, jurisdictions, and authorities to the same belonging and appertaining, are most fully, rightfully, and entirely invested and incorporated, united, and annexed.

VIII. And for preventing all questions and divisions in this realm, by reason of any pretended titles to the Crown, and for preserving a certainty in the succession thereof, in and upon which the unity, peace, tranquillity, and safety of this nation doth, under God, wholly consist and depend, the said Lords Spiritual and Temporal, and Commons, do beseech their Majesties that it may be enacted, established, and declared, that the Crown and regal government of the said kingdoms and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said Majesties, and the survivor of them, during their lives, and the life of the survivor of them. And that the entire, perfect, and full exercise of the regal power and government be only in, and executed by, his Majesty, in the names of both their Majesties, during their joint lives; and after their deceases the said Crown and premises shall be and remain to the heirs of the body of her Majesty; and for default of such issue, to her Royal Highness the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of his said Majesty: And thereunto the said Lords Spiritual and Temporal, and Commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities, for ever: and do faithfully promise, that they will stand to, maintain, and defend their said Majesties, and also the limitation and succession of the Crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever that shall attempt anything to the contrary.

IX. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom to be governed by a Popish prince, or by any king or queen marrying a Papist, the said Lords Spiritual and Temporal, and Commons, do further pray that it may be enacted, That all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with, the See or Church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown and Government of this realm, and

Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise, any regal power, authority, or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance, and the said Crown and government shall from time to time descend to, and be enjoyed by, such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons so reconciled, holding communion, or professing, or marrying, as aforesaid, were naturally dead.

X. And that every King and Queen of this realm, who at any time hereafter shall come to and succeed in the Imperial Crown of this kingdom, shall, on the first day of the meeting of the first Parliament, next after his or her coming to the Crown, sitting in his or her throne in the House of Peers, in the presence of the Lords and Commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen), make, subscribe, and audibly repeat the declaration mentioned in the statute made in the thirteenth year of the reign of King Charles II., intituled "An Act for the more effectual preserving the King's person and Government, by disabling Papists from sitting in either House of Parliament." But if it shall happen that such King or Queen, upon his or her succession to the Crown of this realm, shall be under the age of twelve years, then every such King or Queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of meeting of the first Parliament as aforesaid, which shall first happen after such King or Queen shall have attained the said age of twelve years.

XI. All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present Parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, declared, enacted, or established accordingly.

XII. And be it further declared and enacted by the authority aforesaid, That from and after this present session of Parliament, no dispensation by *non obstante* of or to any statute, or any part

thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of Parliament.

XIII. Provided that no charter, or grant, or pardon granted before the three-and-twentieth day of October, in the year of our Lord One thousand six hundred eighty-nine, shall be any ways impeached or invalidated by this Act. but that the same shall be and remain of the same force and effect in law, and no other, than as if this Act had never been made.

(6) A.D. 1700. ACT OF SETTLEMENT.

12 & 13 WILL. III. c. 2.

1. That whosoever shall hereafter come to the possession of this Crown shall join in communion with the Church of England as by law established.

2. That in case the Crown and Imperial dignity of this realm shall hereafter come to any person not being a native of this kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.

3. That no person who shall hereafter come to the posse sion of this Crown shall go out of the dominions of England, Scotland, or Ireland, without consent of Parliament.[1]

4. That from and after the time that the further limitation by this Act shall take effect, all matters and things relating to the well governing of this kingdom, which are properly cognisable in the Privy Council by the laws and customs of this realm, shall be transacted there, and all resolutions taken thereupon shall be signed by such of the Privy Council as shall advise and consent to the same.[2]

5. That, after the said limitation shall take effect as aforesaid. no person born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although to be naturalised or made a denizen—except such as are born of

[1] Repealed in the first year of George I.'s reign.
[2] Repealed by 4 Anne, c. 8., 6 Anne, c. 7.

English parents), shall be capable to be of the Privy Council, or a member of either House of Parliament, or to enjoy any office or place of trust, either civil or military, or to have any grant of lands, tenements, or hereditaments, from the Crown, to himself, or to any other or others in trust for him.

6. That no person who has an office or place of profit under the King, or receives a pension from the Crown, shall be capable of serving as a member of the House of Commons.[1]

7. That, after the said limitation shall take effect as aforesaid, judges' commissions be made *quamdiu se bene gesserint*, and their salaries ascertained and established; but upon the address of both Houses of Parliament, it may be lawful to remove them.

8. That no pardon under the Great Seal of England be pleadable to an impeachment by the Commons in Parliament.

APPENDIX B.

THE AUDIT DEPARTMENT AND THE PROCESS OF MAKING PAYMENTS BY THE TREASURY.

[Extract from an article in the *Daily News* on the "Treasury and the Exchequer," forming one of the series on "English Politics and Parties."]

"The office of Comptroller of the Exchequer, at the retirement of its last occupant, Lord Monteagle, was consolidated with that of Auditor-General, who now bears the title of Controller and Auditor-General, and whose department, in Somerset House is known as the Exchequer and Audit Office. The duties of the Exchequer, which takes its name from the chequered tables on which, in the pre-arithmetical period, calculations were made, are the custody of the public money and watchfulness over its proper application. It receives the gross revenues of the country, which, after the deduction of certain charges, are paid to the account of her Majesty's Exchequer at the Banks of England and of Ireland. When votes of supply have been taken in the House of Commons, the Exchequer

[1] Repealed in the fourth year of Anne's reign.

department is authorised to make advances to the Treasury for the sums of money required, which it does by granting it credits on the Exchequer accounts at the Bank, which credits must not, however, exceed the ways and means voted by the House of Commons. If this condition is not complied with, it is the duty of the Exchequer to suspend or refuse the grant. These grants need to be confirmed at the close of the Session by the Appropriation Act. In the event of that measure not passing in the same Session the votes of the Commons are void. and require to be renewed in the next Session of Parliament, in order that legal appropriation may take place. When these credits have been issued, the Treasury makes transfers to the Paymaster-General's account in the Bank, in order that he may make the proper payments to the several branches of the public service. At this point the Audit Department of the associated Exchequer and Audit Offices steps on the field. The money has been granted for specific objects ; in the person of the Paymaster-General it reaches the person who is the instrument of distribution for those objects. It is necessary to provide a check upon its improper application. It is needful to see not only that the money voted for public purposes shall be applied to public purposes, or, in other words, to guard against fraud and embezzlement, but to take care that the money voted by Parliament for one public purpose shall not, under any supposed pressure of necessity or expediency, as interpreted by an official who thinks he knows better than the House of Commons, be applied to another, and, in his view, more urgent public purpose. It is the duty of the Bank, on receiving from the Treasury orders to transfer money to the Paymaster-General, to communicate with the Auditor-General, in order that he may have the information necessary for properly checking the accounts. The Paymaster-General is at liberty to use all the money which comes into his hands as one fund, without reference to the origin and appropriation of particular portions ; but this is simply as a matter of account, and to avoid the accumulation of useless balances. Every month, however, the Pay Office is required to adjust its accounts, and to submit to the Treasury a statement of them, showing the credit standing to each vote ; to the purposes of which the sum specifically voted will finally be appropriated. The process is simply that which is adopted in banking houses, where it is not the habit to keep each investor's money in a heap by itself, and to add deposits or to make payments from it, but

to treat the deposits collectively as a fund, and make the separation a matter of book-keeping and of balances. The duty of the Audit Commissioners is to examine the accounts of the several civil services—for the Army and Navy are still improperly excluded from this independent investigation of their expenditure—and to see whether the expenditure alleged has actually taken place, whether it has been sanctioned by the proper departmental authority, and whether it was authorised by precedent. The report of the Audit Office is submitted to gentlemen who must rectify any irregularities, and who will make such remarks as may seem desirable before the House of Commons, by whom it is referred to a Standing Committee of Public Accounts. Thus those questions of public expenditure which originate in the House of Commons return to it again in the last resort for revision."

APPENDIX C.

THE FOREIGN OFFICE AND THE UNDER-SECRETARIES OF STATE FOR FOREIGN AFFAIRS.

[Extract from an article in the *Daily News* on the "Foreign Office," forming one of the Series on "English Politics and Parties."]

"The Secretary of State for Foreign Affairs, as the successor of the Secretary for the Southern Department, has a certain undefined precedency over his fellow Secretaries, with the exception of him of the Home Office. Practically, although, as in other cases, a great deal depends upon individual taste and party convenience in the distribution of the seals, his place is the most important and dignified of them all. The direct relations in which it brings its occupant with the Sovereign and with foreign Powers; the fact that its tenure makes him for the time being the representative of England to the world at large; the amount of important and confidential business which has to be transacted, with only the conditional and retrospective control of the House of Commons; the momentous issues of peace and war,

or of easy or constrained relations with foreign powers; the moral influence which may be wisely exerted in behalf of freedom or good government abroad, and which a hasty word or a querulous despatch may throw away or convert to evil; and the bearing of all these things upon commerce, make the office one of the most difficult that can be exercised. The Secretaryship for Foreign Affairs is of greater moral responsibility, if degrees can be admitted in matters of this sort, and of less direct and longer deferred Parliamentary responsibility, than any other under the Crown. From the nature of the case diplomatic correspondence and negotiations have often to be kept secret until the business is settled or the enterprise has failed. In the easily invoked interests of the public service questions are left unanswered to which the Minister, if he is to be believed, is burning to reply; papers are kept back which he is eager to lay before the House; discussions are deprecated which, if his duty allowed, he would be the first to invite. If things prove in the end to have gone wrong, Parliament has the consolation of passing a vote of censure, which will not set them right. In other words, it may cry its eyes out if it chooses over spilled milk. As to do this would be to present a somewhat undignified spectacle to the other nations of the world, this luxury of woe, or of merely vindictive punishment, is not usually indulged in; and a retrospective vote of censure comes as little within the ordinary reckoning of a Minister for Foreign Affairs as direct Parliamentary interference during the course of a negotiation. What he has to fear is adverse opinion, when the truth comes out. directed and informed by searching and unsparing criticism. His personal discredit, and that of the Government to which he belongs, in the case of error or misconduct, are usually a sufficient inducement to vigilance

"These peculiar conditions of the office render the character of the person filling it a matter of more than ordinary moment; and since it came into separate existence it has been held probably by a greater number of men of high eminence than any other political post save that of Prime Minister. Mr. Fox, Lord Liverpool, Lord Wellesley, Lord Castlereagh, Mr. Canning, Lord Dudley, Lord Aberdeen, the Duke of Wellington, Lord Russell, Lord Clarendon, Lord Derby, and Lord Granville have been among its occupants, all of them men of the first political eminence, eight of them Prime Ministers, and the rest either the actual leaders of their party in one or the other House, or conspicuous and influential in it.

"In the interior of the Foreign Office a distribution of work prevails somewhat like that according to which, in former days, the Northern and Southern departments were distributed between the two principal Secretaries of State, though the distribution is not in name or fact hemispherical. The Permanent Under-Secretary and the Parliamentary Under-Secretary are each charged with the correspondence and affairs of certain designated nations, under the direction and control of the Principal Secretary. Each, however, has a certain cognizance of the other's work—the Permanent Secretary, in order that the threads of business which he has to transmit to successive chiefs may all be in his hands; the Parliamentary Under-Secretary, that he may be able to explain and defend in Parliament the action of his department. To the Permanent Under-Secretary the most important countries are assigned, and he ordinarily is the Foreign Office, his Parliamentary colleague knowing usually as much as he is told, which is as much as may be considered safe to allow him the means of communicating to an inquisitive member. Occasionally the spectacle has been witnessed of an unfortunate Under-Secretary stumbling over a written memorandum handed him a few minutes before and imperfectly decipherable. In a paper drawn up by Mr. (now Lord) Hammond for the Commons' Committee of 1861, on the Diplomatic Service, the mode of transacting business is minutely described. The despatches are received by the clerks, and transmitted to one or other of the Under-Secretaries, who sends them to the principal Secretary of State. His instructions are written upon them, and with this addition they are sent back to the proper Under-Secretary, who forwards them to the senior clerk of the division entrusted with the correspondence of the countries to which they refer. The draft answers, if they require answers, are submitted to the Under-Secretary for his approval, and, on this being given, are sent back to the proper division to be written out for the signature of the Principal or the Under-Secretary, as the case may be. In mere matters of detail the senior clerk sometimes does not trouble the Under-Secretary of State with a draft of a letter, but submits the letter at once to him for signature. In matters of more importance than those described, the Under-Secretary would, we believe, himself write the despatch. In affairs of the highest State policy, which involve the secrets of Cabinets, and friendly or doubtful relations, or even peace and war with foreign Powers, the Principal Secretary himself writes the draft of the

despatch, which is the subject of consultation between, and, if need be, modification by, himself and the Prime Minister, and one or two recognised members of that inner Cabinet within the ostensible Cabinet, by which its policy is really shaped. Thus agreed upon, it is submitted to the whole Cabinet for approval, which it is pretty certain to receive, though it is said to come out of this deliberation in a form strangely unlike that in which it goes in. The draft thus settled is submitted to the Sovereign, and if accepted, is reduced into form by the Principal Secretary of State. In matters in which the turning of a phrase, the spirit of an allusion, and the tone and temper of a despatch may have consequences as serious as its substance, it would be impossible to trust the preparation to a clerk or Under-Secretary, even if the matter were allowed to go beyond the circle of the Cabinet. Not only the statement of facts and the processes of reasoning, but the sentiment of the Government, its desire to conciliate and willingness to concede, or its feeling that the time for conciliation has passed, and that concession is impossible, require to be conveyed in language at once discriminating and authoritative. The feeling to be made plain cannot be delegated or dictated, it must be expressed or shadowed forth at first hand. A judge of style and character could trace the passage of Lord Aberdeen and Lord Palmerston, Lord Clarendon and Lord Granville, Lord Russell and Lord Derby through the Foreign Office, without regarding the signatures at the close of their several despatches. They are signed all over."

APPENDIX D.

THE NATIONAL DEBT.

As complementary to what is said in the text, the following extracts from a valuable little book on "the Money Market," by a City Man (Warne and Co.), are given :—

"The National Debt presents itself to our view in the form of various funds, bearing interest, and serving as investments to many thousands of persons. Taking them in something like the order of their importance, we have :

"First, THE FUNDED DEBT, for the payment of the Interest on which a permanent charge is made on the National Revenue. The chief portions of this are—

"I. CONSOLS.—This word is an abbreviation of *Consolidated* the full title of the Stock is the Three per Cent. Consolidated Bank Annuities. It forms by far the greater part of the public debt. It had its origin in 1751, when an Act was passed consolidating several separate stocks bearing an interest of three per cent. The present amount of this stock is about £400,000,000.

"The interest upon it has never failed; and as it forms the favourite investment of the nation, it is supposed to be especially affected by all that affects the national interest.

"II. REDUCED THREES.—The full title of this Stock is Reduced Three per Cent. Annuities. The stock dates from 1757. It consisted, as the name implies, of stocks which had borne previously a higher rate of interest, and whose holders had the option afforded them of being paid off or accepting the lower rate. Most of them chose the latter alternative. It amounts at present to about £102,000,000.

"III. NEW THREES, which till October, 1854, paid 3¼ per cent., having previously undergone several conversions from their original denomination as 'Navy Five per Cents.' . . .

"IV. NEW FIVES, comprising the residue of the Navy Five per Cents., but amounting altogether to a comparatively insignificant sum. . . . .

"V. LIFE ANNUITIES, which may be obtained from the Commissioners for the Reduction of the National Debt, at their office in the Old Jewry, in exchange for stock or money, on single or joint lives, calculated according to age, at fixed rates.

"THE UNFUNDED DEBT is that which is not made a permanent charge on the Revenue: it consisted at one time wholly of—

"EXCHEQUER BILLS.

"These are bills of credit issued by authority of Parliament. They are for various sums, and bear interest (generally from 1½*d.* to 2½*d.* per diem per £100) according to the usual rate at the time. The advances of the Bank to Government are made upon these Bills, and the daily transactions between the Bank and Government are principally carried on through their intervention. Notice of the time at which outstanding Exchequer

Bills are to be paid off is given by public advertisement. Bankers invest in Exchequer Bills to a considerable extent, even though the interest be for the most part comparatively low, because the exact amount of capital advanced will be repaid by the Treasury, the holders being exempted from any but a trifling risk of fluctuation. Exchequer Bills were first issued in 1696, and have been annually issued ever since.

"EXCHEQUER BONDS are a similar description of securities to the last mentioned, except that the Bonds are not payable annually. They were introduced by Mr. Gladstone in 1853, as part of a scheme for the conversion of some portion of the permanent debt into a terminable one. In the course of the negotiation, however, circumstances arose to defeat the success of the measure, the result being that a very small amount of Bonds was taken up. In the following year, the South Sea Stock proprietors having claimed payment, and the prospect of a war against Russia having created a heavy demand on the Exchequer, the same Chancellor determined on renewing the attempt to create Exchequer Bonds, instead of resorting at once to a regular loan. Bonds were, therefore, advertised, bearing interest at the rate of 3½ per cent. per annum, payable half-yearly, in three sets of £2,000,000 each—the Bonds classed A, B, and C, to be payable May 8th, 1858; May 8th, 1859; and May 8th, 1860; the Bonds to be issued in amounts of £100, £200, £500, and £1,000. Of these Bonds, however, only Classes A and B were ever taken up—to the amount, it is understood, of nearly £4,000,000. The dividends thereon are payable in May and November.

"It will be seen that all these funds represent loans made at various times, and for different purposes, by private parties to the State. The practice of providing for State exigencies by such loans was first adopted by the Government of Florence, as far back as the year 1341. The sum borrowed was only £60,000; but as the State had not the means of immediately discharging the debt, it had recourse to a very ingenious and then new device—that of creating out of this liability a joint-stock divided into shares. These were to bear interest at 5 per cent., and, for the sake of mercantile convenience, made transferable. It is obvious that the *absolute* value of these would vary with the actual power of the republic to pay the debt, and their *market* value with the public opinion of the State solvency.

APPENDIX E.

THE LEGAL PROFESSION.

THE LEGAL PROFESSION in England has now for some hundreds of years past been distributed into two distinct "branches," of which one is usually held, by courtesy, to be higher than the other. The members of the higher branch, that of Barristers, have sole audience in the Superior Courts of Law. They can only be directly employed by, and receive their instructions from, the members of the lower branch of the profession—that is, Attorneys or Solicitors. They cannot sue for unpaid fees by any legal process, and no action can be brought against them for negligence or misconduct in the management of a case. On the other hand, their action is guided and restricted by strict rules of professional etiquette, and it is scarcely possible for a Barrister (also called "Counsel") to disobey these rules without subjecting himself to such an amount of professional, and even judicial, disapprobation, as to render the conduct of business (if he succeeds in retaining any) almost insuperably difficult.

A person becomes a barrister through what is named the 'call" of one of the four Inns of Court. These Inns, the Inner and Middle Temple, Lincoln's Inn, and Gray's Inn, are ancient Societies, which have had certain privileges granted them, and property conferred upon them, by Kings of England, for the benefit and education of the Legal Profession. It seems, by the way, to have been merely due to historical accidents that one part of the Profession gradually became excluded from all share in these advantages. These Societies exercise, through their self-elective Governing Bodies, the members of the Bench, or Benchers, *by delegation from the Judges of the Superior Courts*, the functions of "calling" to the Bar, of determining the conditions upon which the call shall be made, and of *dis-barring* (that is, revoking the call of) any Barrister who, in their opinion —formed after a quasi-judicial inquiry—shall have misconducted himself, either in the discharge of his professional duties or otherwise. In case of a sentence of disbarring being pronounced, an appeal lies to the Judges. The existing conditions

for a call to the Bar are, first, entrance as a member of an Inn of Court. No attorney can enter till he has ceased to be on the roll of attorneys for a full year preceding his application. Except in the case of exemptions granted to University students, a preliminary examination of an elementary character must be passed. The Student must, during twelve terms (of which there are four in each year), attend in the Hall of his Inn during the dinner hour, unless one or two terms are remitted in consideration of the student's passing an exceptionally good examination. Finally, every student must pass an examination in such subjects as Roman Law, and English Common Law, Equity, and Real Property Law.

This compulsory examination can be passed at any time after the student has kept four terms. Studentships of £100, for one or two years, are awarded for excellence in Roman Law (Institutes, Digest, and History), Jurisprudence, and International Law. Public lectures are delivered on all the subjects of the examinations by Professors in the Halls of the several Inns; and instruction is given to private classes by tutors or by the professors. Attendance at all these lectures, public and private, is quite voluntary; and the public lectures are open to others than students, on payment of a moderate fee. The conduct of the examinations, the selection of the lectures, and the arrangement of the scheme of instruction, are undertaken by a joint representative committee of the Inns of Court, called the "Council of Legal Education."

The functions of attorneys and solicitors (of which, strictly speaking, *attorneys* are officers of Common-Law Courts, and *solicitors* officers of Courts of Equity, though the terms are used interchangeably), are (1) to inform such persons as may apply to them as to the nature of their rights and duties, and to obtain for their clients from counsel such opinions on special points of law as they do not feel competent to advise upon without such help; (2) to do a number of legal acts of the simpler sort, such as preparing wills, leases, contracts of sale, mortgages, and the like; (3) to conduct litigation on behalf of their clients, to appear for them in the Courts in which it is permitted, or (if necessary) to employ and instruct counsel for this purpose; (4) to do a number of acts on behalf of their clients, in which the presence and direct interposition of the clients are either onerous, disagreeable, or impossible.

The mode of "admission" of attorneys is regulated by statute.

which gives power to the Judges to make the detailed arrangements. The examinations (preliminary, intermediate, and final) are conducted by the "Incorporated Law Society," an important institution, arising out of a voluntary association of members of this branch of the profession, for the protection of its interests, and vested with the duties now under consideration, by order of the Judges. Every applicant for admission must have served articles of clerkship in an attorney's office for a prescribed time. The leading statute on the subject is 6 and 7 Vict., c. 73, and the last one is 23 and 24 Vict., c. 127.

Of the members of the Bar, some are from time to time appointed to be "Queen's Counsel." This is an ancient and honourable distinction, without important consequences to the public. A Queen's Counsel cannot be employed in any cause against the Crown without special licence. It is the custom for Queen's Counsel always to "lead" in cases—that is, never to be a junior counsel in a case unless the senior is a Queen's Counsel of higher standing, and to receive double the amount of fees accorded to an ordinary barrister. The ancient class of "Serjeants" is on the verge of disappearance, through the operation of the Supreme Court of Judicature Act.

There are two movements now on foot which demand notice. One is for providing a joint system of education for both branches of the profession; the other is for abolishing the formal distinction itself between the two branches. These movements are in themselves quite independent, though those who favour the latter generally favour the former likewise.

APPENDIX F.

BANK OF ENGLAND AND JOINT-STOCK BANKS.

THE reader is recommended to study Mr. Walter Bagehot's "Lombard Street" in reference to the whole topic of the actual relation of the Government to the Bank of England. Nothing could be at once more simple, lucid, and exhaustive than the whole of this treatise.

The description, in the text, of the meaning and policy of the Bank Charter Act of 1844 may be supplemented by the following extract from Sir Robert Peel's speech on introducing the Bill. [The extract is given from the work on the "Money Market" mentioned in Appendix D.]

"It is proposed that the Bank of England shall continue in possession of its present privileges—that it shall retain the exclusive right of issue within a district of which sixty-five miles from London as a centre is the radius. The private banks within that district which now actually issue notes will of course be permitted to continue their issues to the amount of the average of the last two years.[1] Two departments of the Bank will be constituted—one for the issue of notes, the other for the ordinary business of banking. The bullion now in the possession of the Bank will be transferred to the Issue Department. The issue of notes will be restricted to an issue of £14,000,000 upon securities, the remainder being issued upon bullion, and governed in amount by the fluctuations in the stock of bullion.

"If there be under certain defined circumstances an increase in the issue of securities, it can only take place with the knowledge and consent of the Government, and the profit derivable from such issues will belong to the public. Bankers now actually enjoying the privilege of issue will be allowed to continue their issues, provided the maximum in the case of each bank does not exceed the average of a certain prescribed period. A weekly publication of issue will be required from every bank of issue; the names of shareholders and partners will be published. No new bank of issue can be formed, and no joint-stock company for banking purposes can be established, except after application to the Government, and compliance with various regulations which will be hereafter submitted to the consideration of Parliament."

The following extracts from the "Money Market" are also apposite, as showing the relations, past and present, of Government to the Joint-Stock Banks:—

"An Act of Parliament was passed in 1708 providing that, during the continuance of the Bank Charter, no other corporation or partnership, consisting of more than six persons, should 'borrow, owe, or take up any sum or sums of money on their bills or notes, payable on demand, or at a less time than six

[1] Afterwards altered to twelve weeks

months from the borrowing thereof;' and this monopoly continued in England for more than a century. It may be here mentioned that the Charter of the Bank of England had no reference to Scotland, which at the time it was granted was a separate kingdom : hence, as the wealth of Scotland increased, joint-stock banks were formed, and now conduct the whole of the banking business of that portion of the United Kingdom.

"But the time at length came when this monopoly was to be swept away. After the terrible commercial catastrophe of 1825, when seventy banks, principally country banks, failed within the short period of six weeks, it was found that the trade of the country was suffering great inconvenience from the dearth of banking facilities, and it became necessary for the Government to press upon the Bank of England the propriety of establishing branches of its own body in different parts of the country, and of giving up its exclusive privilege as the sole joint-stock bank, except within a certain distance (which was afterwards fixed at 65 miles) from the metropolis. The directors were at first unwilling to establish branches, but they ultimately acceded to both the propositions of the Government, and several Acts of Parliament were passed carrying them into effect.

"It was in virtue of these Acts that the first joint-stock banks were established in England, and, as there was no restriction to the contrary, they issued notes of £5 and upwards.

"In the year 1833, when an Act was passed renewing the Charter of the Bank of England, provision was made permitting joint-stock banks to be established in London and within 65 miles thereof, on condition that they did not issue notes payable on demand. Under this Act the London and Westminster Bank, the London Joint-Stock Bank, and the Union Bank of London were established ; and the present splendid position and world-wide reputation of these three institutions, whose united liabilities exceed £68,000,000, or nearly four times the amount of the private deposits of the Bank of England, afford a standing proof, if one were required, of the folly and indeed criminality of such monopolies as that of the joint-stock banking business formerly enjoyed by the Bank of England."

APPENDIX G.

PRIVILEGE OF THE HOUSE OF COMMONS IN RESPECT OF JURISDICTION IN CASES OF DISPUTED ELECTIONS. (*See p.* 36.)

A DEBATE took place in the House of Commons on Tuesday, February 9th, on the question of issuing a new writ for Stroud, the sitting member for which was declared not duly elected, the judge saying in the last paragraph of a long report: "I have no reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates." Mr. Disraeli's speech on the occasion, which seemed to express the general mind of the House, may be cited to illustrate the extent to which the House of Commons may, by assenting to the Act for appointing Judges to try cases of disputed elections, be held to have surrendered their traditional jurisdiction in this respect.

"Mr. DISRAELI.—My hon. friend who has just addressed us stated that he would try to put the question before the House in its true light. I will endeavour also to put the question before the House in its true light, and the light in which I view it is that if this motion is carried it amounts to an abrogation of the Election Petition Act of 1868. In that Act there were certain powers given to the Judges which the House of Commons waived, after ample discussion, after great thought, and with a due sense of the sacrifices they were making. If we were now to announce that because the decision of a Judge acting under such authority does not please us, we are to come to a decision contrary to that which according to the provisions of the law has been made public, I can only look upon it that if this motion were carried the authority of that Act would be entirely superseded. I am not prepared, however, to supersede or abrogate that Act. I believe that it has worked well for the country and for the House of Commons. It is possible that in some of its details it may be improved—and that is a point on which it is unnecessary to enlarge—but the general spirit of that Act is good, and it will be well for the House of Commons always to support it. The hon. baronet, who always addresses us in a spirit of gay wisdom (a laugh), has thought fit to denounce precedents. Precedents

are often attacked and abused, and the learned baronet has been profuse in his denunciations of them. But precedents generally, and I will say the Parliamentary precedents always, embalm principles (hear); and I am myself convinced that if we remove far from the line which Parliamentary precedents indicate to us for our guidance and the conduct of our business, we shall soon repent our rashness. (Hear, hear.) The noble lord the member for the county of Westmeath (Lord R. Montagu) sent me a pamphlet the other day, which I have read with much interest—as I read everything that comes from his animated pen. It was a vindication of Infallibility. (A laugh.) In what quarter that infallibility is exercised it is unnecessary for me to touch upon, but to-night my noble friend is the champion of the infallibility of the House of Commons. That is a principle which, to my mind, is certainly not orthodox. I have sat in this House as long as most men now in it, and I am deeply interested in its honour and reputation. But I have ever opposed any proposal that this House should assert its authority independently of the other estates of the realm. The proposal before us, however, essentially aims at such a consequence. My hon. friend who made this motion will do well to consider what course he will adopt if he succeeds. If he carries it, he cannot terminate his connection with the borough of Stroud. He will by the success of his motion appoint himself the guardian of the honour and interests of the borough. He must be perpetually bringing the subject before the House. It will be for him when he has made due inquiry to tell us when he thinks that the borough of Stroud has returned to that order of mind at which we must entrust to it the noblest franchise of Englishmen. He must keep us *au courant* with the affairs of Stroud by issuing a series of bulletins. (A laugh.) He has no ulterior object, and if his proposition succeeds he holds out no promise or prospect of future arrangement. My hon. friend will find great difficulty in the course he has pursued if he wishes to punish the electors of Stroud. He cannot, if he succeeds in his motion, call upon the other authorities of the Legislature to combine with the House of Commons in carrying any measure on the subject. He cuts himself off from any constitutional course becoming the occasion by the line he is pursuing. My hon. friend will do well to consider these difficulties before he calls upon the House to come to a vote upon this question. The times may come, and they have

been alluded to to-night, when the spirit of the House of Commons may be very different from what it is at present. I can remember myself some periods when I have been a member of this House, and when the existence of the Government depended upon a single vote—when the country was inflamed on subjects which were peculiarly adapted to excite the passions of a free people, and when some things were done and some things were certainly proposed which those who had any connexion with them may look back upon with regret. What was it the House of Commons did at that time? Did it take a course which might produce Parliamentary anarchy and inflict great injury on the country generally? Why, it was respectful to musty old precedents, which the hon. baronet holds up to humorous scorn to-night. Though he sneers at gentlemen of the long robe, there were then in the House, on both sides, lawyers who never were equalled, probably, at any period of our Parliamentary history for their learning and their independence, and experienced statesmen on both sides who agreed that they would adhere to precedent and would be guided by the experience of their predecessors. I trust the House will not allow itself to deviate into a path so dangerous and difficult as the one that has been indicated and which we have been recommended to pursue to-night. I am sure if we do we shall open up a scene of confusion which will not easily end, and no question of a contest will ever come before the House without some proposition being made so unconstitutional in its character that the result must be the degradation of the authority of Parliament and the reduction of all our powers to make ourselves useful to the country. (Cheers.)"—*The Times*. February 10th, 1875.

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