ART. I.—A Biographical Memoir of the late Commodore Joshua Barney; from autographical Notes and Journals in possession of his Family, and other authentic sources. Edited by MARY BARNEY. Boston: Gray & Bowen: 1832.

The claim on the part of the female, of equality with the other sex, has been nowhere more strenuously asserted, and, indeed, better maintained, than in literary efforts. In the department of letter-writing, the ladies may well claim a superiority; the ease and the grace that render conversation charming, and which the softer sex so eminently possess, are essential requisites in epistolary correspondence. The names of Sévigné, Montague, and a host of others, have raised a monument to the fame of their sex in this department of literature, before which, even the loftiest of the most renowned men of letters, may well hide their diminished heads. The cause of this may be, that in letter-writing, deep thought and philosophical reflection are not looked for, though they are often found: we anticipate agreeable anecdote, and amusing remark; and expect to gather the flowers of imagination, wit, ridicule, and fancy, and become amused with the play of the passions and sentiments, rather than seek the matured fruits of judgment, experience, and profound meditation. It is true, that works exhibiting these qualities are to be found, ushered forth in the shape of letters; but they are in fact, aliens from the commonwealth of letters, and no more fit to be classed amongst such, than the specimens of some of our modern "Lakists" are worthy to be dignified with the godlike name of poetry. In the composition of novels, the female writers of France and England, and we are proud to add, of our own country, have gained many a laurel—and though, perhaps, their
productions cannot rank with the happiest efforts of Le Sage, or Fielding, or Scott, or Bulwer, we can except no other names in the list of the writers of romance, with which De Staël, Austin, Edgeworth, Burney, and Sedgwick, may not proudly claim equality. We exclude, of course, Cervantes; his book stands alone—in its peculiar class unimitated, inimitable. In the department of memoirs, with which, on the present occasion, we have more to do, the peculiar talent of females has, of late years particularly, shone very conspicuous. The narration of the incidents of domestic life, many of them so extremely affecting, comes with particular sweetness from feminine lips—and the details of love and of courtship can be uttered by no man's mouth, with the ardour, and the archness too, imparted to them in a woman's story. Her quick perception and delicate eye see much that the other would altogether overlook.

The advantages of biography are too numerous and too well appreciated to need repetition. We approach intimately and nearly, obtaining a kind of personal introduction to those, whom otherwise we should regard at a distance; perhaps magnified disproportionately to the eye, on the page of history—or, certainly seen there with the indistinctness which must be the natural consequence of having only public and striking actions brought to our view. A man's real character is, as a general rule, seen not in incidents of that description, but in the private occurrences of life. Mankind have been often taught by biography, to correct largely their estimate of those, whom they have measured only by their public conduct; and as often to award the praise of goodness, if not of greatness, to the unfortunate general or statesman.

But if general biography be an agreeable and instructive lesson, that of our patriotic countrymen—of those who devoted their efforts, and spared not their blood, in order to conquer and to maintain our independence—should, to us Americans, be doubly interesting. The great mass of the patriotic band, who composed our revolutionary armies, and manned our vessels of war, endured hardships, which, if narrated in detail now, in our days of peace and plenty, would be hardly credited. It was not merely the generals and the leaders, great and patient as they were, that drank deepest of the waters of adversity, or merited most the glorious results of victory. The life of Barney during our revolutionary contest—and he was one of thousands such—will show, that all, from the lowest soldier and sailor in the ranks, braved the storm with a hero's magnanimity; and there is not, probably, one amongst them, whose career would not furnish incidents to surprise, entertain, and instruct us. If we thought that the spirit of freedom which animated our fathers' bosoms, slumbered in our own, and needed a vivifying influence, we could recommend nothing as more effectual than a record of
their feelings and actions; and if we, or our sons, could arise from the perusal, listless and unpatriotic, then indeed, American feeling, (synonymous with liberty and independence), would, we fear, require Promethean fire to reanimate its expiring energies.

Mrs. Mary Barney puts forth her book in a very modest way; claiming to appear before the public merely as an editor and not as an author. She professes to have compiled it from autographical notes and journals in her possession; though we should suppose that the whole had been remodeled, revised, and probably re-written by herself; the language being generally more polished, than, we should suppose, the Commodore himself would have used. However this may be, (and we are unwilling to intrude upon the secrecy which the lady herself has enjoined), she deserves the credit of having favoured the public with a highly interesting, instructive, and most amusing biography. To us, we confess, most of the incidents she narrates, were perfectly new; we had been accustomed merely to regard the Commodore as one of the few heroes of Bladensburg fight; and were delighted to discover, that the course of a long life passed in the service of his country, had been uniformly marked by heroic bravery and the purest patriotism; and that the glorious stand made by him in his advanced years, on the field above alluded to, was the crowning act of a long continued career of active, patriotic exertion. From the materials in her possession, the authoress has compiled a most interesting work. It abounds with hair-breadth escapes, miraculous contests, all kinds and sorts of "moving accidents by flood and field"—thanks to the Commodore for his active, restless disposition, which never allowed him a moment's rest, but carried him wherever danger led the way, or reputation was to be earned. At twelve years of age, it threw him upon the ocean, and kept him there as long as any thing remained for him to do; and when, as we shall see, his own country, from her state of repose and peace, offered no toil or labour to be performed, he gave his arm to the service of a foreign nation, which had assisted his in her infant struggles, and was herself fighting the same good fight.

We will venture to assert, that many of the pages of the memoir will be found to possess equal interest with any romance. From such parts of the book, we can do nothing better than make copious extracts. It is our intention to present, from the work, a brief account of Joshua Barney's life, for the benefit of those into whose hand the book itself may not fall; offering occasionally such reflections as the subject may appear to warrant.

Our readers must not suppose, from what we have said, that the work under review is without its imperfections; far from it—there are passages which we shall note hereafter, that we do
not approve, and there are details which we could wish had been omitted. It would not consist with the perfect freedom of criticism, which should always be upheld, if this course were not pursued. The accomplishments and the sex of the author require all gentleness and courtesy from the reviewer; but standing forth as an author or editor, her production becomes public property, and as such, invites candid criticism.

The details to which we object, are the numerous allusions to and explanations of pecuniary difficulties on the part of the gallant Commodore, and the minute narrations of strictly domestic affairs. Such are, universally, without interest to the general reader; but they are further objectionable; they are commonly accompanied with much feeling on the part of those concerned, and if the narrator be an intimate friend, connexion, or party in interest, the mind is apt to be unduly biased, and to express opinions and state circumstances which may operate injuriously upon persons who have no opportunity of being heard. Money transactions are those to which Sir Roger's trite saying is peculiarly applicable, "much may be said upon both sides"—and however this may be, possessing, as they do, no interest for the reader, occupying much space, and unconnected, many of them, with any exhibition of the character of the subject of the memoir, the work, we think, would not have suffered by their omission.

To dismiss at once the unpleasant part of the critic's task, that of finding fault, (which we do the more readily on the present occasion, as there is so much to praise,) we will advert to the few passages, to which we have above hinted that we had objections.

On the very first page of the work, in speaking of the little attention that is paid in the United States to the study of genealogy—(which, by the by, we do not admit—we never saw a biography, that did not commence with at least the great grandfather of the subject,) the very startling doubt is put forth, "if the Mosaic account of the creation be admitted." Now, really, it is too late in the day, we think, to cast any doubt upon that subject; and if any be really entertained, we should suppose that very little credit can be gained by the avowal. If it was intended as a witticism, we should say, it was decidedly a failure. On the second page we find a passage which surprised us much—taking for granted, that the lady, in that particular part, acted as the author, and not merely as the editor; for if the latter be the case, credit, for the extraordinary attempt at wit, should certainly be given to the Commodore, in whose mouth, undoubtedly, such language would be infinitely more appropriate than in that of the accomplished writer. After mentioning the marriage of Joshua Barney's father with Frances Holland Watts, our authoress says:
"It has been asserted by some philosophers, who are fond of diving into the
mysteries of nature, that the vis generatriz is as much an hereditary idiocy
as gout, scrofula, or any other of the numerous diseases which pathological igno-
rance is prone to ascribe to ancestral taint. But in the union of the fecund pair
we have just named, there is a strong argument against the truth, if not a direct
confutation of this hypothesis; they were the only offspring of their respective
parents, and yet from their union there sprung no less than fourteen children."

Indeed there are very numerous allusions throughout the book
to the fruitful tendencies of the Commodore, (who is an instance
certainly on the side of the philosophers Mrs. Barney refers to),
that we think are out of place. They, to be sure, give rise to a
smile, which is, however, unavoidably accompanied with the
passing jest on the sultan-like proportions and feats of the gallant
sailor. They may be ranked amongst the domestic details we
have above alluded to. Jokes, too, are passed upon a venerable
old ship, the Neptune, in another part of the memoir, which we
cannot help thinking had their origin in the brain of the Com-
modore himself. "While the weather continued good," our
author says, (speaking of this ship, in which Barney had taken his
passage), "she fared, as they say of other females at certain
times, which sooner or later come to most of them, as well as
could be expected; but when the wind began to blow, and the
sea to fret, she began to labour, and crack, and leak, as if her
last hour were come." Though refitted, she let in much water,
which Mrs. B. calls, "her diabetic complaint returning upon
her more copiously than ever." We cannot help thinking that
the merit of the witty appellation would have been enhanced, if
it had been marked as a quotation from the journal of the Cap-
tain.

Upon another subject, one of much importance, we shall say
a word, disapproving, as we do, the strain of sentiment in which
it is regarded by our author—we mean duelling, unfortunately
so prevalent among us. We believe that Commodore Barney
was engaged in two such affairs, and though in one of them he
shot his adversary in the breast, the wound was, happily, not
mortal. Mrs. B. professes not to approve the practice; the rea-
son, however, which she gives, is rather singular, viz. because she
believes, that in ninety-nine cases out of a hundred, both parties
are equally culpable, and discover upon investigation, that they
had really no cause of quarrel—but the excuse she finds, is, that
sometimes there is no other way of satisfying one's own sense of
duty, or retaining the good opinion of the world. We think
it a perversion of the term duty, to apply it to the feeling which
calls a man to single and mortal combat; no one of any true
moral sentiment ever went to the field, under such circum-
stances, impelled by a sense of duty: but rather not to forfeit
what he supposed the good opinion of the world. Public senti-
ment then, must be corrected upon this point: and the reason
we have dwelt upon the matter is, that we think the observa-
tions of the fair author, (knowing as we do the great influence
possessed by the ladies upon this head,) have a tendency to con-
firm rather than to correct the diseased sense of the community.
She says, "if all men were Christians, the custom would be
more honoured in the breach than the observance; but as more
than nine-tenths of every community regard the title as a mere
nominal distinction bestowed in virtue of the ceremony of bap-
tism," (which we take to be a clear mistake,) "it is in vain to
appeal to Christian morality." The "code of honour," she
thinks, can be abrogated by nothing short of the universal pre-
valence of the Christian spirit; and as that cannot be, "till the
appointed time when Christ shall come again to judge the world,
why," she concludes, "monomachy must prevail until that
period." Undoubtedly, if such be the opinions publicly taught,
that will be the consequence; we may hope, however, for at-
ttempts to enlighten the public mind upon the subject, and at least
the absence of an avowed despair ever to correct "a necessary
evil."

Joshua Barney, one of the fourteen children of William and
Frances Holland Barney, was born on the 6th day of July, A. D.
1759. As soon as possible, we suppose in order to keep him out
of harm's way, for he was, at the moment he began to walk and
talk, of a restless activity of disposition, he was sent to school;
which he left at the age of ten years, under the full persuasion
that he had acquired all the learning requisite. Even at that
early age, he had made up his mind, (and he was not of a dispo-
sition likely to change,) to follow the life of a sailor; and there-
fore he felt himself justified in saying that he had learnt all his
master could teach him, which was, in truth, the writing of a
good hand, and a perfect understanding of arithmetic. But though
his natural propensities had so decidedly manifested themselves,
his father and mother, having a will of their own, determined, in
order to keep him out of mischief, to send him to a "retail
store" in Baltimore; so that having done schooling, he might
learn to measure cloth and calico. Fortunately for Joshua, in the
course of three months, the gentleman, in whose establishment
he was, broke up his shop and abandoned the business; so that
he had another opening towards his favourite project; but he was
doomed again to disappointment. His father had a friend, who
was a merchant in Alexandria, and who wanted "just such a lad
as Joshua" in his counting-house—to Alexandria he was accord-
ingly sent, and stayed there almost a year, in a situation to one
of his habits exceedingly irksome, but in which he exhibited
very great attention to business and steady industry. When the
Christmas holidays arrived, young Barney was sent home to en-
joy them with his friends; and being now eleven years of age,
and of an extremely early appearance, he made up his mind that he could take care of himself, and having an unconquerable inclination for a seaman's life, he peremptorily refused to resume his station at Alexandria without positive compulsion. His parents finding him so determined, at length resolved to gratify his predilections, and on his twelfth year he commenced his sailor's life. He entered on board a pilot boat, and, in the course of that year, being constantly at service, acquired much valuable information in his future profession.

At the age of fourteen, the young seaman, with the full approbation of the owners of the vessel in which he was about to sail, was made second mate; and at the age of sixteen, by a combination of circumstances totally unlooked for, on a voyage to Nice in Sardinia, in 1774, by the first mate's leaving the ship, and the death of the captain afterwards, young Barney was left in the middle of the ocean, with a large crew and valuable cargo, to his own unaided energies. Having numerous, and, to a less stout heart than his, appalling difficulties to encounter, the hardy courage and superior seamanship of the young captain overcame them all. Upon his arrival at Nice, his firmness and ability were severely tested; and we stop to give a brief account of this affair, as it clearly delineates the temperament of our hero, and gave full earnest of what might be expected of him in times of difficulty and danger.

The merchants of that city broke their faith with the youthful commander, upon whose inexperience they presumed that they could impose, by refusing to pay the money for the discharge of a bottomry bond which they had assumed. A small part of the cargo had been delivered, but Barney, after this refusal, returning to the ship, shut down the hatches and commanded that not another grain of wheat should be sent on shore. The merchants tried entreaty, remonstrance, and threat—all would not do; they then applied to the governor, and he undertook to reduce the young and obstinate American to obedience; he sent for him and ordered him instantly to commence the delivery of his cargo or dread the consequences. First let them satisfy my claim, was his determined reply. The stripling was commanded to quit the presence, which he did very composedly; but on reaching the bottom of the stairs, to his surprise, though not at all to his terror, he was seized by a guard of soldiers and hurried off to prison.

His situation may be well conceived—a youth—in a foreign country—without friends, almost without acquaintances—a large crew without a master, and under his guardianship—a cargo and a ship highly valuable, and exposed most certainly to ruin—none to counsel, and all to oppose him—what was he to do? Can he be blamed, though it was his misfortune undoubtedly, if he re-
Life of Commodore Barney. [March,

sorted to dissimulation, and deceived his oppressors? He pro-
mised to comply with the harsh requisitions of the governor, and
was instantly set at liberty. Treading once more the deck of
his ship, he sent word to him that he considered his promise
void, as imposed by irresistible power and against justice; and
that he would not deliver the cargo, but would retain it until su-
perior force compelled him to relinquish it. This superior force
was not long in coming. The haughty governor despatched an
officer with a strong military guard. Barney, anticipating the
result, had determined on the course to be pursued. Resistance
to such a power was perfectly useless; but the young commander
had spirit and sense enough to know that the violence done to
him was an insult to the flag of his country. The British flag—
for it was just before the revolution—he hoisted at the main-
mast; he felt that he was safe under her shadow; he therefore
told the officer, who was astonished at the declaration, and not a
little frightened, that he considered his vessel captured, and
pointing to his colours, said that there was no mistake as to the
nation to which the insult had been offered. He then called his
crew together, and left the ship. The next morning he was on
his way to Milan, where the British ambassador to the Court of
Sardinia then was. Barney presented himself before him, and
losing sight in his narration of his personal losses and inconve-
nience, dwelt with the impetuosity and warmth of youth upon
the insult the whole nation had sustained in his person. Sir
William Lynch, then minister, was as much a gentleman in his
manners as he was a bold and decided diplomatist. He caught
some of the fire of the ardent Barney, and promised instant at-
tention to his wrongs. Three days after the interview he sent
for Barney, and told him he might go back to Nice, and would
find things arranged there to his satisfaction. The captain set off
on his return, scarcely satisfied that in so short a time things
could have been placed in a right train; but when he approached
the town, he was quickly undeceived. The pleasantest part re-
 mains to be told; at the distance of two leagues from Nice, he
met the “haughty” governor and suite, cap in hand, bowing, and
asking for the kind of atonement they should offer. It was dif-

ficult for Barney to restrain himself from laughing in their faces;
and he surprised the governor exceedingly by refusing any pe-
cuniary compensation for the injuries he had individually sus-
tained—that worthy personage could not understand the young
American’s contentment at having his country’s wounded honour
healed, without including his own losses in the catalogue of mat-
ters to be redressed. He soon arranged the affairs of the voyage
with a perfect attention to the interest of his employers, and then
took his departure for his own home.

A new scene was now opening upon him, in which he was
destined to endure many hardships and earn deserved applause. On his arrival in the Chesapeake, he was boarded by an officer from an English sloop of war, who informed him that his countrymen were rebels, and that two battles had been already fought. The exciting news Barney could scarcely realize. He had been from home so much since his twelfth year, that he had heard but little of the disagreements between the mother country and her colonies. One determination he however took, as soon as he heard of the rupture—to stand or fall with his country; and from that moment he devoted his arm to her service. Having, on his arrival, received the full approbation of his owners for his conduct, he became at once one of the busiest actors in the revolutionary scenes which had commenced. A small sloop called the "Hornet" was then under equipment at Baltimore, in order to join a squadron at Philadelphia commanded by Commodore Hopkins. To the master of this sloop Barney offered his services as master’s mate, and was gladly received as such. A new flag had been sent down for the Hornet, and Barney, unfolding it to the music of drums and fifes, planted it at the door of his rendezvous, and before night had the satisfaction of enlisting a whole crew of "jolly rebels." The immediate object of the expedition, which was to make a descent upon one of the Bahama islands, and capture a large quantity of the munitions of war that had been collected there, was fully successful; but the vessel in which Barney was placed, was, after their departure from New Providence, separated from the rest of the fleet in a storm, and tossed about for a considerable period. He had observed symptoms not only of want of seamanship but of bravery in his commander; and his suspicions were fully confirmed, and his indignation roused beyond his control, when, on meeting with a cruiser of the enemy, and after every preparation had been made for battle, his captain ordered them not to fire, as he had no inclination for shedding blood! Barney had the lighted match in his hand, and unable to contain himself, threw the match-stick at the head of his officer, whose head it narrowly missed, the iron point entering and sticking fast in the door of the round-house. There was an excuse in the circumstance for impetuous feeling—but Barney’s impetuosity carried him in this instance much too far. The British vessel, for some cause or other, sheered off. Barney’s superior officer was so ashamed of his own conduct, that he never after said a word upon the subject.

Unwilling to be out of employment, as soon as the Hornet returned our hero again preferred offering his assistance as a volunteer, and selected the schooner Wasp, commanded by a gallant officer, Captain Alexander. This little vessel formed part of the small squadron of Philadelphia row-galleys, which were sent down the Delaware for the purpose of expelling two British fri-
gates that very much annoyed the commerce of the city. The engagement lasted several days, and though the enemy were driven below Newcastle, yet some dissatisfaction was expressed with the conduct of almost all, but the captain of the Wasp, and his gallant coadjutor who particularly distinguished himself. So much was the attention of the marine committee of congress directed to him for his bravery and conduct, that the president of that committee, Robert Morris, requested an interview, and offered him the commission of lieutenant in the navy of the United States. This the young Barney joyfully accepted—he was then scarcely seventeen. The kind terms used by the eminent financier in conferring the appointment, made an impression upon his feelings which he never forgot.

It would be impossible to detail minutely every event in the life of Barney; much of this part of it was passed on board of smaller vessels of war, upon cruises against the enemy, in all of which he held most honourable situations, and invariably signalized himself. In one of them they captured a prize having on board a large turtle with the name of Lord North carved on the shell. It was, no doubt, intended to grace the table of the English minister, and Barney had the satisfaction of transferring it to that of the American patriot and financier, his friend Robert Morris. On arriving at St. Eustatia, they saluted the Dutch governor, which, with more courtesy, than, as it afterwards appeared, with prudence, (for he was removed from his situation in consequence), he returned. This was the first occasion on which this compliment was paid to the American flag.

Lieutenant Barney was put in command of an English snow which had been captured, and was directed to make the best of his way home. The vessel was driven, in the month of December, on Chincoteague shoals, among the breakers, the gale blowing furiously from the east. To save themselves from being washed overboard, himself and crew were forced to take refuge in the tops at midnight; and the horrors of their situation, but dimly shadowed forth in the darkness of the night, were rendered doubly appalling, when the dawn presented them with fearful certainty to their view. Up to this moment the men had behaved like men; but now, their dread of destruction overpowered their fortitude. Barney perceived it: a characteristic and brief harangue restored general confidence. But other trials awaited them.

"At length, the cry of 'sail ho!' shouted at the top of his lungs by one of the men, awakened 'some sparkles of a better hope' in every breast—they discovered a small sloop, at no great distance from them, and apparently bearing towards them: with what anxiety they watched her may easily be imagined.—'She'll never weather it!—'yes, yes, she rides it gloriously!—'Ha! that fellow gave her a terrible blow—well done, my little cruiser, she's up again!—she strikes—O God! it's all over!—'Do you see her now, Tom?'—'Shivered,
shivered into ten thousand atoms!—One loud and piercing shriek, mingling with the terrific howl of the blast, and borne far above the thundering roar of the breakers, fell upon their ears; it was the last cry of mortal agony, the last effort of human helplessness; they looked again; no vestige of crew or vessel was visible; all was swallowed up in the arching surge." p. 49.

The agony of Barney’s crew was indescribable; they were, however, when all hope was abandoned, relieved by that kind Providence, whose aid is often interposed in the extremest hour of mortal suffering.

Before they reached the United States, they were again so unlucky as to fall into the hands of a British vessel of war, commanded by Captain Elphinstone, of whose honourable conduct on this and other occasions, ample mention is made by our author; it was the more worthy of notice, as such behaviour was not frequently met with in English officers during our revolutionary struggle. Captain Elphinstone proceeded to the port of Charleston, for the purpose of procuring an exchange of prisoners, and the following amusing incident is related to have occurred:

“When the prisoners from the shore were brought on board the Perseus, the purser of the ship—who was a Scotchman—seeing so many of his countrymen among them, became very officious in questioning them as to the treatment they had received while in the hands of the ‘rebels.’ One of them, assuming to speak for his fellow-prisoners, answered, ‘that they had been used very ill, having received nothing to eat but bad rice mixed with sand!’—the purser’s Highland blood waxed hot as he listened to this solution of his queries, and turning fiercely round upon Lieutenant Barney, who had been quietly standing by, he gave him a blow with his fist, without uttering even a solitary word by way of prelude. With the quickness of lightning, Barney—prisoner as he was, and surrounded on all sides by foes—returned the blow with such well aimed force, that he laid his assailant sprawling over one of the quarter-deck guns, and thence, with a rapidity of motion that defied all interference, kicked him fairly down the hatchway." pp. 51, 52.

By the timely arrival of the captain at the scene of action, Barney was saved from being sacrificed to the esprit du corps of the Scotch, who were excessively infuriated; and Captain Elphinstone took immediate measures to give every satisfaction to his prisoner for the insult he had been subjected to, on board of a ship under his command.

Our hero was dismissed at Charleston upon his parole, and in company with three other officers, who had been his fellow-prisoners, commenced a journey by land to Philadelphia, on horseback. At that time the upper part of North Carolina was peopled almost exclusively by emigrants from the Highlands of Scotland, whose affections burned warmly for their sovereign, George III. These men, in conjunction with fellows called "regulators," (because they evinced a thorough contempt for every thing "regular"), formed the chief part of the British forces in that part of the country. Barney and his friends, in passing through their settlements, met with every kind of insult and an-
noyance, and at the little village of Cross Creek, where they stopped to pass the night, a numerous company of tories and regulators, by their torrents of abuse upon the "d—ned young rebels" seemed determined to bring about a personal conflict, in which, from their superior numbers, they anticipated an easy victory. The American officers very prudently kept down their feelings, with the earnest prayer that the time might come for revenge. Their insulter at last got tired and left them; uttering curses upon the rebel congress, and shouting "God save the king." About midnight, Barney having discovered that a small party of these rascals were asleep in a house not far from the tavern, aroused his companions, and having secured the assistance of the landlord, (who furnished him with a bottle of rum and a pine stick in place of a candle), proposed a scheme of revenge, in which he planned at the same time "a little fun." In a body, they marched to the house in which the enemy were at rest, the pitch flambeau shedding a blaze of light. The conclusion of the affair we will give in Mrs. Barney's own words:

"Arrived here, they found no difficulty in gaining entrance, and having secured the door behind them as well as they could, they proceeded to wake up the 'tories,' who were sound asleep in the loft. Terribly alarmed at being thus disturbed, and not doubting that the whole 'rebel army' were upon them, the roused sleepers came tumbling over each other down the narrow ladder that formed the only communication with their place of lodging, crying out, as they fell upon what was literally the ground floor—'We surrender!'—'We surrender!' They made 'the tories' kneel down in a line, and each in his turn, drink a bumper of whiskey, prefaced by certain patriotic toasts of Barney's dictation, such as 'success to Congress!' the reverse of 'God save the king,' and many similar pithy sentiments, in fashion with the jolly 'independents' of the day. These toasts and bumpers were repeated until 'John Barleycorn' gave up the ghost, or, in other words, until the bottle was emptied; and such was the genial influence of both united upon the kneeling bibbers, that before the last round of the glass, they would all have willingly enlisted under the banners of the brave captain, who knew so well 'how to take a joke.' Perfectly satisfied with their 'revenge' upon the tories, the young travellers now returned to their tavern. By this time daylight was beginning to show itself; the landlord and his household were early stirrers, and in a few minutes cooked them a breakfast of fried bacon and 'Johnny cake;' their horses were brought to the door as fresh and lively as ever, and before sunrise, they were once more on the road." p. 55.

Barney was shortly afterwards exchanged, and never being permitted by his government to remain unemployed, was appointed first officer of the frigate Virginia, stationed off the harbour of Baltimore. The frigate had her full share of duty to perform, but was unfortunately run aground, and captured, principally owing to the cowardice and want of skill of her commander. He escaped; while Barney and the crew fell into the hands of the enemy. He was sent to New York in a prison ship, and on the passage, formed a bold and most ingenious plan for the capture of the vessel in which he was confined, and subsequently of the whole fleet. The project deserved success for
the fearlessness and talent it displayed, but was defeated by the treachery of a Frenchman who was intrusted with the secret. The sufferings of the prisoners were very great; however, upon the arrival of Admiral Byron at New York, they were very much ameliorated; and that humane officer rendered to Barney all the good offices which his bravery, and kindness to such British prisoners as had fallen into his hands, so richly deserved. He was again exchanged, and revisited Baltimore, where Captain Isaiah Robinson, who had the command of a letter of marque of twelve guns and thirty-five men, very quickly secured his services as first lieutenant. They were bound to Bordeaux, and their cruise was rendered memorable by the repulse of a British armed brig of sixteen guns and a hundred and twenty men, (forty-seven of whom were killed and wounded), which the Americans beat off with great skill and courage. Much of the favourable result of the contest was owing to the discharge, by Barney, of a large gun, into which he had stuffed a crow-bar, that cut away the fore-tack, and the weather fore-shrouds, and compelled the enemy suddenly to wear ship in order to save his foremast. This was called "unfair" fighting in the British official account—a charge which undoubtedly came with an ill grace from a very superior force, who were, besides, the aggressors in the combat.

In the year 1780, when not yet twenty-one years of age, he married a Miss Bedford, a great beauty, of Philadelphia; but the claims which his country had upon him, as he thought, for his exertions in her behalf, prevented any continued enjoyment of the pleasures of domestic life. He repaired on board the United States ship Saratoga, and was soon at sea, where they captured, in the course of two days, two British ships, one of them, by means of a stratagem, she being a vessel of very superior force. To this our hero was transferred; but he soon discovered that she was in a leaky and almost sinking condition, from which he was relieved only by the presence of an English ship of the line, to whose commander he of course became again a prisoner.

The captain of the seventy-four was Anthony James Pye Malloy, justly denominated "the greatest tyrant in the British navy." This enviable distinction he well merited by his treatment of Barney. He was kept on the poop during the whole passage to New York, with no shelter, without clothes or bedding, even when a snow storm raged with great severity. In the month of December 1780, in company with seventy other American officers, he was put on board the Yarmouth seventy-four, to be transported to England, and, as it was kindly whispered to them, "to be hanged as rebels." They were confined in the hold of the ship, at least thirty feet under water, in a room twelve feet by twenty, and the ceiling only three feet from the floor—without light and almost without air—their food of the very worst
kind. The horrors of their situation may be conceived; though the mind almost revolts from their contemplation. They were fifty-three days on their passage to Plymouth. Of course, death made havoc among them; eleven died of a fever generated by the confined air and filth of the dungeon—and madly delirious; no surgeon was present to relieve their sufferings; not even their jailor made an effort to assuage them. Their food was so scanty that they were forced to resort to the concealment of the death of any of their number, for the purpose of procuring an additional supply of food, until the fact became horridly perceptible. When the emaciated and miserable survivors arrived in England, not one was able to stand erect; and the blessed sight of day was torment to their weak and dilated pupils. These things deserve to be remembered, and followed with the reprobation of the earth. They afford some little insight into the pains and penalties with which revolutionary America would have been visited, if success had not crowned her struggle. Perhaps, at the present moment, when little derelictions from etiquette and refined politeness are so severely handled by captains in the royal navy and travelling “soi-disant” gentlewomen, the deep horrors of a British prison-ship, in which so much that was gallant and generous pined and died, may be pointed out as a small speck in the burnished mirror of English refinement.

Upon their arrival in England, they were committed to “Mill Prison,” in which they found several hundreds of their countrymen confined. This jail is thus described:

“Mill Prison was situated in the centre of an extensive court, surrounded by high, double walls, with an area of twenty feet between them. Numerous sentinels were posted, not only among the prisoners within the building and court, but in the area between the surrounding walls, and along the whole line of the outer wall. The gates in the two walls were placed over against each other; the upper one was formed of an iron paling eight feet high; the lower one stood open, for the most part, all day, in order to allow free communication with the keeper of the prison, whose office stood in the area. From eight o’clock in the morning until sunset, the prisoners were allowed the freedom of the courtyard.” p. 88.

Many attempts had been made, by different prisoners, to overcome these obstacles and attempt an escape, but they had been invariably unsuccessful, and the offenders severely punished. After Barney had obtained the freedom of the yard, he affected to have sprained his ankle in jumping at “leap-frog,” and for a considerable time used crutches. The suspicions of his jailors were thus lulled, and he had time to make his arrangements. He fortunately procured the good will of a soldier on guard, who had served in the United States, and had been treated kindly there. From him he learned, that at the hour of one, all took their dinners except the sentinels; and that thus, at that period, the coast was comparatively clear.
"He retired to his room; equipped himself in the undress uniform of an English officer, which he had provided for the occasion; threw over all his old great coat, (in which he had been dressed all the morning), to avoid the notice of the inner sentinels; and then sought his confidential friends, whose assistance would still be indispensable to success; some of these undertook to keep the sentinels, at certain posts, in a parley; and one of them, (a lad of such slender dimensions that he could creep through his window bars at pleasure), in order that his absence might be the longer unsuspected, was, after answering to his own name at roll-call in his room, to crawl through the window and answer for Barney in the yard;—another of his friends, a tall, stout man, had already taken his station near the gate. Thus prepared at all points, our bold adventurer descended into the court: he reached the gate without challenge, interchanged a wink with the soldier, which satisfied him that now was the accepted time, and springing with the agility of a cat, upon the shoulders of his tall fellow-prisoner, who stood ready for the purpose, was in a moment over the barrier, and safe upon his feet; he threw his great coat from him as he lighted upon the ground, thrust four guineas into the hand of his blind friend, the soldier, as he passed him, and walking boldly through the outer gate, without even being seen by its careless guardian, whose back was towards the prison, was in ten minutes safe in the house of a well known friend to the American cause in Plymouth." p. 90.

At the house of his kind friend he met two of his countrymen, Colonel Richardson and Dr. Hindman, who, having previously fallen into the hands of the enemy, were very anxious to return to America. He proposed to these gentlemen to purchase a small fishing vessel, and leave the execution of the plan of escape to him. Having the fullest confidence in his bravery and skill, they readily assented. His plan was, with the assistance of their servant, to navigate this little vessel, and land on the coast of France. His friends took up their lodging over night in the boat, and he repaired thither in the morning, accompanied by the servant, who, as well as himself, was equipped in regular fisherman style—a "fear naught" great coat tied round the middle with an old rope's end, a tarpaulin hat, and a black silk handkerchief around his neck, adjusted with the most "knowing" tie. Before sunrise they were under way. The two gentlemen were directed to keep themselves snug below, the two fishermen being apparently the only occupants of the little vessel. The difficulties of the undertaking may be appreciated, when it is known that Admiral Digby lay at the mouth of the river, through which they were to pass, with a large fleet; and Barney himself was the only man on board who had ever handled a rope.

"A fine breeze wafted them swiftly along the receding tide, and in a little time they were in the midst of a hostile fleet; the 'Skipper,' as with seeming unconcern, he steered his little bark through the fearful array, bent upon them a look of anxious interest—his experienced eye could detect no sign of awakened suspicion—he passed the last ship unquestioned, unnoticed, and began to breathe more freely. He pulled off his tarpaulin, and wiped the perspiration from his face—"Thank God we are safe through that," said he, calling to his friends below. But these friends were, unhappily, not in a condition to join in the thanksgiving, either on their own account or his; they were in the first paroxysm of that most horrible, most emasculating, and least commiserated of all human sufferings, the 'sea-sickness,'" Receiving no response to his exclama-
tion, Barney supposed they were asleep, and began to feel a little vexed at their want of sensibility to the perils of their situation. He called out again, "below! there!"—"oh! oh! oh, my! ah! augh! ugh!"—"what's the matter Colonel?—what, are you at it too, Doctor?—"a—h! o—h! u—gh!" in all the various tones and semi-tones of the gamut, were the only replies he could get 'from below.'

—What sailor ever pitied the oceanic nausea of a landsman?—Barney called to his brother fisherman on deck: "Jem! go cut your master a piece of that fat pork—it's a sovereign remedy in these cases!"—But Jem was lying flat upon the deck with his head in the scuppers—following the example of his master; and our Skipper found himself as much alone in the vessel as if his companions had actually yielded up the ghost." pp. 92, 93.

But the scene soon changed. He descried a sail at a distance—his experienced eye at once informed him that it was sailing upon his track. He was not deceived. There was no escape. In a few minutes the vessel was alongside, "and a boat, with an officer, came on board." Now was the moment for presence of mind. Barney proved himself fully equal to the emergency. The officer demanded what he had on board and where he was bound?

"I have nothing on board—and am bound to the coast of France;" answered Barney, to the astonishment of his questioner.

"Your business there?" demanded the other.

"I cannot disclose to you my business," untying the rope that confined the old coat around him as he spoke, and carelessly opening to the view of the examiner the British half uniform, in which he was dressed. The sight of it had an instant effect upon the privateersman, who touched his hat and became very polite. Barney saw his advantage, and continued in a firm and authoritative tone—Sir, I must not be detained; my business is urgent—and you must suffer me to proceed, or you will, perhaps, find cause to regret it.

"The boarding officer very obsequiously replied, that he would return to the privateer, and report to the captain. So far, then, every thing prospered, and there was still hope: if the captain should prove to be as complaisant and unsuspicous as his officer, he would escape—and escape, too, by having given the literal truth in reply to his interrogator. But we must not anticipate; the captain of the privateer came on board, upon the report of his officer; and though equally civil, was rather more experienced in the arts of 'overhauling.' He desired to know the business which could carry a British officer, thus inadequately attended, to the enemy's coast—"I should be very sorry to stop you, sir," said he, "if you are on public business; but if this be the fact, it must surely be in your power to give me some proof of it, without disclosing the secrets of government, which I have no desire to know." Barney foresaw at once that this was the preface to a much closer scrutiny than it would be possible for him to sustain, but he nevertheless answered very promptly, and very truly, to the remark of the privateer captain, that to show him such proof as he required, would be to put at hazard the whole success of his enterprise, which depended upon its being carefully guarded from the knowledge of all but those intrusted with its execution.

"Then, Sir, I shall be under the necessity of carrying you to England," said the pertinaciously inquisitive.

"Do as you please," replied Barney, with a calmness of manner he was far from feeling; "but remember it is at your peril; all I have further to say, sir, is, that if you persist in interrupting my voyage, I must demand of you to carry me directly on board of Admiral Digby's ship at Plymouth! This was the last bold stroke of our lieutenant. Night was now coming on—the captain of the privateer left an officer and two men on board the smack, and giving them orders to follow him to Plymouth, returned to his own vessel." pp. 93, 94.
His companions were so utterly helpless from sea-sickness, that an attempt at rescue was impossible. On the following morning they entered a small bay a few miles from Plymouth, where they cast anchor. The captain of the privateer went off in his boat to make report to the admiral. Barney well knew that his friends were in no danger, and he therefore concocted at once a project of escape for himself. He threw himself upon the deck and pretended to sleep. The dinner hour came, and the few men on board, being engaged in preparing their messes, seemed to have forgotten him. The small boat of the privateer hung at her stern—he slipped down into it, separated the rope, and sculled himself ashore. There was a small village at the spot where he landed, and some of the privateersmen had gone thither in the morning.

"As he approached the shore, several of the lounging inhabitants came to meet him, and among them a custom-house officer; he jumped boldly out of his boat, and called upon some of those who stood by 'to lend him a hand to haul her up on the beach,'—'ay! ay! sir!' was the ready answer. 'Where did you catch her?' asked the custom-house officer; 'what has she got aboard?" p. 95.

He had hurt his leg in descending from the vessel, and showing it to the bystanders, with the expression of an anxiety to go and get something for it, induced them to let him proceed without further annoyance.

"Before he moved on, however, he bowed to the great man of the village, the custom-house officer, and said, 'pray, sir, can you tell me, where our people are?'—'I think, sir, you will find them all at the Red Lion, the very last house in the village!'—'Thank you, sir, I wish you a very good morning,' and off marched our daring countryman, with a quick step, but a heart by no means at ease. He found himself compelled to pass the tavern indicated, for there was no other road out of the village; he turned the corner, as he thought, unperceived; but the moment afterwards, a sailor hailed him—'Holloa, lieutenant! I am glad you are come ashore—we was just a thinking, some on us, to go after you.'—'And what for, pray?' asked the lieutenant, not without some misgivings—'why, may be as how some on us might ship, if we knew a thing or two.'" (What would Mrs. Trollope say to this classical English?) "Barney saw directly that his story had gained full credit with the sailors, and that he was still believed to be a British officer. He continued to walk on, endeavouring to hold the man in conversation, until they had left the town some distance behind them—the sailor made a pause, and asked where he was going?—'To Plymouth; come, you might as well go along with me.' The tar hesitated a moment, he had not quite made up his mind yet, he said, and maybe if the lieutenant got him to Plymouth, he might keep him there—he believed, on the whole, he would go back to the privateer; and wishing a pleasant walk to the lieutenant, he turned about to retrace his steps to the village. No sooner was this good-natured tar out of sight, than our wanderer began to quicken his steps into a run, lest he might be overhauled by others of the gang not so easily to be duped. Deeming it advisable to quit the highway as speedily as possible, he jumped over a hedge, and found himself in an elegant park; he traversed this, passed near a superb chateau, and at length made his way into a large and beautifully decorated garden, where he thought he might find some sequestered spot to repose himself for a few minutes, for he began not only to feel excessively fatigued, but to suffer considerable pain from the wound on his leg. The garden, however, was not without its proper guardian. In entering one of its numerous bowers, he stum-
bled upon the old gardener, who looked as much astonished at the intrusion as if he had dropped from the clouds. The old man asked, as soon as he found breath, how he came there? The story was soon told—he belonged to a privateer in Causen Bay; was going to Plymouth; had hurt his leg, which pained him very much; and he was taking the shortest cut to get to town as soon as he could! 'But don't you know,' said this ancient Adam, 'that there is a fine of half a guinea for crossing a hedge?'—'No, indeed! how should he know, having been at sea all his life!' It was not very difficult to persuade the old man, that no wrong or insult had been intended to 'my Lord Edgecombe'—who, it seems, was the proprietor of this princely establishment—and in the end he became so good-natured as to give egress to our traveller at a back postern that opened from the garden upon the river. This was an important advantage gained; for it enabled him to avoid the public ferry, and the necessity of passing his old prison; a butcher who happened to be just passing at the moment in a small wherry, with two sheep for the market, was prevailed upon to set him across the river for sixpence, and before night he was once more safe under the hospitable roof of the venerable clergyman at Plymouth." pp. 96, 97.

It is a singular fact, that Barney's escape from Mill Prison was not suspected, until Admiral Digby, in consequence of the report of the privateer captain, set on foot inquiries, which led to the personal inspection of all the prisoners. A guard was immediately sent after him upon his escape from the privateer, which would certainly have caught him, but for "his short cut" across Lord Edgecombe's garden. His two friends were released, and met him at their hospitable host's. While enjoying themselves at the supper table, a noise was heard in the street, and after ringing a bell, the town-crier, directly under the window near which Barney sat, offered a reward, in a loud proclamation, for the capture of the rebel deserter, "Joshua Barney." A particular description was given of his person and dress. His friends were much alarmed; but Barney himself rejoiced at the incident, as it suggested at once the idea of completely changing his dress. He lay three days, snug in his comfortable quarters, until he had procured a suit of fashionable clothes; and then one of his friends hired for him a postchaise for Exeter. At midnight, after bidding adieu to his benefactors, he started. At the gate of the town he was stopped by a sentinel; but Barney, with change of dress, and of countenance too, (for he contrived to twist his face for the occasion,) was no longer the same man in appearance. He passed triumphantly through the examination, and by daylight was in Exeter. Just as he drove into the yard, a coach was about starting. Where bound? said Barney. To Bristol, was the answer. In an instant, then, he was, full speed, on the road to that city. Having a letter of credit to a gentleman there, he presented it, and was most kindly received. By his advice, he recruited himself for two weeks; and then, having received recommendations which ensured a favourable reception, he took a seat in the mail-coach for London. He was thus in the heart of the enemy's territory, where he staid six weeks—saw the "king and all the royal family" move in procession to St. Paul's—and
then, "tired of life in London," he started in a packet about to sail for Ostend.

His adventures were not yet finished. Now comes the most romantic part of all. Upon the deck of the packet his attention was arrested by a splendid equipage with four noble horses, in charge of several servants in rich liveries. He saw no one on deck who appeared the owner of so princely an establishment—he descended therefore to the cabin. It was crowded with men—all sea-sick; a lady, beautiful, alone, was, in a retired corner, suffering under the same distressing but unpitied complaint. No one seemed to offer her any attention. Barney's gallantry was instantly called into action—he approached her; it was just in time, for, overcome by faintness, she would have sunk upon the floor, had not our hero's arm sustained her.

"She was too sick, too faint, to testify by words, whether she was grateful for, or offended at, this opportune and manifestly compassionate act of familiarity; but the tranquil manner in which she rested her aching head upon the shoulder of her supporter, and the soft expression of her swimming eyes as she upraised them to his, spoke intelligibly enough, that she would have thanked him if she had had power of utterance." p. 104.

It will be recollected by our readers that Barney prescribed for his sick friends in the fishing smack, fat pork, as a sovereign remedy for their nausea—but now he suggested "mulled wine"—and having ordered it, administered it with his own hands—he then deposited his languid patient upon the rude couch prepared for her.

After an uncomfortable passage they reached Ostend. By the assistance of his arm, the lady descended upon the quay. The elegant equipage which had excited his admiration was in waiting to receive her. She invited him to take a seat with her to the hotel, where she would endeavour to return proper thanks for his kindness and "professional advice."

"She had mistaken him for a physician—was it any wonder? but his pride was hurt and his vanity mortified: and he lost no time in undeceiving her as to the nature of his profession—he was no medical man, but an American naval officer—'every inch a sailor!' The lady appeared a little embarrassed—she had been accepting his services, without scruple, under the impression, that they might be compensated by the offer of her purse—she was sorry—that is—she was glad—in short, would the captain do her the honour to take his dinner with her at the hotel?" p. 105.

During dinner our hero learned just enough of the unknown lady to excite further his curiosity. She was an Italian—had been a resident for some years in London, and was on her way to Turin, via Bruges and Brussels—at the latter place she was to meet "a certain individual," by whose directions her future movements were to be governed. She very modestly and gracefully told him, that if his route lay in the same direction, a seat in her carriage was at his disposal. The agreeable offer was ac-
cepted. We will give the conclusion of the strange adventure in our author's language:

"The party being arranged, they set out immediately after dinner, and arrived at Bruges the same evening; here the lady was waited upon by a gentleman in the uniform of an Austrian general, and an animated conversation was carried on between them for half an hour, in the presence of her travelling companion, but in the Italian language, which she had previously ascertained he did not understand. The next morning at an early hour, the same gentleman called again, placed a large sealed packet in the hands of the lady, and remained in her company until the moment of departure. Every step of their subsequent journey tended to thicken the veil of mystery in which this fair incognito was wrapped—that she was a lady of high rank, the number of her attendants, the richness of their equipments, and above all, the profound deference paid her by the Austrian general, sufficiently declared; but who? or what? was beyond all the ingenuity of one, who had so strangely become her fellow-traveller, to discover. She continued to treat 'Monsieur capitaine,' as she called him, with marked attention, and unremitting efforts to keep him amused by her spirited remarks upon the scenery and people, as they drove rapidly along the level roads; but there was, at times, an air of protective condescension in her manners, not at all flattering to the pride of our countryman.

At Brussels, they reposed a few days.

"On the third day, she invited the captain to attend her on a visit, which it became necessary for her, as she said, to make to a 'certain hotel'—nunquam non paratus was a distinguishing trait in the character of Barney; they set out immediately on foot, and after traversing several streets, stopped before a noble mansion—the lady handed a paper to the porter, and in less than a minute afterwards, they were both ushered into the presence of the Emperor Joseph of Austria. The astonishment of the lieutenant was unbounded, when the lady presented him as an American officer, who had been serviceable to her on the road. Joseph said something to him, but what it was, he neither heard nor understood, and immediately afterwards taking the lady by the hand, led her into an adjoining room, where they remained closeted for fifteen or twenty minutes. Barney, in the meantime, being left standing in the audience chamber, with sundry big-whiskered Germans, and spruce Italians, who eyed him with a stare of surprise at least equal to his own. On the re-entrance of the lady, who came back alone, they returned to their hotel. On the way, his mysterious companion cautioned him, that it was the emperor's pleasure to be travelling incognito, and that she had undertaken to promise for him inviolable secrecy, while he remained in the Austrian dominions, as to his having seen His Imperial Majesty at Brussels. She then announced her intention of departing immediately for Italy, expressed some polite regrets that she should be compelled to lose the company of so agreeable a fellow-traveller—and made her adieu pour jamais. Barney never saw or heard of her afterwards; it was evident the lady had been employed in some political intrigue, but its nature, object, or issue, he was fated never to comprehend." pp. 106, 107.

In March, 1782, he at last reached his own home, having first visited France and Spain; but had a very short respite from labour. The State of Pennsylvania fitted out, among others, a small ship of sixteen guns and one hundred and ten men, called the "Hyder-Ally," for the purpose of clearing the Delaware bay of the "refugee barges and privateers" which swarmed in those waters, and were protected by several vessels of war of the enemy; and offered the command to Barney. It was instantly accepted; and the vessel, in a very short time, set sail to convoy
a fleet of merchantmen down the Delaware. While lying in Cape May roads, two ships and a brig were discovered standing for them. The convoy was directed to return up the bay, while Barney, with his ship, kept astern, watching his charge with the most eager attention. The brig and one ship were following him up the bay, while the other was endeavouring to run ahead by another channel, and cut off the return of the convoy. Barney determined to fight, at all hazards, to save his convoy; the brig approached him first—but, as it evidently appeared, had no desire to meet him alone—she gave a broadside and passed on. The captain did not deign to return her fire, but reserved it for the ship which was coming up behind her. She came within pistol shot without firing—thinking that the American vessel would strike at once; but was undeceived by a broadside, well directed and effective, from the Hyder-Ally. The enemy closed and made preparations for boarding; Barney resorted to a stratagem, to which, principally, he was indebted for his success. The enemy was ranging alongside, and the full advantage of his superiority in strength was thereby afforded him. Our hero told the helmsman to interpret the next order "by the rule of contrariy."

"He called out, in a voice intended to reach the adverse ship, 'hard a-port your helm—do you want him to run aboard of us?' The ready-witted seaman understood his cue, and clapped his helm hard a-starboard, by which admirable manœuvre, the enemy's jib-boom caught in the fore rigging of the Hyder-Ally, and there remained entangled during the short but glorious action that ensued." p. 114.

In twenty-six minutes Barney fired twenty broadsides; in less than half an hour, the British flag no longer waved over his majesty's ship, the General Monk, of twenty nine-pounders and one hundred and thirty-six men. There was no time to be lost—the other ship, a frigate, was rapidly approaching. He placed a lieutenant and thirty-five men on board his prize, and ordered her to sail up the bay, himself still keeping in the rear. The brig, seeing the ship had struck, and that the victor was following her, ran aground. The frigate having got tired of the chase, made signals to the conquered vessel, (supposing the result of the contest to have been just the reverse of what it was,) to cast anchor, which she was about doing herself—but the vessel, as our author says, "was under other orders."

This was one of the most brilliant contests in the annals of naval warfare—indeed, we scarcely know its equal. During the whole fight, Barney stood on the binnacle exposed to the fire of the enemy, particularly the musketry in the tops. This gave him great annoyance; and he directed the Bucks County riflemen, (of whom there were several on board, and not one of them had ever been in a ship before,) to direct their fire so as to rid
him of the inconvenience. The coolness of these novices was wonderful. Totally ignorant of the rules of subordination, but far from intending disrespect, one of them called out to Barney in the thickest of the fight, "Captain, do you see that fellow in the white hat?" and firing as he spoke, Captain Barney saw the poor fellow "with the white hat" make a spring at least three feet from the deck, and fall to rise no more. "Captain," continued the marksman, "that's the third chap I've made hop." p. 116.

Honours and praises flowed fast and thick upon the gallant Barney for this glorious victory. The Legislature of Pennsylvania voted him thanks and a gold-hilted sword—ballads were made and sung in his praise. The United States purchased "the General Monk"—her name was changed to the more illustrious appellation of "the General Washington," and the command was bestowed upon the brave captor.

He was afterwards selected, by the government, as the bearer of despatches to Dr. Franklin, our minister at Paris. He enjoyed there much of the society of that venerable patriot; and received the attentions of the highest and most illustrious in the polished circles of that capital. Barney sailed from L'Orient with a passport under the sign-manual of the King of England for the "Ship George Washington belonging to the United States of North America;" and with despatches from Dr. Franklin, announcing the signing of the preliminary articles of peace. He was the first who brought the news to this country, and his arrival was, of course, met with universal interest. He was again sent, in June '83, with despatches to France and England, and his visit to the latter country possessed for him much interest. He arrived at Plymouth in fourteen days from Philadelphia—visited instantly his old benefactor the clergyman and his family—gave and received sumptuous entertainments—nor was his friend, the gardener, forgotten—for the half guinea which he had forfeited by his trespass, he substituted a well filled purse; and had the unexpected satisfaction of ascertaining, that this venerable person was the father of the soldier who had so effectually aided his escape from Mill Prison.

His public life here, for a time, ended. He retired from the service of his country at twenty-five years of age, nine of them having been passed in the most active exertion in her behalf, with a fame, large and honourable enough for one of twice his years.

The next eight or ten years of Barney's life furnish little of general interest. The circumstance, however, of his being rendered for ever memorable by his having the honour of travelling in company with Lady Washington and Lady Morris, is deemed worthy of large notice and commemoration by our author. We
do object to this multiplying of titles in our plain republic; a thing which, we fear, is becoming every day more common. Unless we adopt the suggestion of the witty member of congress, and carry the custom to its legitimate length, by the use of such appellations as "his thickness," "his shortness," &c., we shall protest against "his highness," "his excellency," or "lady" such-a-one.

The commodore engaged largely in commercial speculations, in which he was always unsuccessful. In privateering, on the contrary, he amassed large sums of money. His intrepidity and his talent for such enterprises were such, that he rarely failed of success.

The depredations committed upon our commerce by the British, during their wars with the French republic, are well known. If further instances of unprovoked aggression and barbarous treatment of captured American citizens were wanting, let the thirteenth chapter of Commodore Barney's life be perused. He had armed his ship, in order to protect her from insult, but was captured by a British frigate, whose commander scarcely deigned to look at his papers, but overwhelmed his prisoner with a flood of Billingsgate scurrility. When Barney answered him with the spirit of a man, Captain Rowley, (for that was the gentleman's name,) ordered him between two guns, and placed a sentinel over him, with a command "to blow the rascal's brains out" if he spoke or attempted to move. Upon their arrival at Jamaica, they tried to have him hanged under an indictment for "piracy" and "shooting with intent to kill," because, as we before said, he retook his own ship. The jury, however, had the common feelings of humanity, and acquitted him. The poltronery of Captain Rowley and his officers was equal to their barbarity, and Barney had the satisfaction of pulling the nose of one of them in a coffee-house at Jamaica, who was expressing an earnest desire to "meet the rascal," without knowing that he was, at that moment, in the room.

In the year 1794, private business took him to France, and he sailed in the same vessel with our minister, Mr. Monroe, and family. At the imposing ceremony of presenting the American flag to the assembled representatives of the French republic, he was selected by Monroe to be the bearer of the standard of his country. He received the fraternal embrace of the president of the chamber—consisting of a hug and a kiss—and a resolution was passed, offering "Citoyen Barney" employment in the navy of the republic. The pressure of business prevented his accepting at that time the honour intended him. He again bore the same flag on the occasion of the procession in honour of the memory of Jean Jacques Rousseau, whose remains were deposited
Life of Commodore Barney. [March,
in the Pantheon, escorted by the moving mass of the population of Paris.

Barney's fault was rashness of temper. We have before given one instance—another is presented in this part of his life. Journeying from Bordeaux to Paris, with a good deal of money about him, he began to suspect, though he had not a tittle of evidence other than the circumstance that the postillion did not drive as fast as he wished, that the man had an intention of robbing him. He therefore, without more ado, pulled his pistol out and fired away at the fellow, who was just in front of him—fortunately the darkness prevented his taking the best aim, and he therefore missed him. The crack of the driver's whip, after this, it may be supposed, was loud enough—and Barney travelled as speedily as even he could desire.

In the year '95 a new era occurred in Barney's life. He received a commission of post-captain in the navy of France. With the exception of Paul Jones and David Porter, he has been, we believe, the only American officer who has served in distinguished situations in foreign armies or navies. Of neither of these gallant men can it be said, that he raised his arm against his own country. Slander breathed imputations of the kind against Commodore Barney; but the calumny was triumphantly refuted. All the protection that it was in his power to offer, was constantly afforded to American commerce; often to his great personal injury. Some dissatisfaction which he entertained at the new organization of the marine in France, induced him to resign—but he was shortly reappointed, with the rank of chef-de-division. He was directed to proceed to St. Domingo, which he soon reached with his squadron, and planned at once the capture of the Jamaica fleet. The interference of a Spanish squadron prevented his success—and a terrible hurricane, so common in the West Indies, shattered his fleet. This awful storm is related by Mrs. Barney with graphic force; her description brings familiarly to view this desolating scourge of the Caribbean Sea.

At the instigation of the government agents of St. Domingo, he was induced to enter into a contract to supply that island with provisions from the United States. He rendered them great services, but eventually suffered much in his purse, through the neglect of the French government in reimbursing him. This business brought him again to his country and his own family.

His affairs soon recalled him to the Cape, and he prepared to put to sea with his two frigates. An English squadron had been lying in wait for him in Hampton Roads, intending to capture him as soon as he commenced his voyage, and passed without the maritime jurisdiction of the United States. Knowing the intention of the British, he sent a challenge to their Admiral, offering to fight any two of his frigates, provided the rest of the
Life of Commodore Barney.

fleet did not interfere. The Englishman thought proper to decline the invitation, preferring the safer course of taking him with a superior force. Barney was therefore thrown upon his own ingenuity (and no man was more fruitful in expedients) to elude their watchfulness. The Commodore set sail, (the hostile fleet moving gently in front of him,) approached Cape Henry light-house, and let go his anchors—the enemy being under easy sail in the offing. Towards evening he sent out his pilot boat, "as if to marshal him the way out," but the moment it became dark, he weighed anchor and returned up the bay. On the following morning, the British, after reconnoitering and not seeing him, naturally concluded that he had given them the slip, and gone to sea; and therefore sailed in pursuit of him. He followed, at a deliberate motion, and thus got to the ocean and pursued his voyage—completely outwitting eight vessels, that had spent five or six months in watching him. Certainly, in all matters dependent on mere acuteness, in which we have had to contend with our English brethren, we have almost invariably got the better of them. In nautical skill and sagacity Barney never had a superior.

A desire to procure remuneration for his advances and losses in the service of the government at St. Domingo, carried him to France. He was kept dancing attendance on the successive rulers of that republic for a long time, but all in vain. He got compliments, but no money. Finally, he resigned his commission in their navy—received a most honourable dismissal, and the grant of a pension for life, which he invariably refused to touch. He returned to his native country, after a boisterous passage, in which he was very near perishing; for the ship foundered, and the passengers were saved by a small schooner. He became unfortunately involved, after his return, in law-suits—embarked in commerce, in which he was uniformly unsuccessful—tried politics with no better success, for he was twice defeated in elections for a member of Congress, at which he had been prevailed upon to offer himself a candidate—lost his wife, married again, and finally retired to his farm, to enjoy himself in his family circle, after a life of unusual exposure and privation, and varied fortune.

The repose of private life was not to be the lot of our hero at any period of his eventful career. Our country, it is known, had borne, during the administration of Jefferson, and in the early part of that of Mr. Madison, outrage and insult from Great Britain, with perfect Christian humility. To both presidents, when it was thought that war would ensue, did Barney instantly and patriotically offer his services. When it came at last, it found him just settled on his farm—but it beheld him there no longer than sufficed for the packing up of a few changes of linen and

VOL. XIII.—NO. 35.
some other trifles. He was immediately off for the city of Baltimore, "and in less than three weeks," says his biographer, "from the publication of the important manifesto by Congress, he was once more on the broad theatre of his glory, in command of an armed cruiser." p. 251.

He displayed his usual gallantry and had his usual good luck. His privateer had two severe actions during the cruise, the last by moonlight, and was successful in both. On his return, he was appointed, by the Navy Department, to the command of the flotilla to be fitted out at Baltimore for the defence of the Chesapeake Bay and its tributary waters. The task of preparing and fitting out this force occupied him until the spring of 1814, and then he commenced operations. At the mouth of the Patuxent he had a skirmish with the British, after which he entered the river, and took post at the mouth of St. Leonard's creek. In this position he sustained and repulsed three attacks of the enemy, the preludes to a grand attack on the 10th of June, from which they anticipated the most satisfactory results. "Twenty-one barges, one rocket boat, and two schooners, each mounting two thirty-two pounders, with eight hundred men, entered the creek with colours flying, and music sounding its animating strains, and moved on with the proud confidence of superiority." Our force consisted of thirteen barges and five hundred men. The Commodore, supported ably by his aid and son, Major William B. Barney, was with his barge everywhere in the thickest of the fight. The British were, finally, after much severe fighting, again repulsed, and suffered very considerably in the contest. They then turned the siege into a blockade, and amused themselves with the plunder of the surrounding country, "in which," says Mrs. B., "frequent experience had given them an unenviable expertness." It is a fact, that unarmed, peaceable citizens were sometimes carried, beds and all, on board their vessels of war—they being suddenly set upon in the night by parties of these marauders.

The enemy were at last beaten out of the river, by a well-arranged attack on the part of Barney, who was thus left more at liberty with his fleet.

His presence was shortly after this requested at the seat of government, by the secretary of the navy, to consult upon the best measures for the protection of the capital, which was threatened by the enemy. Part of his flotilla was therefore moved within forty miles of Washington, and a part left at Baltimore, to assist in the defence of that city also in case of attack. The enemy's fleet entered the Patuxent and stood up the river; whereupon Barney received orders from the secretary of the navy, to retire as high up the stream as he could, and then, in the last extremity, to burn the barges rather than let them fall into the
hands of the English. Having ascertained that they had landed, and were in full march to Washington, he left his flotilla to the charge of his second lieutenant, and taking with him four hundred of his men, joined General Winder's army. The brave Captain Miller, with a small body of marines, placed himself under his orders.

The marching and counter-marching, and the arrangements previously to the battle that ensued, the route and advance of the enemy, the confusion of the cabinet, their presence with the army and final retreat, the dismay of the militia, who, to use Barney's words, "were here and there, but never where the enemy was"—are all too familiarly known to permit repetition. Our author says that she approached that part of her subject with feelings very unlike those of pride of country, and expresses a sportive wish that the name of Bladensburg could be changed by an Act of Congress. For ourselves we have no such feelings.

The result was one altogether to be anticipated. The enemy were picked regular troops—ours, on the contrary, consisted for the most part of perfectly raw, undisciplined militia, who had never seen an enemy, and who considered their duty performed when they pulled their triggers. The only exception to this general description of our army, was the small corps under the command of Commodore Barney, than which no body of men on earth ever behaved with more gallantry. They were very near repulsing the whole invading army. But under any aspect of the case, we are perfectly willing that the battle of Bladensburg should stand in the long account of combats between us and our then enemies. We could point to instances enough of bravery and deserved success, which would balance a much larger item than that to which we refer. And on the other hand, the disgrace of a resort to Vandalic barbarity and ruthless destruction, totally at war with the civilized spirit of the age, has left a spot upon British fame which can never be wiped out. The satisfaction on the part of the British commander, of jumping into the bed of the president's wife with his boots on, is one of which we would not deprive him, if he were now alive, nor his nation, if she glory in it. The destruction of the city was of a piece with the character of the expedition. It was altogether of a marauding nature. To destroy the flotilla was the sole object of the disembarkation. The persuasions of Cockburn instigated General Ross to the incursion, for the latter was very averse to proceed so far from the shipping. Temporary plunder and destruction were, therefore, the sole inducements of the enemy.

In another point of view, we should rejoice at the burning of the public buildings. The beauty and propriety of those which have arisen from their ashes, may well compensate the unimportant expense of their erection. Perhaps, had it not been for
the battle we speak of, the surpassing beauty, and calm sublimity of the capitol—fit emblem of the giant proportions of our republic—would not have astonished and captivated the eye of every beholder.

It is known that the enemy’s advance was very rapid. The Commodore had been, in the first instance, placed with his men, to guard the bridge over the eastern branch. He solicited and obtained permission from the president to join the army with his men. He then rapidly marched to Bladensburg with his guns and troops.

Anxious to reconnoitre and obtain all the information he could as to the movements of the enemy, and the position of our army, he hurried on in advance of his men, until he gained sight of the American troops, which he found drawn up in detached parties, and covering the road for a mile west of the village. The firing commenced in the village a few moments after he rode up. He instantly despatched an officer to expedite the march of his men, who soon made their appearance in a trot; the weather was excessively hot, and they were necessarily much fatigued and exhausted, but they were still full of courage and eager to see the enemy. He had just time to form his men, and take the limbers from his guns, before he perceived our army in full retreat, and the enemy calmly advancing; he took it for granted, for some time, that it was their design to halt, and form again near the position he had taken—but he was cruelly disappointed; they passed him with rapid step, in evident confusion and disorder. He maintained his ground nevertheless, and waiting until the enemy had advanced near enough to be within the certain range of his guns, he alighted from his horse, pointed the guns himself to the proper level, and then remounted: at this moment the enemy began to throw their rockets, and his battery opened upon them, in full play, with round and grape-shot. The first fire checked the enemy’s advance, and proved very destructive to them; it completely cleared the road. Their second attempt to advance was met with like effect—the grape and canister shot, literally, mowed down all that were to be seen in the road. p. 265.

While this was going on, the rest of the American troops had left the ground—not an individual was to be seen. The whole brunt of the battle was consequently borne by Barney and his gallant men. But, brave as they were, they could not contend, for any length of time, against such fearful odds. His ammunition was beginning to fail—his men had been exhausted, previously, by three days’ marching, and want of food—several of his ablest officers were either killed or disabled—he himself had a horse killed under him, was severely wounded in the thigh, and was becoming very weak from pain and loss of blood—the British were gradually surrounding him—he therefore ordered a retreat. It was effected in good order. As to himself, having no horse, (and therefore unable to accompany the troops,) he was supported by some of his officers a short distance, and then was compelled to lie on the ground. The enemy advanced.

Captain Wainwright, of the British navy, who commanded Admiral Cockburn’s flag-ship, was the first to approach him; he was a very young looking man, and being dressed in a short round jacket, the Commodore mistook him for a midshipman; but they were soon mutually announced to each other, and the moment captain W. learnt the name of his prisoner, he went in search of the admiral, who soon afterwards made his appearance, accompanied by the
commanding general, Ross. They both accosted the prisoner in the most polite and respectful terms, offering immediate assistance and the attendance of their surgeon. After a little, general Ross, who, no doubt, felt as he spoke, said, 'I am really very glad to see you, Commodore;' to which the Commodore replied, with equal sincerity of feeling, 'I am sorry I cannot return you the compliment, general!' Ross smiled, and turning to the admiral, remarked, 'I told you it was the flotilla men?' 'Yes! you were right, though I could not believe you—they have given us the only fighting we have had.' After some further conversation between these two commanders in a lower tone, general Ross turned again to the prisoner and said, 'Commodore Barney, you are paroled, where do you wish to be conveyed?' His wound had, in the mean time, been dressed by a British surgeon, and he requested to be conveyed to Bladensburg.”

p. 267.

About this time, a wounded American sailor, who had also become a prisoner, and whose arm was literally hanging by a piece of skin, knelt down by the litter, and seizing Barney's hand, kissed it repeatedly, and burst into tears! A striking evidence of his kindness to his men, and of the affection with which they regarded him.

Barney’s wound was never effectually healed—it was, in fact, eventually the cause of his death. After the retreat of the British, he was conveyed by his family, in a carriage, to his farm at Elkridge.

Honours and applause were lavished upon the veteran and his immediate officers and troops, probably with the more warmth, as their conduct formed such an exception to the general demeanor of the American army. The city of Washington presented him with a sword, accompanied by a most flattering resolution, expressive of the high sense entertained by the corporation of that city of his distinguished gallantry and good conduct. The State of Georgia, through her governor, presented him with the thanks of that state, for his good conduct in the defence of the capital of the United States. The whole country responded sincerely to these manifestations of approval of the commodore’s gallant bearing. Immediately after the peace, he was selected by the president as the bearer of despatches to the American ministers in Europe—and his sense of duty did not permit him to decline the honour, though his state of health rendered it a hazardous undertaking. The voyage operated most injuriously upon him in this respect. He returned to his home, suffering much bodily pain, and labouring under a great depression of spirits. The closing years of his life were embittered by pecuniary difficulties, which his profuse liberality was ill calculated to surmount. Being the owner of some wild lands, to a large extent, in Kentucky, he resolved to pay a visit to that state, which, for a time, partially recruited his health; and the warmth and distinction with which all classes received him, must have rendered his visit, at that time, a source of peculiar gratification. The legislature of that growing state welcomed his arrival by
public testimonials of their respect, and endeavoured in every mode to evince their esteem.

On his return to Baltimore, President Monroe, as a mark of his continued friendship, and as some small requital of Barney's many public services, bestowed upon him the office of naval officer in the customs, vacant by the death of a fellow-soldier of the revolution. This, however, did not divert him from the plan he had adopted of removing to the State of Kentucky, in order to become permanently located there. He therefore appointed his son William his deputy, disposed of his farm, and having completed his arrangements, commenced his removal with his family. At Pittsburg, however, it was decreed that his journey should end. He had previously had an attack of bilious fever, which reduced him very much, by the time of his arrival at that city. He was supposed to be getting better, when, suddenly, spasms occurred in his wounded limb; he survived but a day after this symptom, and on the first of December 1818, breathed his last, in the sixtieth year of his age.

All classes of citizens at Pittsburg joined in honouring his memory, and paying the last sad tribute to his remains. When the news of his death reached Baltimore, the councils passed resolutions expressive of their deep regret, and directing a portrait of the distinguished defunct to be prepared and suspended in the council chamber.

ART. II.—REVISED CODE OF PENNSYLVANIA.

1. — First Report of the Commissioners appointed under the resolutions of March 23, 1830, of the Legislature of Pennsylvania, "to revise, collate, and digest, all such public acts and statutes of the Civil Code of this state, and all such British statutes in force in this state as are general and permanent in their nature." William Rawle, T. I. Wharton, Joel Jones, Commissioners. Philadelphia, January 31, 1831.


CHANCELLOR KENT, speaking of an English work, (Humphreys on Real Property), says, "the American lawyer cannot but be
forcibly struck on the perusal of that work—equally remarkable for profound knowledge and condensed thought—with the analogy between his proposed improvements, and the actual condition of the jurisprudence of this country.” And in reference to this state it has been well remarked, that almost every essential reform in the English law suggested by Lord Brougham, and the other great reformers of the law in England, has been long the familiar practice of Pennsylvania. It remained, however, for the present day to see this spirit of improvement, after having exhausted almost every subject to which it could apply its plastic touch, turning to survey the extent of its own labours, to weed out what may have escaped its observation whilst bent on more important pursuits; to drain, fill up, or plant, the marshy and waste ground; to lay the land out into fields of a size proper for the purposes of agriculture, and to furnish it with whatever may be necessary for its successful cultivation. This seems to be the object of the commission, (the results of whose labours thus far, are referred to at the head of this article), in reference to the laws of this state.

Accompanying the first report of the commissioners on the revised code of Pennsylvania, are two bills, embracing all the statutory provisions on their respective subjects, viz. “A bill relating to Registers and Registers’ Courts,” and “A bill relating to Orphans’ Courts.” These bills have been adopted by the legislature with some modifications, and are found in the pamphlet laws of the state as referred to above. With the second report, made at the last session of the legislature, three bills were presented, viz. “A bill relating to last wills and testaments,” “A bill relating to the descent and distribution of the estates of intestates,” and “A bill relating to executors, administrators, and collectors.” The consideration of these latter bills will come before the legislature at the present session. Prefixed to the second report is “a report, in part, on the subjects of the statute law generally, and the administration of justice.”

In ascertaining what changes and improvements in the law of Pennsylvania have been suggested and effected by the commissioners on the revised code, we will confine ourselves to an examination of the most prominent and important in each bill in succession, merely glancing at the minor changes; and afterwards notice such general principles as may be collected from the whole.

The authority as executor, administrator, or guardian, derived from any source out of this state, is abolished. The origin of the practice of recognising foreign letters of administration in this state, to which it is almost peculiar, is found in an act passed in 1705. It proceeded, perhaps, from that friendly intercourse kept up by William Penn with the English court and nation,
which would render the official seals of the mother country of as much validity among the authorities of the province as their own; or, perhaps, we may find a truer cause for this peculiarity in the benevolent and liberal disposition of Penn, which would lead him to extend national and municipal courtesy to its utmost extent, and whose political principles were then dominant in the province. It would appear, however, that the revolution had repealed this excessive courtesy as regards foreign nations, for in 1789, (in a case in which the name of the venerable and eminent chairman of the committee on the revised code is found as counsel for the party, whose interest it was to support the liberal provisions of the Act of 1705), the Supreme Court held that letters of administration granted by the Archbishop of York were not a sufficient authority to maintain an action within this commonwealth. The law of 1705, however, still existed with regard to the other states of this Union, until repealed by the bill proposed by the commissioners. The law is now placed on the same footing as in England and most of the United States. The mode of authenticating the copies of wills proved out of the state, is the same as that required by Act of Congress of May 26, 1790. This system of precaution with regard to foreign authority, is continued by requiring a bond from an executor not a resident of this state, before letters testamentary are granted to him here, which places foreign and absent executors on the footing of administrators as regards security; and further effect is given to this provision, by rendering void all letters testamentary granted to executors out of this commonwealth without bond and surety, by making the register and his sureties liable for the consequences. Though confident that these changes are justified by policy and example, and that “they that reverence too much old times are but a scorn to the new,” yet we cannot without some regret take leave of what may be considered a record of the philanthropy and liberality of the founders of this state, whose principles, both political and moral, laid the foundation of our prosperity, and still continue to nourish and preserve us: and let it be remembered, that whilst the unceremonious hand of expediency tears up by the roots many of the fairest trees planted by the hand of the great and the wise, we should beware in doing so, not to touch those whose shade may be as a shelter from the storms and heat of faction, and whose fruit still yields sustenance and vigour.

An important change in the existing law, proposed by the commissioners, but which has not been adopted by the legislature, was the creation, in particular cases, of a new officer, in the nature of an administrator ad coliquendum bona defuncti, called

* 1 Dallas Rep. 456.
a collector.* The object of appointing this officer is thus described by the commissioners.

"In all cases of delay in the granting of letters testamentary or of administration, arising from the negligence or absence of those having the right, or from any other cause: also in all cases requiring interposition before administration can lawfully or conveniently be granted, the register is authorized to issue letters to any fit person, for the collection and preservation of the estate of a decedent." "To accomplish the object of his appointment, he is empowered to sell perishable and chargeable property, to collect debts, revive judgments and other liens belonging to the estate, and to do whatever else may be necessary to preserve the estate undiminished in value."

The office was intended to be merely temporary, and for the purpose of preserving the estate until regular letters were granted. The omission of this part of the bill by the legislature seems to be an improvement, for though inconveniences may sometimes arise in the cases alluded to, yet the introduction of another officer into the management of the property of the decedent, and one unknown to our jurisprudence, would threaten a greater evil than that intended to be remedied. It would increase the discretionary power of the register, an officer, the uncertain tenure of whose office does not always secure in him qualifications equal to the weighty trusts and difficult duties which are already confided to him. The appointment, duties, powers, and responsibility of this new officer, would moreover open a new field of litigation, a crop already sufficiently abundant in that part of the law. It was however with diffidence that the commissioners proposed this change, and at the end of their second report, they say, "if the legislature should think it expedient to dispense with the officer entirely, these sections (relating to collectors) can be omitted without injury to the system or texture of the present bill."

The objections stated do not apply to another change proposed by the commissioners, and adopted, with some alterations, by the legislature, viz. the appointment of two disinterested men, whose duty it will be, under the security of an oath, to appraise the personal property of the deceased. The appraisers promise to be a salutary check on executors and administrators, and though their report cannot be considered entirely conclusive, they will prevent the possibility of gross abuse and breach of trust. Their introduction will operate as an extension of the trial by jury, (for the appraisers are in the nature of jurors,) to very important cases never before controlled by that institution. It was to be wished that the legislature had given full operation to the intentions of the commissioners on this subject. They proposed that the ap-

* A collector seems rather to resemble in his duties an administrator appointed for a short time, until the authority of an executor appointed in a will commences: as where an executor is to have authority after a year from death of testator. Plowd. 279, 280.
praisers should be appointed by the register, but the legislature have altered their provision so as to give the appointment to the executor or administrator, who will now have it in his power to appoint his own friends, whose bias would naturally lead them to make their appraisement as low as their consciences will permit. Besides this, the provision, as adopted by the legislature, is very general, which is a greater defect that a new practice is introduced. It does not designate who are to administer the oath to the appraisers, the manner of enforcing compliance with the provision, nor the character or relation of the persons who are to appraise. All these circumstances are left to the discretion of the executor or administrator, whose inventory would seem, under this arrangement, to be quite as correct a criterion of the amount of property as the report of the appraisers. It is to be hoped, that either practice, or another act of the legislature, will restore the arrangement proposed by the commissioners, which would have left little to discretion, and would have secured uniformity of practice on this point throughout the state.

Before the adoption of the bill relating to Registers and Registers' Courts, an appeal lay from decisions of the Registers' Court to the Circuit Court, from which the case might be again taken to the Supreme Court. The mediate appeal to the Circuit Court has been taken away where the amount in controversy exceeds one hundred and fifty dollars, and the appeal lies immediately to the Supreme Court. "This will abridge the labours of the Judges of the Supreme Court, without prejudice to the interests of the public."

A change somewhat analogous to the one just mentioned, empowers the register, in case of a caveat entered, and where matters of fact come in controversy, to send a precept immediately to the Common Pleas, directing an issue, instead of mediatly, as formerly, through the Registers' Court. It was doubted by some whether the Orphans' Court had the same power, but it is now expressly given to it by the bill relating to that court.

The bill relating to Registers and Registers' Courts, as adopted by the legislature, provides the same form of oath to be administered to executors and administrators, by the register, before issuing letters. The oath, however, is more applicable to the case of an administrator than executor. For though the expression "you will well and truly administer the goods and chattels, &c. according to law," may be construed to extend to the disposal of property by an executor or administrator cum testamento annexo, yet for the sake of certainty, and to avoid having recourse to a strained construction of the oath, it would seem to be expedient to provide a different oath for executors and administrators with a will annexed, who are bound to execute the will of the deceased after the law has been satisfied. The only objection to
the present oath, when administered where there is a will, is merely that it is too general, and not sufficiently explicit. A provision for such cases seems to have been contemplated by the commissioners, but the sections proposed by them have been new modelled and condensed into the section alluded to.

In the case of infant executors and administrators, the commissioners proposed to grant administration *durante minoritate* to the guardian, when there was one, of such infant, but the legislature have preferred leaving it discretionary with the register, provided such executor or administrator be a fit person. The legislature have the example of the English statute of 38 G. 3. C. 87 § 6 for their enactment, by which an administrator is substituted by the ordinary for the infant executor until he come of age.

The other principal changes effected by the bill relating to Registers and Registers' Courts, are—the establishment of a uniform criterion for the amount of security required to be given by the register in his official bond, viz. one-half the amount required in the official bond of the sheriff of the same county—the register is empowered to enforce the probate of wills, and the concealment of a will, after fifteen days' notice, is made a misdemeanor—the power of an executor of the executor, over the property of the testator, is abolished and vested in an administrator *cum testamento annexo*—letters of administration cannot be granted unless within twenty-one years after the death of the decedent—residuary legatees are entitled to the administration where administration with a will annexed is necessary—the time of appealing from the Register to the Registers' Court is extended from two to three years, and the exceptions with regard to persons labouring under disabilities are omitted.

"We think," say the commissioners, "that exceptions of this nature are in all cases of doubtful propriety. No such provision is contained in the act limiting the time of appeals from the Orphans' Court. The suspension of the limitation may be attended with severe consequences to those whose interest it is designed to protect, and it can hardly occur, as we suppose, that any of the persons before mentioned will be without other means sufficient for their protection."

Besides the above changes, a few others were proposed by the commissioners, but not adopted by the legislature:—thus it was proposed that no letters testamentary or of administration should be granted until five days after the death of the decedent. Another slight change proposed (and the reason of its rejection is not very apparent) was to extend the time within which the inventory must be furnished, from thirty to forty days, in order to give time for appraisement.

A few other changes are found in this bill, which will be extended throughout the future labours of the commissioners. Of this kind are the omission of the enacting clause at the beginning
of each section of the bill except the first, and the reduction of pounds into an amount nearly equal in dollars.

Perhaps the most difficult part of all the past and future labours of the commissioners, is the subject of the Orphans' Court; they have therefore dedicated to it "a large share of their time and attention," and though they may not have been completely successful in cleansing this Augean stable, or bringing into order what the learned Judge Duncan considered "so deplorable a system of confusion," yet they have, it is to be hoped, done as much as was at present or at one time practicable in this Herculean task. But whence these defects and irregularities in a tribunal embracing within its jurisdiction such various and important subjects? The answer to this question may be found in its peculiar organization, and the compound nature of its jurisdiction, powers, and forms of proceeding, partaking of the character of a court of common law, a court of equity, and an ecclesiastical court. Its judges are brought from a common law court, its jurisdiction is partly derived from the common law, partly of ecclesiastical and chancery origin, to which an imperfect vitality has been communicated (like the being of Mrs. Shelley's imagination) by the galvanic touch of the legislature, whilst its proceedings are derived from the discordant forms of the common and civil law.

Humano capiti cervicem pictor equinam
Jungere si velit, &c.

However, it is for us to put the best construction on the intentions of our ancestors; and the union of the Orphans' Court and Common Pleas was intended perhaps to give to the former the aid of the common law in cases where its own powers were deficient, for the same purpose as in the ancient County Court of the Saxons, in which was the probate of wills, the alderman, earl, or sheriff was joined to the bishop, and in the same manner as the Courts of Westminster Hall at this day afford assistance and give efficacy to the decrees of Doctors Commons. However this may be, it was a most unfortunate circumstance for the union of the courts that the forms were different; the Common Pleas adhering to those of the common law, whilst the Orphan's Court principally adopted those of the pontifical and civil law, borrowed from the English ecclesiastical and equity courts. Nothing could tend more to confusion and separation than this difference. Indeed the original introduction into England, by the ecclesiastics, of these forms, was for the very purpose of keeping separate the ecclesiastical and national courts. "The establishment," says Blackstone, "of the civil law process in all ecclesiastical courts, was indeed a master-piece of papal discernment, as it made a coalition impracticable between them and the national tribunals, without manifest inconvenience and hazard." The very circumstance, therefore, most opposed to a union of
these courts in the same individuals, was retained in the Orphans' Court of Pennsylvania, and in the vain attempt to reconcile such discordant elements, confusion and chaos has been the natural result. The remedy for these evils, prescribed by the commissioners, is the assimilation of the process of the Orphans' Courts as near to that of the courts of common law as was compatible with their distinct spheres, imparting to its half-dead limbs new principles of life, arming it with new weapons by which it may be enabled to enforce its will, and withdrawing from its veins a portion of the poison derived from the source whence it sprung, and infusing instead the wholesome blood of the common law. But it is time to descend to details.

"According to the course of the Orphans' Court," say the commissioners, "citations issue only on the allowance of the court. The result of this principle—for it is more than a mere rule of practice—is delay in the commencement and progress of its proceedings. In the common law courts, writs for the institution of suits issue of course on the precept of the party or his attorney, although supposed, as the test indicates, to have issued in the preceding term. The provision now proposed to be introduced into the Orphans' Court, is an approximation to that practice."

This is not the only alteration made in the process of the Orphans' Court. Writs of execution and proceeding in the nature of foreign attachment, are provided as columns to support this weak and tottering edifice of ecclesiastical architecture. A decree or judgment of the court may be obtained in all cases, both where the defendant appears and where he fails to appear after due notice. The decrees may be enforced by attachment, sequestration, or execution in the nature of a writ of fieri facias.

"It has often been regretted," say the commissioners, "that the Courts of Chancery of England, and some of these states, possessed no process by which their decrees for the payment of money could be enforced directly upon the goods and chattels of the defendant, by a levy and sale in the manner of a fieri facias. We have remedied this defect in the practice of the Orphans' Court, by directing that when the decree is for the payment of money, it may be enforced by an execution in the nature of a writ of fieri facias, under which the like proceedings may take place as are had and allowed by virtue of such writs in the Courts of Common Pleas. All these writs must be directed to and executed by the sheriff or coroner of the proper county. These provisions form a system—and might be reported without more."

A writ and proceedings similar to those in foreign attachment are then provided, and the remarks on this part of the subject are thus closed:

"In the first clause of this section, we have inserted a provision, authorizing the Orphans' Court, which has jurisdiction over the accounts of an executor, administrator, or guardian, to send citations and other process into any county of this commonwealth into which such accountant may have removed, or where he may be or may possess property amenable to its process. This provision is intended for the single case of original liability to the jurisdiction of the court, and cannot be extended further."

In another part of the bill, the process of attachment, with or without sequestration, is given to compel a superseded or delin-
quent executor, administrator, or guardian, to comply with the order of the court.

Thus instead of the lame and defective process hitherto in use in the Orphans' Court, is substituted a system which promises to be as effectual and perfect as that of the common law, to which it is made to approximate as near perhaps as was expedient. No reform would be so acceptable and beneficial as one that would establish a simple and uniform mode of proceeding in all the courts of the commonwealth, without any distinction in reference to their rank or jurisdiction. Such a plan it would seem is in contemplation in England under the auspices of Lord Tenterden, and when the details shall have transpired, they will not escape the anxious exertions of the commissioners. However, so thorough a reform cannot be effected without the aid of those in every part of the state most experienced in the practice and details of the profession of the law, and cannot be the result of any new system suddenly adopted, or the labours of any one board of commissioners. And even with these advantages, time alone could mature and perfect so fundamental a change in the instrumental and administrative part of the law. That it would be expedient in such a case to reject every thing foreign to a common law origin, cannot by any means be contended. But whilst the common law is the substratum, or, in the more striking language of the commissioner, the "exterior and circumambient medium," nothing manifestly discordant with it should be introduced. The strong infusion of chancery and civil law principles in the constitution and nature of the Orphans' Court, would, under such a reform, require to be still more diminished, though the law of this country (as well as that of England) owes much to hints derived from that source. Nor is there any thing in the common law courts incompatible with an exclusive testamentary jurisdiction. Such a change would only restore the ancient Saxon law, according to the opinion of Selden,* on which the testamentary jurisdiction of the ecclesiastical courts and the most important part of the jurisdiction of the Court of Chancery was an innovation.† The language of Blackstone on the introduction of the civil law process into England is remarkable. "As the bishops of Rome," says he, "affected in all points to mimic the imperial grandeur, as the spiritual prerogatives were moulded on the pattern of the temporal, so the canon law process was formed on the model of the civil law: the prelates embracing with the utmost ardour a method of judicial proceeding which was carried on in a language unknown to the bulk of the people, which banished the intervention of a jury, (that bulwark of Gothic liberty,)

* Selden's Tracts, "Of the ecclesiastical jurisdiction of testaments." Chap. 1, 2.
† 2 Bl. Com. 335. 2 Fonblanque on Eq. 309.
and which placed the arbitrary power of decision in the breast of a single man. The proceedings in the ecclesiastical courts are therefore regulated according to the practice of the civil and canon laws; or rather according to a mixture of both collected and new modelled by their own particular usages and the interpretation of the courts of common law."

That the Court of Common Pleas should set apart a particular time for transacting business connected with the law of-decedents, is easily reconciled to reason; but that what ought in fact to be the same court should be regulated by two systems so hostile and opposed to each other, is an anomaly in jurisprudence. Nor would the actual union of the Common Pleas, Orphans', and Registers' Courts seem to be difficult. The present bill has already done much towards effecting this, and the remainder might be completed without much additional hazard. For, considering the Orphans' Court in another light, viz. in the nature of a court of equity, it differs from the common law courts, (according to the great commentator on the English law), only "in the mode of proof, the mode of trial, and the mode of relief." We shall presently see that the advantages of the first have been conferred on the Orphans' Court by this bill: as for the second, it was never considered so congenial to liberty or justice as the common law mode—we shall also see that the advantages of the third, though hitherto imperfectly attained, is proposed in a subsequent bill to be extended to this court. So that the example and experience of the equity and ecclesiastical courts have not been lost, and will in future suggest hints that may with profit be introduced into our laws; but let that immense and undefined torrent of civil law and chancery practice be shut out from our courts, and since some of them are indispensable, let them be first filtered through our acts of assembly.

The power of administering an oath to the parties themselves is given to the Orphans' Court and its auditors. This powerful engine of equity origin, which operates on the consciences of men as the torture of the inquisition does on the body for the purpose of extracting the truth, where no other mode of arriving at it was possible, though hitherto admitted with some diffidence into the Orphans' Court, and but seldom put into practice, is now expressly vested in it. This power is of the most vital importance in the cases of trustees, but particularly in the case of a trustee who is trusted for the dead, "who," in the words of a distinguished equity writer, "is totally ignorant of it, if his executor deal unjustly." "If there be any case," says the report, "in which the means of applying to the consciences of a party are desirable, it appears to us to be that of the settlement of accounts where the power of ascertaining by extrinsic evidence whether an accountant has charged himself with all the trust-
moneys or effects received by him is necessarily very much limited.” This power, though peculiarly necessary in the case alluded to in the report, ought to be possessed by every superior court of justice, not to be lightly applied to all cases that arise, but to be only resorted to “like a sword in the sheath,” when no other mode of attaining the object is left; where the circumstances of the case are such that the truth cannot be reached by any other mode of proof.

In like manner, all superior courts should possess that other analogous power conferred also on the Orphans’ Court by the same section of this bill, viz. to compel the production of books and papers belonging to the parties. The extension of these powers to the courts of common law was proposed in England so long ago as the middle of the last century, by a master of jurisprudence, by no means friendly to innovations on the common law; but the inflexible adherence of Westminster Hall to long established usage, and the timidity of the English legislators, have hitherto prevented its adoption. The same obstacle does not prevent their introduction in this country, where the laws, in the opinion of many, are too flexible and too lightly changed. However, this fault, if it be one, easily corrects itself, and any temporary evils arising from rash experiments are remedied as soon as discovered. At any rate, this flexibility is better than the rigidity of the English law, and as long as we have constitutions as repositories for the jewels of the law, and faithful sentinels in the judiciary to watch and guard them, there is little to fear from changes originating in caprice or the spirit of innovation. Whilst these shrines are still held sacred, and not even a majority can invade them, we have a bulwark more effectual in guarding liberty and preventing the intrusion of wild and dangerous reform, than that possessed in the institutions of any other nation under Heaven.

"And sovereign law, the states’ collected will,
O’er thrones and globes elate,
Sits empress, crowning good, repressing ill.
Smit by her frown,
The fiend discretion like a vapour shrinks,
And e’en the dazzling crown
Hides her faint rays, and at her bidding sinks.”—Sir W. Jones.

The Orphans’ Court being thus renovated and improved, is placed on a more respectable standing with regard to other courts by this bill, which declares that “its proceedings and decrees in all matters within its jurisdiction, shall not be reversed or avoided collaterally in any other court; but they shall be liable to reversal, modification, or alteration, on appeal to the Supreme Court as hereinafter directed.” This provision is intended to remedy an evil which was the natural result of the defective functions of the Orphans’ Court, for “where cases have arisen where it has
manifestly appeared that the interests of parties have been affected by proceedings in the Orphans' Court, of which they had no manner of notice, the common law courts, moved by the hardship of the particular case, have endeavoured to set right the proceeding, and given the party complaining an opportunity of being heard.” The Common Pleas and District Courts were, therefore, sometimes compelled, by a sense of justice, “to reverse or avoid collaterally the proceedings and decrees of the Orphans' Court,” contrary to the privilege which courts of record usually enjoy. But now, (as the bill provides an effectual system of notice, and a satisfactory mode of settling the accounts of executors, administrators, and other trustees, besides arming the court with new powers and more efficient process,) the necessity of ever violating the sanctity of the records of the Orphans' Court has been obviated, and this tribunal has been accordingly declared amenable to the Supreme Court alone on appeal.

The nature and cause of the important change alluded to in the mode of settling the accounts of executors, administrators, and other trustees, will be best explained in their own words.

“These constitute one of the most important subjects of the jurisdiction of the Orphans' Court, and from the number and variety of the parties whose interests may be involved in them, are, as we have already intimated, the source of the principal difficulties in regard of the conclusiveness of the decrees. To protect fair and honest trustees on one hand, and on the other, to guard the interests of the young and the absent, must be the object of legislation on this point. By the existing laws, executors and administrators are required to settle their accounts in the register's office, which in practice amounts to nothing more than the mere vouching of the items of the account, and from the limited power and jurisdiction of the register, can never greatly exceed this. The account, or a copy of it, is then transferred to the Orphans' Court, where it is supposed to undergo examination by the court, since the law speaks of its confirmation and allowance. Such examinations, in point of fact, seldom or never take place, in consequence of the pressure of other duties. To obtain that examination therefore, which seems necessary for the purposes of justice, there must, in such cases, be a reference of the account to competent persons skilled in the matter of accounts, and acquainted, at the same time, with the general rules of law, by whom the justice of the items of charge and discharge may be investigated out of court. In many parts of the state it is the practice, at present, to refer all disputed accounts to auditors. We propose to require that this may take place in all cases, unless the parties otherwise agree. According to the present law and practice, if the parties interested are absent, or incompetent by reason of infancy or otherwise to make application to the court, the accounts are confirmed as a matter of course, and the executor or administrator so far discharged. The mode suggested will add to the checks upon the accountant, even if the parties interested should not appear before the auditors, and will give them additional time for appearance, and greatly increased facilities for inquiry and examination. We have, in conformity with an existing provision in relation to the account of assignees, proposed, that the auditors be sworn or affirmed to perform their duties with fidelity, and that they should have the power of administering oaths and affirmations to others.”

As the law stood before the adoption of this bill, the granting applications of executors, administrators, and guardians, for the sale of real estate, was, for the most part, little more than a matter of
course; "so that," says the report, "we have reason to believe that great abuses have been practised by the facility with which orders of sale have been granted: more especially with regard to the amount of real estate sold." To prevent this abuse in future, the bill provides for the appointment by the court of suitable persons to investigate the facts of the case, and to report upon the expediency of granting the application, and the amount to be raised by such sale or mortgage: and upon such report being made, the court may decree accordingly." The following comment upon this section of the bill is a proof of the enlightened and liberal views which govern the commissioners in their arduous but honourable labours.

"We wish it to be understood, that in suggesting certain provisions in this and other sections of the present bill, by which some restraint may, in practice, be imposed upon the conversion of the land of a decedent or an infant into money, we are actuated by no particular or earnest preference of the former over the latter. We are sensible of the justice and expediency of those laws by which the code of Pennsylvania has been distinguished from the earliest times, and which have demolished all the fetters which the feudal system has forged for the preventing the alienation of real estate and its liability to debts; and it will be equally our pleasure and duty, in the succeeding stages of our commission, to suggest such additions and amendments of those laws as may most effectually carry out the policy and intentions of the legislature. But so far as respects that portion of the community who are incompetent, either from want of age or intellect, or in consequence of marriage, to protect their own interests, we conceive that the change from land to money is not desirable, nor within the policy and intention of the legislature. We need not insist on the fugitive and uncertain locality of money, which may be removed by guardians or other trustees to remote quarters of the world, while land, the most certain reliance for the support of infants and others, as well as the true strength and solid capital of a country, remains unchangeable and immovable. This consideration, doubtless, weighed with the legislature, when, in providing for the descent and government of real estate, which gave unlimited authority to persons of full age and sound mind and discretion, to dispose of their real property by deed or will, they carefully abstain from conferring upon executors, administrators, or guardians, any power to dispose of real estate, except by the authority of the Orphans' Courts: the policy of the law, therefore, we take to be, to preserve for minors, and persons under disabilities, their real estate, until the time they may be able to dispose of it with suitable discretion and judgment; and as far as the duties assigned to us may authorize it, we are anxious to sustain this system, believing, as we do, that the first object with the legislature is, to protect those who are unable to protect themselves, and that the policy of rendering real estate of more easy fusion and transmission, however important, is of subordinate moment."

"Many of our most distinguished judges," (says the report, proceeding to another source of abuse, the hardships of which seem to be peculiar to our laws), "have long since acknowledged and lamented that there did not exist in the courts of the state, any power to interfere on behalf of a wife whose real property was converted into money by a sale under an order of the Orphans' Court; and they have been compelled to witness, without being able to prevent, the payment of the whole fund to the husband, often against the wishes of the wife, to the impoverishment of herself and children, and in opposition to the true interests of
the husband." To remedy this evil, the bill provides a method by which the amount of the real property of the wife, coming to her by virtue of any proceedings in the Orphans' Court, and which has been converted into money, is preserved to her or her heirs after the husband's death, allowing him the interest during his life. A proviso, however, repeals this enactment, if the wife declare, on a separate examination, that she consents and agrees that the money be paid to her husband. "This course," say the commissioners, "besides resembling that which is pursued under similar circumstances by Courts of Equity, has the advantage of analogy with our existing law respecting the voluntary conveyance of the real estate of *femes coevert*, and thus establishes an uniformity of system with respect to such estates, which adds to the simplicity of the law, and consequently promotes its general understanding."

Another important and politic provision introduced by the bill is, that an administrator or executor cannot be appointed by the court, guardian to a minor, who has an interest in the estate. Its operation will be more securely to guard the interests of minors and others interested, by making guardians and executors or administrators a check on each other; and it seems to be for this reason, that in the Register and Register's Court Bill, which provides for the case of infant executors, the legislature have changed the proposition of the commissioners to grant to the guardian letters of administration *durante minoritate*, leaving that discretionary with the register. The care of testamentary guardians is saved in the bill. It is of course the intention of the bill, that these offices should be incompatible whenever the appointment of either or both depends on the court.

For the other numerous alterations effected in the old law by this bill, we must refer to the bill itself, having already given more attention to it than we will find necessary with regard to those which follow, and on which the judgment of the legislature has not yet been pronounced, not only on account of the great importance of the Orphans' Court Bill to the jurisprudence of this commonwealth, but because many of the most important changes which remain to be noticed, have reference to those already effected in this bill, which may be considered the centre around which the others revolve, and which keeps all the laws relating to decedents in their proper orbits.

The most important change proposed in the bill relating to last wills and testaments, and which promises to dry up an abundant source of litigation, if not of fraud, and to rescue the law of Pennsylvania, on this point, from unaccountable laxity, and almost criminal indulgence, is found in the sixth section, which enacts that "every will shall be in writing, and unless the person making the same shall be prevented by the extremity of his last sickness,
shall be signed by him at the end thereof, or by some person in his presence, and by his express direction: and in all cases shall be proved before the register having jurisdiction thereof, by the oaths or affirmations of two or more competent witnesses: otherwise such will shall be of no effect."

"It is now the law of Pennsylvania," says the report, "that real or personal property to any extent or amount, may be transferred by a will, whether executed in Pennsylvania or in a foreign country, although there be no signature to such will, nor seal, nor attesting witnesses, and although such will be not in the hand-writing of the testator: the result of this system is a frequent appeal to the courts for decision upon papers set up as wills: and the uncertainty produced by it has been the subject of great regret to our most eminent judges and professional men."

The origin of this evil, so loudly and so justly complained of, may, perhaps, be found in the misapplication of an equitable rule of construction applicable to all common assurances, which a devise of lands was considered to be by the law of England, viz. "benignè interpretamur chartas propter simplicitatem laicorum." This necessary indulgence in all conveyances, and another more immediately applicable to devises and testaments alone, viz. "that the intention of the testator should be the polar star," when confined to their legitimate spheres, are productive of the best consequences. But the courts of Pennsylvania, instead of confining their application to the construction of instruments already duly authenticated and executed, have, in the case of wills, applied them to the authentication and execution also, extending thereby, their inherent aversion to matters of form to a degree not justified by prudence or policy. This excessive equity of our courts is discovered in other cases; thus a strong leaning in favour of the intention of the testator, though contrary to the strict rules of law, is found in a decision in which the heterodox case of Perrin vs. Blake is preferred to the well established one of Shelley.*

The law, in many instances, thwarts the intention and dearest wishes of testators if they are contrary to policy or convenience. The wishes of the English aristocracy were bravely and successfully opposed by the sages of Westminster Hall, when they attempted to perpetuate the grandeur and power of their families at the expense of the best interests of the nation. Testators have been, ever since, restrained from disposing of their property so as to establish a perpetuity. And who will say that this refusal of the courts to permit the intention of testators to break through the established rules of law is unjust or inexpedient? And is it less just or expedient to require a testator to give proper and legal evidence of his intention? Much is already conceded by the law to the unskilfulness and even ignorance of "ley gents," but this indulgence ought not to extend so far as to endanger the settled

* Findley vs. Riddle. 3 Bin. 139.
principles of law, or to encourage fraud and litigation. That any informal writing, accidentally discovered among the papers of the deceased, should ever be established as a will, is the more singular, when it is considered that the intentions of men, during life, are ambulatory and changeable as their nature, and that the equity of the intestate laws of this country will always prevent injustice or evil arising from the want of a will. In those countries, certainly, where the law of primogeniture exists, a good parent, whose parental love is greater than his family pride, would of course wish his property to descend more equally than the laws of his country would permit, and in such cases wills are of vital importance; but here, where the law itself acts the part of a good father after his death, wills are comparatively of but little importance. And yet it is strange, that the courts of this state should be more anxious to uphold and give efficacy to wills than those of England—since, in this case at least, the saying is much more applicable to the law of the former than the latter, "it is safer to rely on the conscience of the law than on the conscience of any man, however wise or virtuous he may be."

A material alteration is proposed in the construction of devises of real estate in another section of this bill, viz. "All devises of real estate shall pass the whole estate of the testator in the premises devised, although there be no words of inheritance or of perpetuity, unless it appear by a devise over, or by words of limitation or otherwise in the will, that the testator intended to devise a less estate." It will be sufficient to cite the opinion of Chancellor Kent on the same provision in the New York Revised Statutes. "These provisions relieve the courts of New York from the study of a vast collection of cases, and from yielding obedience any longer to the authority of many ancient and settled rules, which were difficult to shake and dangerous to remove. Their tendency is to give increased certainty to the operation of a devise. But the language of the provision, making every devise of real estate or any interest therein, in all events and in every case, pass the whole estate or interest of the testator, unless an intent to pass a less estate appears by express terms or by necessary implication, would seem to be rather too imperative, and not to leave quite room enough for the reasonable construction of the intention of the testator to pass a fee. It will still be a question in every case, what words amount to a devise of the estate, for the courts are frequently obliged to say, "voluit sed non dixit." It will be observed that the commissioners on our revised code, have guarded against these objections by leaving ample room for construing the intention.

Another important change is proposed in the law of devise, viz. "that all real estate acquired by a testator after making his will,
shall pass by a general devise, unless a contrary intention be manifest on the face of the will.” In England, where the distinction between real and personal estate is so remarkable a feature in the law, a devise of land is considered an instrument quite distinct from a testament of chattels. “A will of lands,” says Blackstone, “is considered by the courts of law, not so much in the nature of a testament as of a conveyance, declaring the uses to which the land shall be subject. Hence the distinction between such devises and testaments of personal chattels, that the latter will operate upon whatever the testator dies possessed of, the former only upon such real estate as were his at the time of executing and publishing his will. Wherefore, no after purchased lands will pass under such devise, unless, subsequent to the purchase or contract, the devisor republishes his will.”* This theoretic distinction has been extensively adopted in this country, like many other points of our law, more from a modest respect for the adjudications of the English courts, than from its adaptation to the circumstances of the colonies; and it seems still to be the law of Pennsylvania, that after purchased land will not pass by a will unless there be a subsequent republication.† By this section of the bill, this refined distinction will be abolished, and the law of real and personal property be brought still closer together. The New York Revised Statutes have made the same change, “so that,” says the distinguished jurist of that state to whom we are already indebted in this examination, “we have, in some parts at least of the United States, this settled test of a devisable interest, that it is every interest in land that is decedible. In England, the more recent test is a possibility coupled with an interest: and under either rule, the law of devise is of a sufficiently comprehensive operation over real estate.”‡

The act of 1705, in other respects carelessly penned, made a most unaccountable omission with regard to the revocation of wills of real estate, so that it was often contended that such wills might be revoked by parol, whilst wills of personal estate were expressly declared irrevocable, unless by some other will or codicil in writing. This would have been overturning and reversing the best established and most expedient rules of construction, and would have made a more absurd distinction between personal and real property than any which ever originated in the feudal or any other system. “However, the courts,” say the commissioners, “were compelled rather to consult what they supposed was the design of the legislature, than to adopt a literal construction of the act.” The only evil therefore which has resulted from this palpable omission, was an increase of litigation in a branch of the law already fruitful in shoots of that description. The bill supplies the omission, and operates rather as a

sedative to allay doubts, than an actual change in the existing law.

Of a similar nature is that section of the bill which declares that a will executed by a single woman is revoked by her subsequent marriage, and does not revive by the death of her husband; and the saving of that principle of the law of nations that "mobilia personam sequuntur, immobilia situm."

The bill relating to the descent and distribution of the estates of intestates, is principally taken from the acts of 1794 and 1797, which were framed on the model of the English statute which governs their distribution of the personal property of intestates.

"These acts," say the commissioners, "have received more praise for their intention than for the manner in which the details are exhibited and declared. Instead of a classification of subjects, or an arrangement of them according to some obvious and familiar rule, such as that of nearness of kindred, by which frequent repetition would be saved, the acts of assembly attempt to accomplish the effect by a constant specification of cases. The result of this is a great expense of time and labour in arriving at the true meaning of the legislature, and sometimes perplexity and doubt, which lead to frequent litigation."

The most prominent of the defects in these acts is, that in all cases not enumerated in them, the estate descends, according to the English law of primogeniture, to the heir at common law, to the exclusion of all others, though in equal degree of consanguinity to the intestate, directly contrary to the spirit of the acts and the policy and intention of the legislature, on the ground that these acts were an encroachment on the common law. This discrepancy is proposed to be cured by providing that the next of kin shall take in every case not enumerated.

Another operation of these acts contrary to their spirit, is, that the doctrine of representation per stirpes occurs in many cases to the unnecessary exclusion of the more republican mode of descent per capita. And in one case, that narrow rule occurs in Pennsylvania, where the more liberal one is found in the Justinian Code and the English Statute of Distributions. It is therefore provided in this bill that there shall be no representation admitted among collaterals after brothers' and sisters' children, and that even with respect to these they shall take per capita, or equal shares where they only are living, whereas at present they would take per stirpes, or such share only as their immediate ancestor would have inherited if living. These enactments will carry the rule of per capita as far as it exists in any other state, and farther than it is generally carried in the United States; the most prevalent rule, applicable equally to lineal descendants and collateral relations, being, that when the heirs are in equal degree they inherit per capita, and when they are in different degrees they inherit per stirpes. This rule is applicable in Pennsylvania to all cases of lineal descent, and this bill will render it applicable also to relations within the degree of brothers' and sis-
The Revised Code of Pennsylvania.

states' children, but in all other cases of collateral descent, the rule of per capita or equal shares will apply, whether such collateral heirs be in the same or different degrees of consanguinity to the intestate.

It is also provided, that in the event of the estate ascending to the father and mother, it shall be enjoyed by them during their joint lives, and by the survivor of them. "By the present law it is believed that on the death of the father the estate would pass to collateral relations."

The bill proposes to extend the rights given to posthumous children by the Act of 1794, to all posthumous descendants and relations of all descriptions, begotten in the lifetime of the intestate, when their interests would be affected by his death. It also proposes to abolish the exceptions in favour of persons in prison, non compos mentis, and out of the United States; and if the legislature should approve this suggestion, it is proposed to carry this alteration through the several acts of limitation.

"We conceive it," say the commissioners in their remarks on this subject, "to be the interest of the community to reduce the number of exceptions to all acts of limitation, which have been justly described as acts of peace and harmony for society, and we submit that the particular cases omitted ought not to stand in the way of the beneficial rule. In the case of persons of unsound mind, if the exception is continued, estates may remain unsettled for the term of perhaps a long life; and when there is an interest in property, such persons will in all probability have committees sufficiently attentive to lay claim to their shares in due season.

"The case of a person 'in prison' may have been worthy of exception in former ages, when prisons were on a different footing, and often contained inmates of a different description from what the humanity of this age and country admits; but the reason no longer exists, and it appears to us that there is nothing in the character or condition of the present tenants of our prisons, to require a departure for their benefit from the salutary rules applied to other classes of the community. Nor do we think that foreigners are entitled to a continuance of the exclusive privileges which have been heretofore granted to them. In the present condition of things, when intercourse between even the most remote parts of the earth is so frequent and rapid, the term of seven years is surely long enough to give every foreigner an opportunity of laying claim to whatever property he may consider himself entitled, and we cannot bring ourselves to think that there is any hardship in placing him on a footing, in this respect, with our own fellow-citizens."

A few inequalities still remain in the law of Pennsylvania, which do not seem to have come within the notice of the commissioners. Of this kind is the marked preference of the whole blood over the half blood, which is carried further, it would appear, in this state, than in any other, with the exception of New York. Thus, where the law requires that the heir should be of the blood of the ancestor, the construction of the act is that the half blood would be excluded, though he is of the blood. *

It might also be worth considering, whether it would not be

* Reeve's Law of Descent, 382. 4 Kent Com. 400, note (a).
just to alter the law, so as that when nephews or nieces, and at
the same time uncles or aunts, are the nearest of kin to the in-
testate—all, being in the same degree of consanguinity to the
decesed, should take equally, instead of excluding uncles and
aunts altogether, as the present law does.* Perhaps that delicacy
which is manifest throughout all their labours hitherto in chang-
ing the existing law unless where their duty required them to do
so, may have prevented the commissioners from noticing these
minor points, and they are mentioned here as much with the view of eliciting inquiry on the subject, as from a conviction of
the necessity of their adoption.

Besides the above alterations in the acts of distribution and
descent, an important and salutary change is proposed in this
part of the common law, by which a surviving husband will take
a life estate in the real property of the wife, although there be
no issue of the marriage. The arbitrary and unmeaning distinc-
tion which the common law made in this respect between the
cases of a husband and wife, will thus be struck out from our
laws, and another aperture for doubt and litigation closed.

Many of the alterations proposed in the bill relating to execu-
tors and administrators, have reference to those already effected
in the efficiency of the Orphans' Court. Of this kind is that which
transfers from the common law courts to the Orphans' Court the
power of enforcing the specific performance of agreements for
the conveyance of real estate made by the deceased, but not per-
fected at his death. The vain efforts of the common law courts
of Pennsylvania completely to reach this chancery remedy by
means of the verdict of a jury giving conditional damages, has
been long a subject of complaint. The honour of the state has
been in some measure involved in demonstrating that a court of
chancery is not indispensable to an efficient jurisprudence found-
ed on the common law; and ingenuity and skill have been exer-
cised to attain it. These exertions, arising from such honourable
motives, and fostered by experience and learning, have effected
as much perhaps as was practicable without the aid of the legis-
lature, and without an essential alteration of the remedial powers
and process of the courts. Still it is acknowledged that the re-
medy is circuitous, expensive, and imperfect. To obviate these
difficulties, the commissioners propose that the jurisdiction over
this branch of chancery law be transferred from the common law
courts into the Orphans' Court.

* See § 4. Arts. 4 and 5 of bill relating to descent, &c.
suggested is believed to have the advantage of greater simplicity, and at the same time of greater efficacy than that at present authorized. Application is to be made to the Orphans' Court by the executor or administrator of the vendor, or by the purchaser or other person interested in the contract, and after due notice to all parties interested, the court is empowered to decree the specific performance of the contract. It is then provided that the decree of the Orphans' Court may be recorded in like manner as deeds are recorded, and that the executors or administrators shall thereupon execute such deed of conveyance as the court shall direct.”

These reasons, and another given in another part of the report, viz. “that the maxim stare decisis can never be made to apply with full effect to the decisions of juries,” on which this branch of equity must mainly depend according to the present system, fully justify the commissioners in proposing this alteration.

Decedents, according to this bill, must have been possessed of the real estate at his death to entitle the vendee to the relief in the Orphans' Court in the manner described.

Another branch of jurisdiction, which in England belongs to courts of equity concurrently with the ecclesiastical courts, but which has been in this state conferred on the courts of common law, is now proposed to be transferred to the Orphans' Court. We allude to the recovery of legacies charged on real estate. The comment on the sections proposing this change will best explain the expediency of the measure.

"Sections 59, 60, 61. The fifty-ninth and two following sections have been framed to remedy a serious defect in our jurisprudence, arising, like many others, from the attempt to obtain justice with the insufficient machinery of our common law courts. Where a legacy has been charged upon land, the only remedy of the legatee at present is to bring an action in a District Court, or Court of Common Pleas. The form of the action, the party against whom it must be brought, the persons who ought to have notice of the proceedings, the form of the judgment, all these present questions of no easy solution; and however settled, still leave incongruities and difficulties, as may be seen in the cases of Brown vs. Furer (4 S. and R. 213), and Ganse vs. Viley (ib. 509), which led the judges to regret that there did not exist a tribunal with more complete and appropriate powers. We think that the Orphans' Court, as now constituted, is adequate to the purpose, and that the mode pointed out in this and the next section, will remove all difficulties which have been felt in the other courts; all parties will have notice, the executor as representative of creditors, the heir or devisee in respect to the land, and all such other persons as the court, looking to the circumstances of the case, may require. The sixtieth section authorizes proceedings against real estate in another county, under the direction of the Orphans' Court of the county. Some authority of this kind appears to be necessary. The late Mr. Girard charged all his real estate in Pennsylvania with the payment of certain annuities and legacies; and such directions have been given in other wills. How are legacies to be recovered under such circumstances? We have in Pennsylvania no court whose jurisdiction extends over the whole state; and if such tribunal existed, the powers of a common law court would be inadequate to settle the various questions respecting creditors, and contribution between heirs or devisees, that might arise. We know no other mode of obviating these difficulties, than to give general authority to the Orphans' Court, which possesses jurisdiction of the accounts of the executors, to entertain the application of the legatee, and after due notice, and having all parties interested, to make such order for the
payment of the legacy out of the real estate, as may be according to the doctrines and practice of equity. Without giving to such a court any extra-territorial power, its decree may nevertheless be certified to other Orphans' Courts, who will carry it into effect, by issuing process, if necessary, to sell so much of the real estate within their own limits as may be requisite.

"The sixty-first section provides that the legatee shall give similar security to refund as is required in the case of other legatees.

"We submit these provisions to the legislature, under the conviction of the necessity of some remedy for the deficiencies adverted to, and with the belief that they will afford at least some improvement in the practice."

In Pennsylvania, lands are made liable to the debts of the decedent, and actions are brought by creditors for those debts against the executor or administrator alone: whenever under these circumstances the personal assets are insufficient to pay the debts, the land which has in the mean time descended to the heirs is rendered liable by a proceeding to which they are not parties, and thus is presented, says the report, "the anomaly of one man's property being taken in execution and sold by virtue of process issued in an action against another." In consequence of this and of the executor not being obliged to settle the account to ascertain the amount of personal property, "the real estate of a family may be taken away from them and sacrificed at a sheriff's sale, although there may be sufficient personal assets, or although in point of fact the debt may have been satisfied and nothing is actually due to the plaintiff in the judgment. The hardships arising from this practice are so striking, that our courts have frequently expressed their regret that a different system was not adopted, and have endeavoured to provide some means of notice to the parties interested in the real estate." To effect this object, the commissioners propose that the court in which the action is pending be required to stay proceedings whenever it appears that the personal assets are insufficient to pay the debts, until the executor or administrator has applied to the Orphans' Court for a sale of the real estate or an apportionment of the assets or both, which the executor or administrator may be ordered to do by the court in which the action is pending.

"The Orphans' Court," pursues the report, "is obviously the proper tribunal for settling the accounts of administrators, and apportioning the assets. The nature of its general jurisdiction, its powers and authorities, and the manner of its proceeding, furnish advantages and facilities which the common law courts do not possess. We think also, that concurrent jurisdiction, on a subject of this nature, is not desirable. As the law now stands, the decree of the Orphans' Court, on the settlement of the accounts of an executor or administrator, is not conclusive in an action by a creditor, legatee, or distributee: but the whole subject must be re-examined, if required by the plaintiff, however complicated the accounts. In the bill relating to Orphans' Courts, this defect has been removed as respects accounts actually settled in the Orphans' Court before the institution of the suit in the common law courts. By the present sections the same results will be produced in all other cases. We will add, that a sale of real estate by order of the Orphans' Court, is in almost all cases more advantageous for all parties than a sheriff's sale."
Thus the Orphans' Court will be constituted the only tribunal in which the accounts of executors and administrators can be examined, in whatever other court the necessity for such examination may arise. Whereas formerly, under the act of 1772, auditors were appointed by the common law court to examine the state of the accounts, though they may have been before settled and apportioned in the Orphans' Court.

This division of labour, as it may be called, promises to have the effect of rendering business in this respect more expeditious and less expensive than hitherto, whilst by referring it to that tribunal best acquainted with all its details, its more correct execution will be ensured.

By another provision of this bill, greater security is given to the purchaser of real estate from an executor, administrator, or other trustee, by empowering him to pay the money into the Orphans' Court, there to abide its proper application by the court, "who will have power to require the necessary security from the executor &c., before authorizing him to receive the money." Hitherto the purchaser was sometimes bound to look to the application of the purchase money, or, perhaps, be compelled to pay the money a second time. "The result," says the comment, "is often injurious to all parties, since the risk of liability for the improper application of the money tends to lessen the number of purchasers and to reduce the value of the property."

We will here take notice of a provision proposed by the commissioners in this bill, which, says the report, is intended as "a mode of defence for the citizens of this commonwealth against the operation of the laws of other communities. It was not long since the law of one of the sister states of this Union, that creditors residing in that state should be first satisfied out of the effects of an intestate. Pennsylvania has never made such a distinction; but, on the contrary, has given foreign creditors an advantage, in her statutes of limitation, over her own citizens. It is right, we think, that regulations such as we have adverted to should be met with countervailing laws on our part; and no country can have reason to complain, if we mete out to them the same measure of justice as they deal to us." It is then proposed, that if such should be the law in any other state, that the same should be the law of Pennsylvania as regards citizens of such states. Although the reasoning and remarks of the commissioners are just, and the proposal certainly not repugnant to expediency, when a general practice throughout the United States shall authorize it, yet we cannot think that any practical benefit can arise at present from such a precaution. It is true, that the law of Delaware was once as is represented, but that law was blotted out of their statute book in 1826, since which time their laws have been revised and digested, and there is no danger of such
an enactment ever again accidentally creeping into them. A similar law does not seem to have ever existed in any other state of this Union. The preference shown to foreigners by Pennsylvania, if it exists to a greater extent than in other states, is a mark of liberal policy which it would not be desirable to see erased, and which it is to be hoped will ever characterize her legislation.

It will be observed, that these bills embrace one of the most important titles in the law, the statutory provisions relating to which are numerous, and irregularly scattered over the statute book; that besides erasing, amending, and pruning, the commissioners were required to arrange them in the most "lucid order." The following extract will give an idea of the manner in which the commissioners have hitherto arranged their materials, which plan they purpose carrying throughout their future labours. With regard to the Orphans' Court Bill, they say:—

"In the performance of this branch of our duties, we have adopted a rule which we purpose to pursue in the progress of our remaining labours, and the propriety of which is perhaps too obvious to require any comment, namely, to separate into distinct acts all subjects of legislation which are in their character distinct. We believe it to be the desire of the legislature to possess not only a revised and consolidated code of statute law, but one systematized as to subject matter, and arranged into regular and appropriate titles, each of which shall contain all that naturally belongs to it, and no more: and we consider almost any labour well bestowed, that facilitates a convenient reference to and easy acquisition of a knowledge of the laws by the whole body of our citizens. Thus in the bill relating to Orphans' Courts, we have studiously confined ourselves to what we conceive to be the appropriate subjects of its enactments, viz.

"1. The constitution of the court, or the designation of the individuals who compose it."

"2. Its jurisdiction."

"3. Its powers."

"4. Its practice or manner of exercising its powers upon the objects of its jurisdiction, so far as it is a subject of legislative provision."

Perhaps the best proof of the great attention, care, and labour bestowed on these bills, is their shortness. The great variety of enactments, provisos, preambles, &c., contained in the volumes of the Pennsylvania laws, and the folios of the British statutes, relating to the subjects of these bills, have been condensed into a few pages. And yet these few pages breathe the spirit of our ancient laws, and no enactment has been omitted that was an evidence of our liberty. The verbosity and tautology of the old statutes are gone, but all the rest remains. Nor have the commissioners fallen into the common error of sacrificing clearness to brevity.

"It will be perceived that the phraseology of the existing acts is generally retained in the bills now submitted." "We have, in all cases, retained forms of expression which have received a judicial construction," and have no further altered the text than to "divest it of redundant phrases and useless verbiage."
The circumlocutory mode of enactment in England and this country, seems to have arisen from an anxiety to shun what was considered a defect in the Roman and continental codes, viz. excessive brevity, the penners of the statutes attributing the immense piles of commentaries, glosses, &c., on these codes, to this alone. National pride, too, would lead the English legislators, and in imitation of them, those of the colonies, to look upon the decisions of their courts of law as the best and least obscure codes, though perhaps not the most complete. Certain it is, that there has ever existed in England a hostility, or, at least, indifference, to codification. Whilst the French, and almost every other nation of Europe having a seaport, have compiled codes of maritime law, England, whose commerce would seem to demand such a system more than any other country, nay, more than all together, never attempted such a plan,* nor is it now in contemplation, when such extensive reforms in the English law are in progress. The reason of this is found in the eloquent and enlightened decisions of her judges, her Mansfields, her Scotts, and her Tenterdens. What nation can boast of such a maritime code, as may be collected from the English Reports and treatises of the last eighty years? Not even the French, with their Ordinance of Louis the Fourteenth, and its shadow, the Commercial Code of Napoleon. This country has followed the example of England, and still continues wise enough to be taught, even by an enemy; or, perhaps, we should rather say, our country inherits the good sense of her parent, an inheritance which a quarrel and separation could not divest. Lord Coke, with just pride, opposes his Commentaries on Littleton, to those on the Civil Law, and remarks that his comments were founded on points decided after argument by counsel and the deliberation of profound judges, whilst the glosses and interpretations of the commentators on the civil code of Rome, had no such foundation. Somewhat analogous to this comparison, will be that of the revised code of Pennsylvania with the modern codes, (we speak not of similar revisions in other states of this Union.) Our code will consist of statutes originating with and adapted to a free people, the spirit of whose enactments has been transmitted to them from their ancestors, endeared to them by long habit, and matured and improved by experience and use. Other codes may present a more complete and regular system, but they will not bear the test of unmerciful experience. They resemble a beautiful ship under full sail, decorated with all the ornaments that can please the eye, but the storm rises, her beams beneath are rotten, and she is sinking. But see you that tight staunch little vessel shooting out from the

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* We are aware the Laws of Oleron have been claimed for Richard I. by some English writers, but without much success.
harbour to save the crew? Her built is good to a seaman's eye, though she is ungainly in the painting of her hull; she rides with ease and swiftness over "the bounding billows," at her mast-head the star-spangled banner "shivers in the wind," she nears the sinking ship, the crew are saved.

But let us take a nearer view of what effect the revised code will have upon our laws; but first, we may here say, that the practice of revising the law throughout the United States, will be productive of this, in addition to other good consequences, gradually to bring the discordant enactments of the different legislatures nearer to the same standard, since the fundamental principles of truth, justice, and real expediency, are every where the same, and even in matters of form, experience will at last recommend to all, those which are found to be the best, and abolish those rules of practice whose only recommendation is that ita lex scripta est.

"Time," says Lord Bacon, "is the greatest innovator: and if time of course alter things to the worse, and wisdom and counsel shall not alter them to the better, what shall be the end?" This deterioration by time, is felt to affect laws no less than other human institutions. To be sure, the legislature is always at hand, and one of its most important functions is, to amend the defects and cure the abuses of the law. But experience teaches, that the slow and ill-directed efforts of legislative assemblies are far from being a match for time, and that it is only the glaring and manifest evils that are prostrated by their bolts:

feriunt que summos
Fulmina montes.

It requires the microscopic glass of experience, whose ken is single, and not distracted with a variety of objects, to detect and expose the furtive advances of time's innovations, whose "still, small voice," is not heard by those whose heads are above the earth, and whose ears only take in what is trumpeted by fame from the "house tops."

"No revision of the statute laws of Pennsylvania," say the commissioners, in their first report, "has taken place since the year 1700." It is no wonder, then, that whilst the legislature was, perhaps, better employed in battering down the castles of the feudal system, or diffusing the mild principles of philanthropy and benevolence inculcated by William Penn, the innovations of time should have been secretly working beneath, unheeded or unobserved, like the miser, who, in quest of gold, cares not to undermine the fairest cities. Defects, nay, errors and abuses have crept into the law, and though their operations, perhaps, have not been extensive or frequent, yet they were such as to attract the attention of legislators, and to require the healing me-
dicine of reform. What, then, has been already effected by those, to whom the office of administering this medicine has been committed? And what will their future labours effect?

The general effects of the past labours of the commissioners, may be briefly summed up, in having imposed greater restraints and checks upon the conduct of trustees; whose responsibility has been made more direct and certain, their duties better defined, and the remedies, by and against them, facilitated and rendered more complete: anomalies in the law, and occasions for doubt, litigation, abuse, and fraud, have been taken away; order and harmony has been communicated to a part of the law involved in the utmost confusion, and strength and vigour infused into an arm of the judiciary. It might be sufficient to stop here, and acknowledge, that their labours have been well directed and successful, but in addition to these, they have given greater effect, and placed in stronger relief, the features of a republican form of government, which so strongly characterize the laws of this country; among other improvements, by still further breaking down the distinction between the law of real and personal property; by rendering universal the equal operation of our law of descent, and by eradicating, in the part of the law already revised, almost every vestige of the feudal system.

It might, indeed, seem, at first sight, on reading over the bills submitted by the commissioners, that many tinctures of the common law still interfered with the republican theory of our laws, and disturbed the harmony of the system; such, for instance, as the preference given to males over females, in the choice of shares, in case of partition of lands; but this distinction between male and female, in matters of business not immediately domestic, is of far higher antiquity, and of far more sacred authority than the common law. The law of nature declares, that man is better adapted than woman for attending to all affairs without the immediate precincts of the domestic circle—

Whence true authority in men: though both
Not equal, as their sex not equal seemed.

The same law prohibits women from taking a part in legislative and judicial business, and on the same principle, the right of suffrage is withheld from them. "The utmost of a woman's character," says the Spectator, "is contained in domestic life."

But, perhaps, it may be asked, is this work of the commissioners so perfect as to contain no errors, nothing to which any objections can be urged? No such thing: if that were the case, it would not be human; and wherever we differed in opinion from the commissioners, we have freely expressed our views. We will, however, here notice an objection that may be urged
against one of the most important alterations effected by them. It may be said, that the Orphans’ Court has, in fact, been converted into a Court of Chancery, and that the distinction between law and equity threatens to be introduced as extensively in this state as elsewhere. That this court has received equity powers, which before it did not possess, is true; but most of those powers are such as might be exercised also by common law courts, and which, perhaps, all superior courts ought to possess: whilst on the other hand, it has received an equally strong tincture of common law, from the bill relating to Orphans’ Court. That every thing in this difficult subject has not been effected, which may be possible, the commissioners themselves acknowledge, and assign a satisfactory reason for it—“so convinced are we,” they say, “of the arduousness of the task of compiling a complete system, which shall embrace the constitution, jurisdiction, powers, and practice of this court, that had it not been for the express directions of the legislature to report upon it at the present session, we should probably have reserved this subject to the last, and given it the utmost deliberation that our limits allowed.”

Thus the commissioners, in this most important branch of their duties, were deprived of that light, which a minute examination of the whole body of the statute law would have shed upon this subject, and it is probable that some of their future labours may be directed still more to improve this court. This supposition is confirmed by their report on the statute law in general, prefixed to their second report; a more particular notice of the first part of which we have reserved to this place, as it refers as much to the future as past labours of the commissioners, and by a brief examination of it, we may be enabled to arrive at the principles which will govern the commissioners in their subsequent revision. A few extracts will best develop them.

“We pass now to some considerations which are peculiar to the remedial law of this commonwealth. It is well known, that the chancery jurisdiction was, in the early periods of our history, repudiated. The principles of equity were, however, retained and mingled with the elements of the common law; whether all these principles can be so blended as to admit of convenient administration by the existing, viz. by the common law methods, is perhaps questionable. The experiment is of a highly interesting character, and from the success which has hitherto attended it, there can be no doubt that the material and most valuable parts of legal and equitable jurisprudence may be made to amalgamate, and with occasional aid from the legislature, be successfully administered by our courts. It has been a principle with them, to retain all forms of proceeding known to the common law.

“There are undoubtedly some matters of equitable jurisdiction, which require more comprehensive operations than are compatible with the due and obvious use of common law process, and some matters of equitable consideration and relief, which call for different administrative appliances. Yet the principles of our system require that the resources of the common law should be first resorted to and applied, and when exhausted, such farther remedial means may be supplied by direct legislation, as shall be necessary to render this branch of the law fully adequate to the ends of justice.
We conclude this subject with one general remark—whatever legislation may be adopted on the subject of actions, it should have the common law for its basis.

There remains one topic of too much importance to be omitted; we allude to the subject of pleadings. No portion of the law has been the subject of more frequent reproach than the system of pleadings of the common law courts, and none has been more encumbered or disfigured by refinements foreign to its object. According to the opinion of Chief Justice Hale, the pleadings in the courts in the reign of Edward III. were far superior to those of his own times. The legislature has interfered with the courts more frequently in the march of common law than in any other, but it was to correct particular mischiefs. An act to restore the principles of the science has never been attempted. Such a measure has recently been proposed in England, and would be attended, no doubt, with the best results. But our system of equitable pleadings is crude in the extreme. The notice which it is the practice to give under some general plea of equity, then intended to be set up, may be multifarious, diffusive, and informal.

Add to this, no answer or replication is ever given to it. It is neither denied, confessed, nor avoided by any other matter; the whole transaction between the parties is left open to its broadest extent, however narrow may be the limits of the real dispute. And even if the controversy concerns merely the legal effect of the transaction, which in the method of pleading would be admitted by both the parties, still it must usually be tried through the medium of the jury. We need not dwell upon this subject: the effects of this practice are various and of serious operation. The expense of litigation is increased to the parties and to the public; the public business is delayed; the burthen of attendance upon courts as jurymen or witnesses is increased to individuals, and courts are compelled to decide extemporaneously in their charges, the most complicated questions of equitable jurisprudence. Another serious consequence is, that our equity is vague. In the matter of title to real estate, the certainty, stability, and uniformity of the law is of immense importance; and that system is best, which most effectually secures to it these properties. The defects, however, in this part of the system, are not incurable. We do not indeed suppose, that these equitable pleas are susceptible of the singleness, certainty, and particularity of a common law issue. The equity of a transaction may be the result of many facts that cannot be involved in the denial of one. Nor do we suppose it would be useful to introduce in any degree the subtleties or strictness of the common law system, as it now exists elsewhere; but a system which requires no extraordinary professional skill, which imposes no undue labour upon the parties or their counsel: on the contrary, by requiring it to be bestowed at the proper time, diminishes the labour of all who may be in any way concerned,—a system which, while it contributes to the despatch of business, ensures certainty in the administration of justice, and lightens the arduous and responsible duties of the judges; so far from being repugnant to the liberal spirit of our laws, is essential to effectuate their intent. Into such a system may the present practice of our courts be converted, without disturbing any of its essential or useful principles or properties.

The intention of the commissioners with regard to another part of their labours, is contained in the following extract:

"It has been our intention to avoid material alterations in the principles of the law. It is an extraordinary case, we think, in which a radical alteration in a rule of property would be expedient. 'These are very sound and ought not to be touched.' We do not say that such cases may not exist, 'for there are some things that are really and truly parts of the law, which are as necessary to be reformed as the errors and abuses of it.' We do not think that such parts will generally be found to concern the rules of property or the theory of the law as a science. We can see no advantage which will be likely to result from recasting the law upon different conceptions of first principles, or from abolishing theories, because they owe their origin and principal significance to a different condition of society."
"The changing relations, customs, and intelligence of communities, exert an irresistible force in operating a change upon their laws; the change, therefore, is in the substance; the names and theories remain by a force equivalent to the force of language. We might specify many examples, but we choose rather to close this portion of our remarks, with expressing, in general terms, a doubt of the expediency of disturbing matters of theory, or any of those deeply laid principles of the law, upon which the modern as well as the ancient structure was reposed."

Whilst such principles as these govern the views of the commissioners in the changes which they purport to suggest in the law, we need not fear that the excellence of the common law, that malleable body, which adapts itself with such ease to changing circumstances, and of which England and this country have so much reason to be proud, will be lost or injured. That much of the common law in force in this state requires revision and alteration, as well as the statute law, cannot be doubted. The law of landed property, however much its tenure and disposition may have been divested of its feudal character, still retains a strong tincture of that arbitrary system. But it is a question requiring the most mature deliberation, whether it would be expedient to remove those "great landmarks of property," to which time has reconciled us, and which have become objects of veneration for their antiquity, as well as useful for their certainty. When expediency requires their removal, they should be touched by a skilful though not a timid hand, and no wanton depredations should deface those ruins in which is written the history of mankind. For though the relics of another time ought not to be respected when they interfere with improvement, yet, like the monuments which tell the place where Thebes and Palmyra stood, they serve to remind us of the state from which we have emerged, and to which tyranny and injustice lead.

"Regard and weigh yon dust before it flies:
That little urn saith more than thousand homilies."

The example, therefore, of those Vandals of the present day, who would attempt to destroy the very remembrance of the origin of our laws, should be avoided. Indeed the labour would be vain, or if they could effect any thing, the extent of their exertions would be "to abolish a phantom." Against such attempts in this state, we have ample security in the calm, enlightened, philosophical, and practical views embodied in the two reports which we have been examining, views which have not prevented the abolition of the arbitrary rules of the feudal system, when liable to come into practice, or in any way to work an injustice or inconvenience. The extent of their future labours will be, as hitherto, to correct those anomalies, discrepancies, and defects, which time has wrought, and experience and practice have detected, most of which are found scattered over the books of reports, or confined within the memory of experienced practitioners
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"There remains one topic of too much importance to be omitted; we allude
to the subject of pleadings. No portion of the law has been the subject of
more frequent reproach than the system of pleadings of the common law courts,
and none has been more encumbered or disfigured by refinements foreign to its
object. According to the opinion of Chief Justice Hale, the pleadings in the courts
in the reign of Edward III. were far superior to those of his own times. The legis-
lature has interfered with the courts more frequently in the march of common law
than in any other, but it was to correct particular mischiefs. An act to restore
the principles of the science has never been attempted. Such a measure has
recently been proposed in England, and would be attended, no doubt, with the
best results. But our system of equitable pleadings is crude in the extreme.
The notice which it is the practice to give under some general plea of equity,
then intended to be set up, may be multifarious, diffuse, and informal.

"Add to this, no answer or replication is ever given to it. It is neither denied,
confessed, nor avoided by any other matter; the whole transaction between the
parties is left open to its broadest extent, however narrow may be the limits of
the real dispute. And even if the controversy concerns merely the legal effect
of the transaction, which in the method of pleading would be admitted by both
the parties, still it must usually be tried through the medium of the jury. We
need not dwell upon this subject: the effects of this practice are various and of
serious operation. The expense of litigation is increased to the parties and to
the public; the public business is delayed; the burthen of attendance upon
courts as jurymen or witnesses is increased to individuals, and courts are compel-
led to decide extemporaneously in their charges, the most complicated ques-
tions of equitable jurisprudence. Another serious consequence is, that our equi-
ity is vague. In the matter of title to real estate, the certainty, stability, and uni-
formity of the law is of immense importance; and that system is best, which
most effectually secures to it these properties."—"The defects, however, in
this part of the system, are not incurable. We do not indeed suppose, that these
equitable pleas are susceptible of the singleness, certainty, and particularity of
a common law issue. The equity of a transaction may be the result of many
facts that cannot be involved in the denial of one. Nor do we suppose it would
be useful to introduce in any degree the subtleties or strictness of the common
law system, as it now exists elsewhere; but a system which requires no extra-
ordinary professional skill, which imposes no undue labour upon the parties or
their counsel: on the contrary, by requiring it to be bestowed at the proper
time, diminishes the labour of all who may be in any way concerned,—a system
which, while it contributes to the despatch of business, ensures certainty in the
administration of justice, and lightens the arduous and responsible duties of the
judges: so far from being repugnant to the liberal spirit of our laws, is essential
to effectuate their intent. Into such a system may the present practice of our
courts be converted, without disturbing any of its essential or useful principles
or properties."

The intention of the commissioners with regard to another
part of their labours, is contained in the following extract:

"It has been our intention to avoid material alterations in the principles of the
law. It is an extraordinary case, we think, in which a radical alteration in a rule
of property would be expedient. 'These are very sound and ought not to be
touched.' We do not say that such cases may not exist, 'for there are some
things that are really and truly parts of the law, which are as necessary to be
reformed as the errors and abuses of it.' We do not think that such parts will
generally be found to concern the rules of property or the theory of the law as
a science. We can see no advantage which will be likely to result from recast-
ing the law upon different conceptions of first principles, or from abolishing theo-
ries, because they owe their origin and principal significance to a different
condition of society.
The changing relations, customs, and intelligence of communities, exert an irresistible force in operating a change upon their laws; the change, therefore, is in the substance; the names and theories remain by a force equivalent to the force of language. We might specify many examples, but we choose rather to close this portion of our remarks, with expressing, in general terms, a doubt of the expediency of disturbing matters of theory, or any of those deeply laid principles of the law, upon which the modern as well as the ancient structure was reposed.

Whilst such principles as these govern the views of the commissioners in the changes which they purpose to suggest in the law, we need not fear that the excellence of the common law, that malleable body, which adapts itself with such ease to changing circumstances, and of which England and this country have so much reason to be proud, will be lost or injured. That much of the common law in force in this state requires revision and alteration, as well as the statute law, cannot be doubted. The law of landed property, however much its tenure and disposition may have been divested of its feudal character, still retains a strong tincture of that arbitrary system. But it is a question requiring the most mature deliberation, whether it would be expedient to remove those "great landmarks of property," to which time has reconciled us, and which have become objects of veneration for their antiquity, as well as useful for their certainty. When expediency requires their removal, they should be touched by a skilful though not a timid hand, and no wanton depredations should deface those ruins in which is written the history of mankind. For though the relics of another time ought not to be respected when they interfere with improvement, yet, like the monuments which tell the place where Thebes and Palmyra stood, they serve to remind us of the state from which we have emerged, and to which tyranny and injustice lead.

"Regard and weigh yeon dust before it flies:
That little urn saith more than thousand homilies."

The example, therefore, of those Vandals of the present day, who would attempt to destroy the very remembrance of the origin of our laws, should be avoided. Indeed the labour would be vain, or if they could effect any thing, the extent of their exertions would be "to abolish a phantom." Against such attempts in this state, we have ample security in the calm, enlightened, philosophical, and practical views embodied in the two reports which we have been examining, views which have not prevented the abolition of the arbitrary rules of the feudal system, when liable to come into practice, or in any way to work an injustice or inconvenience. The extent of their future labours will be, as hitherto, to correct those anomalies, discrepancies, and defects, which time has wrought, and experience and practice have detected, most of which are found scattered over the books of reports, or confined within the memory of experienced practitioners.
and judges. It is best to leave to future revisions of the law, the correction of any inconveniences which may afterwards arise, and to avoid encumbering the code with remedies for imaginary or contingent evils. Of this kind are those precautions in the New York Revised Statutes, which abolish uses and guard against the subtleties of powers. Solon did not enact any law for punishing parricide, because he never contemplated the perpetration of such a crime. In like manner, let us not prematurely anticipate an influx into our law, of those tormenting and bewildering questions, those endless and unintelligible distinctions, by which the “doctors” of the present day, like those of the middle ages, have contrived to darken certain parts of the English law. If excessive refinement or caprice should ever so entirely overshadow our republican simplicity as to invite this pestilence to our shores, it will then be time enough for the physicians of the law to devise means of expelling it, or at least of abating its virulence. Those particles, therefore, of the English law, those scintillae juris (to use their own jargon), which are to us, as yet, in nubibus, it is safest to allow to remain there, and if we should ever require them on earth, we will, it is hoped, possess another Franklin, to bring them without danger from their aërial abode.

From a review of the whole, we are justified in saying, in reference to the edifice of the revised code about to be erected in this state, judging from its foundations, and the materials of which it is to be composed, that when it is finished, and fit for habitation, the beauty, strength, and convenience of the structure, will make ample amends for the time and labour expended upon it.

ART. III.—The Life of Friedrich Schiller, comprehending an Examination of his Works. London.

German poetry, in its varieties and amount, exceeds the poetry of any other nation. It goes back to a period long before the adoption of Christianity, and embraces the large circle of mythic lays and historic sagas which distinguished the age of Odin and that immediately following, and which are composed in some dialect of the Anglo-Saxon, formerly vernacular in Lower Germany. The fullest collection of ancient poetry, entitled the Edda, which was made by order of Charlemagne, the history of the sword Tyrfing, with its famous death-song of Hacon, the epopeea Beowulf by Wiglaf, and all the varieties of northern sea-songs and heroic odes, belong properly to Germany, and are thus properly classed by Taylor in his Historic Survey. The second or
Swabian period of German poetry, a period analogous to that of Louis VII. in France, and of Henry III. in England, when the Norman romance and Provençal lays prevailed in other parts of Europe, abounds with poetry, of which the best and once powerfully influential productions are, the Nibelungen-Lied, the Helden-Buch, and Lawrein, the dwarf-king. The third, or modern period, is that chiefly included within the last century, the period, as it is sometimes called, of Charles Augustus, or of Goethe and Wieland. During this period, and chiefly under the immediate patronage of the Duke of Weimar, the genius of poetry blazed forth with a brilliancy truly astonishing. It is the age in which Bodmer, Haller, Gesner, Schlegel, Klopstock, Lessing, Herder, Kotzebue, Wieland, Goethe, Schiller, flourished.

The last of this illustrious group is the subject of the volume now before us. His personal and literary character is well described. The author presents all his most striking traits, notices all his prominent works, subjects them to analyses, and translates from his tragedies many glowing passages and scenes. He is a great admirer of Schiller; but his judgment is very correct, and his comment, though earnest and comprehensive, is yet just. We cannot blame his enthusiasm, convinced, as we are, of some familiarity with the works of Schiller, that no writer is more capable of exciting it.

The elegant literature of Germany has been but little understood in this country. We have its science, which is universally diffused; and its theology, notwithstanding the difficulties it has had to encounter in extensive prejudices, has at last, among a large class of the professors and students of divinity, become a fountain of resort for the grand discussion of principles and commentary on the scriptures. But we are comparatively ignorant of its distinguished poets and belles lettres writers, except through the medium of a small number of translations by Coleridge and Taylor, and a few other English scholars of distinction. This ignorance, however, is now diminishing. German professorships are established in some of our colleges, and the language, like the French, and Spanish, and Italian, is beginning to be studied as essential to a polite education. To aid, if possible, in increasing this awakened interest, we purpose, in the present article, to exhibit in brief the personal and literary character of one who in Germany stands at the head of tragic dramatic poetry. His life and its development will be followed in their natural order.

Schiller was born at Marbach, a small town in the principality of Wurtemberg, in the year 1759. When the merest stripling, he exhibited an unusually vigorous power of observation, and a curiosity about the objects which surrounded him that was restless and prying. The ordinary amusements of childhood de-
lighted, but did not satisfy him. He soon divested them of their novelty, and hurried on to seek in new sights and adventures fresh sources of pleasure. One of his earliest propensities was to admire the vast and delight in the terrible, a fact the more remarkable, since it constitutes a highly prominent and enduring feature of his genius. It is related of him, that being missed from the family group when he was just able to go alone, during a thunder-storm of frightful violence, his anxious parent found him seated amid the top branches of a lofty tree, and gazing with quiet joy on the raging heaven. On being rebuked for his stolen absence, and bidden to come down and return home, the infant boy, unwilling to obey, replied, that "the lightning was very beautiful, and he wished to see where it was coming from." To infer future character from early tendencies, though often deceptive, was safe in the case of Schiller. His reflective temperament, and ardent love of nature, furnished a token of powers to be exerted for some great end, which he amply fulfilled.

He passed his time from the sixth to his ninth year under private instruction at Lorch, where his parents resided, his father being then occupied with the care of the royal nurseries and plantations. His tutor was at the same time the minister and schoolmaster of the village, and his influence combining with the wishes of his parents, who were people of uprightness and sincere piety, early destined Schiller to the clerical profession. The youth had received constant religious instruction; his fervour was easily directed, and he studied for the sacred office till his fourteenth year, when the plan was interrupted, and he was transferred to the royal public school at Stuttgart. This was a free institution founded by the Duke of Württemberg, in which a priority of membership was given to the sons of military officers. Schiller's father had been a surgeon, afterwards an adjutant in the royal army, and in compliance with the strong solicitations of the duke, consented, though unwillingly, to the removal of his son. The son himself seems to have been ill-disposed to this change. The prospects of the profession to which he was devoted had deeply engaged his interest, and it was with a "heavy heart," remarks his biographer, "that he turned from freedom and cherished hopes, to Greek and seclusion and law."

Among the many unwise arrangements of the school, the regular exercises occupied the pupil almost constantly. Hardly a moment was allowed him either by himself or with his companions. He had no choice of sports, and no freedom while indulging the few prescribed. Formulas à la militaire controlled every act, and usurped a hurtful dominion over every impulse. No regard was paid to different ages and capacities in settling the time or the kind of study, but instead, the quick in mind and the dull, the strong in body and the weak, were crowded together,
and a stiff unrelaxing coercion drove them on to duties which most were unable to perform. The whole was a plan to force nature and create knowledge by positive enactment. Schiller felt himself, therefore, in a state of vassalage. The physical activities, the warm imagination, which he had been hitherto comparatively free to exercise, were now under restraint. His dream of happiness in a ministration of the holy ordinances was broken. Averse, like most boys at his age, to the elementary details of study, his disgust was heightened by the compulsory means used to gain his attention. Hence he made no great proficiency in the regular pursuits of the school, but began to read poetry and belles lettres composition. He pored in secret over the pages of Klopstock, Lessing, Herder, Goethe, and other distinguished writers of this class in Germany, learned to read Shakspeare, and in prose delighted himself particularly with Plutarch. Of these authors his mind first awoke to exhibitions of the beautiful and the great, and his natural inspiration received a deeper glow. For these he chose to relinquish, often as he could, the severer studies of Greek and Latin, and law and medicine, all of which he pursued, and the last of which he practised a little, while at Stuttgart;—for these he would invent every manner of excuse to avoid required lessons, often feign sickness, and by numerous omissions of duty expose himself to be visited severely by the penalties of the laws. He had early been attracted to the drama, from having witnessed its dazzling scenes, and at Stuttgart he cultivated this taste quite exclusively by the study of the most noted dramatic compositions, and in particular those of Goethe, beneath whose great light, as another luminary, he was destined to rise and match the brightness of his guiding star.

The anxious thought of his stolen hours, was embodied in many little fragments of composition, and at last settled upon one great effort. His tragedy of the Robbers was conceived and executed when he was a youth only nineteen years of age, and amid all the embarrassments of his academic course. It is a nervous, impassioned production, wrought up in a form mainly consistent with the great rules of art, and as a proof of early genius, is one of the most surprising memorials of which any country can boast. In the course of it appear his first impressions of the sublime objects in nature, and conceptions of the wild, the noble, and the tender, in human conduct—represented in a manner fit to a temperament impetuous to excess, and an imagination eminently bold, and yet unchecked by contact with real life. If the production were tested by the ordinary rules of criticism, it would disclose frequent violations of the principle which requires the natural and probable in tragedy. Somewhat like Young’s Revenge, it is hyperbolic in its personages, and much of the language and sentiment is misplaced and strained.
Its moral tendency, too, might be questioned. In later years, Schiller himself said of it, that "it would not make the highway any more secure." But these and other objections cannot fairly be urged. It is the first effort of an immature mind, thronged with splendid and vague ideas, and restless to pour them forth, though it does not yet know all the proper channels to be used in their development. By all lovers of the surprising, the resolute, the fiery, and the tenderly beautiful, faults will be completely forgotten in magic attachment to Karl Von Moor and Amelia.

This performance roused the attention of all Germany, and kept it long in a perfect fever of excitement. It opened to Schiller correspondences with distinguished individuals in all ranks, and a wide path towards future distinction. "Clara ea in praesens, in posterum usui." But it exposed him to severe treatment from the masters of the school, who, by confinement and cutting abuse, strove to make him relinquish a path to which nature had adapted him, for the slow toil and rigorous demands of preparation for a precariously profession.

In 1781, at the instigation of Baron Dalberg, then superintendent of the Manheim theatre, and one of the few who took an immediate personal interest in Schiller, the tragedy of the Robbers was revised, and appeared upon the stage. It met with unbounded applause. Schiller went to hear it incognito, and for the offence was put under arrest. He was present at a second and third representation, was again discovered and again punished. Determined to bear no longer such humbling vexations, at last, in 1782, during a period of public excitement in the city, he forsank Stuttgart for ever. He went away, as he says himself, "empty in purse and hope," and exposed himself to be claimed and treated as a fugitive. But a friendly lady concealed him in her house near Meiningen, where he remained during a year, and supported by her liberality and that of Dalberg, composed two more tragedies, entitled, the Conspiracy of Fiesco, and Court-Intriguing and Love. Each of these possess merits of a high cast; they show the products of a more matured mind, and were received with united approbation. The former is a drama founded upon the stronger, the latter upon the domestic and calmer, passions. Grandeur, heroic wildness, serenity, enthusiastic tenderness, characterize them both. They were played with great success at Manheim, and Schiller himself, at the expiration of a year after his escape from Stuttgart, under the immediate patronage of the worthy Dalberg, was connected with the theatre at Manheim as theatrical poet.

This post was one of great respectability, and of sufficient profit to free its incumbent, for the present, from any pecuniary difficulties. It had for a long time been the object of his desire,
and now that it was gained, he entered upon its duties with joy and settled perseverance. Hitherto, a systematized and unfeeling persecution had borne upon him with the weight of an incubus, cramping his efforts; and more lately, an asylum, pleasant and ample in ministering to his necessities, but yet temporary, had filled him, much of the time, with anxiety. Now, however, the darkness which had paled his future, seemed to vanish. Freedom and the prospect of a permanent situation, enabled him to devote his whole strength to represent, in a noble manner, the character, which, says his biographer, he had now "exclusively" become, that of a "man of letters."

In order to appreciate Schiller justly in his new situation, it is necessary to bear in mind, that the stage in Germany sustains a very different rank from that which it does in other European countries and in our own. There it is patronised by all the learning and nobility of the land, and invested with a kind of sacredness, both because the most profound talent has been devoted to it, and because, along with the pulpit, it is the only nursery of eloquence. The bar, on account of the secrecy of courts, the political control exercised over them, and the necessity of written arguments, affords no field for the display of those fervid qualities which make the orator. "There are no congresses," says one who spent a long time in personal observation of the country, "no state legislatures, no political clubs, no debating societies, no public courts; in one word, there is not a single place where a German may address his fellow-men, unless he is a clergyman or a player." Hence the stage has been zealously cherished, and, rapidly passing beyond the mere requisition of dramas for representation, has excited deep attention in a philosophical point of view. Tragedy and comedy have been examined in a thousand forms of practical and of speculative inquiry, and been considered as affording two of the highest sources of influence upon human character. As used to add force to religion and the laws, to acquaint us with the nature of our race, to enchain our interest in virtue, and extend a salutary censure upon vice and folly, they have been viewed as schools of practical wisdom. The means by which these great effects are properly produced, the relations of our sensible to our intellectual nature, and of each to that grand system of accident and plan in human life, from which the drama derives its materials, have given rise to a vast deal of valuable research, and to some which is too abstruse and vague to be useful. Schiller himself, in an after period of life, entered largely into the philosophy of the drama, and his disquisitions may be quoted as a fair example of the interest which the subject awakened.

The duties which he was required to perform at Mannheim, were to compose and select pieces for representation, to assist in
training players, and to deliberate with other supervisors in the concerns of the theatre. To do all this required much time and severe labour. But it did not furnish employment enough for his active mind. He was, unlike most men in whom strong natural powers supply the place of labour, or furnish an excuse for indolence, a persevering student. He had formed a high ideal of excellence, and a warm ambition impelled him irresistibly forward to realize it. Genius with him, did not assume the shape of an intermitted fire, now flashing out with a far-spreading splendour, and now slumbering in the ashes of a gloomy or wilful neglect. He did not, like the great but desultory Sheridan, at one time heap and concentrate his energies, and at another, suffer them to lie dormant in luxurious indolence, or run riot and waste amid a round of frivolous dissipations. The latent fire which makes mind effective, was in them both, but in the one it was accompanied by a conviction that it would, unaided, work out its own development; in the other, by a timid consciousness, which, while it revealed the power, imposed the necessity of providing for its full exercise by study. Sheridan knew, to use his own phrase in speaking of himself once to a friend, that he had "got it in him," and felt at times determined, as he added, that "it should come out." True, it did come out, and produced, perhaps, admirable compositions in tragedy, in comedy, in the opera, and the best speech in the English language. But these are all single efforts—they are the only memorials of one who was capable of enshrining himself in a whole palace of similar solidity and gorgeousness. They stand four solitary pillars in the temple of mind, supporting no decorated roof-work, filled between their spaces with tall sapless weeds and rank herbage. Schiller, on the other hand, and there cannot be a more striking contrast, felt that much of the secret of permanent success lay in application. Earnest, unremitting study, was with him a means of greatness felt to be equally important and closely used, as a system of rigorous exercise was to train the body by the Olympic wrestlers. The activity existed, but it was only the oil and practice which could give it pliancy and freedom, and fit it for feats of uniform and surprising greatness.

Shortly after the accession to his new post, he commenced a periodical, entitled the Rheinische Thalia, which he conducted almost entirely himself, and made the vehicle of his speculations on the drama, and of his tragedies. He read sedulously the French and English classics, and all the models in his own language, by which taste in the art to which he was now so closely united, could be improved. To history, also, he devoted much attention, at first with a view to provide dramatic materials, and afterwards, as will be seen, for a grander object. The success with which he applied himself, was soon shown, not only in the well
executed criticisms and essays which abounded in his Thalia, but at length by the appearance there of three acts of a new tragedy, entitled Don Carlos. The two last acts were added some time after. It is considered by many as the noblest effort of his genius, an estimation which, if consistency with rules in the management of the plot and development of character alone be regarded, is perhaps true. A greater air of probability pervades it than any of his previous performances exhibit. The haughty, exalted, imperious, self-collected Philip, and the formalities of his court—the open, ardent, excellent character of his son Carlos, struggling with fearful and afflicting destinies—the fervent, eloquent, winning Elizabeth—the wary Princess Eboli, full of personal charms and royally selfish—the magnanimous Posa, an enthusiastic lover of truth and human freedom, are all presented amid a pomp and beauty true to reality. The tragedy brought a new tribute of admiration to its author, and, what especially gratified him, increased the number and strength of his literary acquaintances. Letters of congratulation poured in upon him, from every part of Germany. Among particular instances of approbation, it may be mentioned, that the Duke of Saxe-Weimar, who met Don Carlos casually in the Thalia, sent Schiller the title of Counsellor. Many minute and pleasing testimonials reached him from quarters, where he was, personally, entirely unknown. He gives himself the following account of one.

"Some days ago," he says, "I met with a very flattering and agreeable surprise. There came to me out of Leipsic, from unknown hands, four parcels, and as many letters, written with the highest enthusiasm towards me, and overflowing with poetical devotion. They were accompanied by four miniature portraits, two of which are of very beautiful young ladies, and by a pocket-book sewed in the finest taste. Such a present, from people who can have no interest in it, but to let me know that they wish me well, and thank me for some cheerful hours, I prize extremely; the loudest applause of the world could scarcely have flattered me so agreeably."—p. 84.

After eighteen months residence at Manheim, in 1785 he removed to Leipsic. This place contained many of his warm admirers and chosen friends, who eagerly strove to win him to their society. His own inclination also seconded their efforts. It seems that during the latter part of his stay at Manheim, he grew discontented with his situation, and discontent at last ripened to strong aversion. The cause of this change in his feelings was not a want of good society, for such he found in abundance, and was strongly endeared to it by his noble and kind traits of character; but it lay in his wearisomeness of scenic festivities, and of a uniform dull round of theatrical duties. His mind was too busy and soaring to be fettered by these tame realities. He longed for some more enlarged and abiding sphere of action. Besides, he was to all intents an orphan boy. Deriving no immediate assistance from his parents, he was indebted solely to
the friends whom it was his good fortune to make, for the relief of sympathy and support. The inquietude which this reflection occasioned, led him gladly to embrace any plan, however vague, by which he thought his condition might be improved. In the present change, his expectations, as will be seen, were not disappointed. His habits and feelings at the time he left Manheim, will be well understood from a letter which he wrote to a friend in Leipsic, shortly before his departure. We copy it as translated in the volume before us.

“This is probably the last letter I shall write to you from Manheim. The time from the fifteenth of March, has hung upon my hands like a trial for life; and, thank Heaven! I am now ten whole days nearer you. And now, my good friend, as you have already consented to take my entire confidence upon your shoulders, allow me the pleasure of leading you into the interior of my domestic wishes.

“In my new establishment at Leipsic, I purpose to avoid one error, which has plagued me a great deal here, in Manheim. It is this: no longer to conduct my own housekeeping, and also, no longer to live alone. The former is not by any means a business which I excel in. It costs me less to execute a whole conspiracy, in five acts, than to settle my domestic arrangements for a week; and poetry, you know yourself, is but a dangerous assistant in calculations of economy. My mind is drawn different ways; I fall headlong out of my ideal world, if a holed stocking remind me of the real world.

“As to the other point, I require for my private happiness to have a true, warm friend, that would be ever at my hand, like my better angel, to whom I could communicate my nascent ideas in the very act of conceiving them, not needing to transmit them, as at present, by letters or long visits. Nay, when this friend of mine lives without the four corners of my house, the trifling circumstance, that in order to reach him I must cross the street, dress myself, and so forth, will of itself destroy the enjoyment of the moment, and the train of my thoughts is torn in pieces before I see him.

“Observe you, my good fellow, these are petty matters; but petty matters often bear the weightiest results in the management of life. I know myself better, than perhaps a thousand mother's sons know themselves; I understand how much, and frequently how little, I require to be completely happy. The question therefore is, can I get this wish of my heart fulfilled at Leipsic.

“If it were possible that I could make a lodgment with you, all my cares on that head would be removed. I am no bad neighbour, as perhaps you imagine; I have pliancy enough to suit myself to another; and here and there withal, a certain knack, as Yorick says, at helping to make him merrier and better. Failing this, if you could find me any other person that would undertake my small economy, every thing weuld still be well.

“I want nothing but a bedroom, which might also be my working room; and another chamber for receiving visits. The house-gear necessary for me are, a good chest of draws, a desk, a bed and sofa, a table and a few chairs. With these conveniences, my accommodation were sufficiently provided for.

“I cannot live on the ground floor, nor close by the ridge-tile; also, my windows must, positively, not look into the church yard. I love men, and therefore like to see them crowding past me. If I cannot so arrange it, that we (meaning the quintuple alliance) shall mess together, I would engage at the table d'hôte of the inn; for I had rather fast than eat without company, large or else particularly good.

“I write all this to you, my dearest... end, to forewarn you of my silly tastes; and at all events that I may put it into your power to take some preparatory steps, in one place or another, for my settlement. My demands are in truth, prosaic enough, but your goodness has spoiled me.” pp. 85—87.
Schiller's first reception at Leipsic, is pleasantly described in the following extract from a letter written to Schwann, a book-seller at Manheim, his early and warm friend. It exhibits, also, a strong disrelish of that servile attention which everywhere follows a man of note.

"In the very first week of my residence here," he writes, "I made innumerable new acquaintances; among whom, Weisse, Oeser, Hiller, Zollikofe, Professor Huber, Jünger, the famous actor Reinike, a few merchants' families of the place, and some Belgian people, are the most interesting. During fair-time, as you know well, a person cannot get the full enjoyment of any one; our attention to the individual is dissipated in the noisy multitude.

"My most pleasant recreation, hitherto, has been, to visit Richter's coffee-house, where I constantly find half the world of Leipsic assembled, and extend my acquaintance with foreigners and natives.

"From various quarters I have had some alluring invitations to Berlin and Dresden, which it will be difficult for me to withstand. It is quite a peculiar case, my friend, to have a literary name. The few men of worth and consideration, who offer you their intimacy on that score, and whose regard is really worth coveting, are too disagreeably counterweighed by the baleful swarm of creatures who keep humming round you like as many flesh-flies, gape at you as if you were a monster, and condescend, moreover, on the strength of one or two blotted sheets, to present themselves as colleagues. Many people cannot understand how a man that wrote the Robbers should look like another son of Adam. Close-cut hair, at the very least, and postillion's boots, and a hunter's whip, were expected.

"Here I propose being very diligent, working at Carlos and the Thalia. I long impatiently for that epoch in my life, when my prospects shall be settled and determined, when I may follow my darling pursuits merely for my own pleasure." pp. 90, 91.

Soon after he left Manheim, Schiller began to divide his time between Leipsic and Dresden, domiciling himself in either place, according as the solicitations of friends or his own humour supplied an incentive. This course he continued for two years, a period during which his mind took a new direction. In the drama he had already reached a rank among the first writers in Germany. From the regions of the imagination, therefore, he turned to cultivate more closely than ever his understanding; and, with an anxious eye to a permanent and useful employment, entered the province of an historian. Previous investigations, for the purposes of his art, had already given him a bias in favour of history, and he now began to study the varieties and degrees of passion which it portrays, as a more calm observer of their real aspects. He had become deeply interested in the Spanish court, and the events of the reign of Philip II., during the composition of his Don Carlos, and this circumstance determined him to write a history of the Belgian revolution. This work occupied him chiefly till 1788. Meanwhile, he published several accounts of the most remarkable conspiracies and revolutions in the middle and later ages, most of which, however, he only translated, and some he furnished with extensive introduc-
tions and annotations. They procured an accession of fame to him as an author; and many pieces of fugitive poetry, and the *Ghost Seer*, a novel, are additional proofs of his diligence and skill while at Leipsic and Dresden.

His private habits of life during this period, exhibit much that is interesting to those who love to trace genius in its ordinary and domestic sphere. Disposed to be, and to make others happy, and incited by the homage which his talents everywhere elicited, he mingled at first largely in the gay society which surrounded him. But its empty frivolities and glitter soon wearied him, and he gradually limited his intercourse to a circle of literary friends, with whom he could be more grave and philosophic. He seems to have pried into all the policy and supports of an artificial life of manners, with a careful and just appreciation of its character. The result of his observation is partly expressed in the following passage, translated from his *Schaubuhne*.

> The happiness of society is as much disturbed by folly, as by vice and crime. It is an experience, old as the world, that the greatest weights, in the net of human things, are often suspended by the smallest and finest threads; and when we trace actions back to their sources, we must laugh ten times before we feel one sensation of horror. My catalogue of villains grows shorter as I advance in years, and my register of fools becomes longer. I know but one secret which will preserve men from deterioration, and that is—to keep the heart free from infirmity.

Yet his disgust at follies did not generate, as it often does, a misanthropical aversion to his race. It aroused his pity and impelled a warm and active benevolence of disposition. Evidences of this feeling abound in his works. Lofty encomiums on the nature of man, glowing pictures of the elevation to which he is capable of attaining, and fervent desires that he would labour to secure his greatest happiness, meet our eye on almost every page, and compel us deeply to admire one whose heart is so akin to his race. As a single example, German readers need but be referred to the scene in *Don Carlos*, between the Marquis De Posa and Philip, in which a nobleman of the loftiest intellect and most fervent heart, (in this respect a true representative of Schiller), confronts a gloomy and despotic monarch, reveals to him the true character and destination of his race, and commands him, in the name of humanity, to devote himself to the noble work of redeeming his subjects from oppression. Schiller loved the society of his fellow beings whenever he was not incommoded by their vanities or criminal indulgences—he loved it ardently, when it afforded him mutual intercourse of thought, in which profit and pleasure could be united—but yet he loved best that quiet seclusion which enabled him to chain his attention continuously on his own mind. While at Dresden, solitude had

* This scene is accurately translated in the volume before us.
such a charm for him, that he used to take long and lonely walks among adjoining fields and mountains, and was often seen managing a single gondola up and down the Elbe. The times which he selected for this dangerous occupation, gave to it an air of singularity and adventurous loftiness. He would walk in the deep night, and by day go out when the storms and tempests were abroad, and remain during the whole period of their continuance, watching the varying and fitful play of the elements, and storing his mind with images of the sublime, the fearful, and the magnificent. With a far different feeling and aim than belong to the haughty, hating, Manfred, he may claim the language of the latter.

"It was my joy to plunge
Into the torrent, or to roll along,
On the swift whirl of the new-breaking wave
Of river stream, or ocean in their flow; or
To follow through the night the moving moon,
The stars, and their development; or catch
The dazzling lightnings till my eye grew dim;
These were my pastimes, and to be alone."

In 1787 Schiller went to Weimar, the capital of Saxe-Weimar, and the residence of its reigning duke. This little place, though the smallest capital in Europe, possesses a literary fame equalled by that of no other city in Germany, and rarely, if ever, by any in the world. To compensate in some way for the natural disadvantage of ruling over one of the smallest principalities, Charles Augustus, soon after he ascended the throne in 1775, directed his tastes very exclusively to literature. His munificent care soon exalted Jena to the first rank among the institutions of his country, and collected a circle of men of genius, who made Weimar a paradise of mind. To this last place the young bard of Frankfort was transplanted, when his fame was yet but in its infancy, and here he grew in stature till he became "the Magnus Apollo of German literature." Here also were Wieland, second to none but Goethe, and Herder and Musæus.

Into the midst of this constellation of greatness, Schiller’s fame and character gave him, with a single exception, a cordial reception. With Wieland he began an immediate and close intimacy; but with Goethe his friendship commenced at a later period, and was comparatively slow in maturing. Causes of a peculiar nature operated at first to check any mutual desire of acquaintance. There was a diversity in the operation of their minds, and each feared, from intercourse, such a conflict of taste and opinion, as would forever prevent the ardour of friendship. Schiller’s biographer gives us a very good idea of the nature of this difficulty, by supposing a meeting between Shakspeare and Milton. Goethe, like the inimitable bard of Avon, had careered over all the provinces of human thought. He was straightened by no sect, and
ruled by no little disgusts or caprices, which give a wrong bias to judgment. Loving all that is beautiful and good, wherever found, he studied it in the light of a calm, clear, yet engrossing contemplation. Though often intensely fervent, yet he ever aimed to be natural, and to express himself with the closest accuracy of thought and language. Schiller, on the other hand, like the bold author of Paradise Lost, was vehement, and estranged from general interests when his heart was fired by some novel plan of intellectual effort. His taste had been nurtured amid the wild and extravagant. It may be said of him with the greatest truth, as Dr. Johnson remarks of Milton, that “the appearances of nature, and the occurrences of life, did not satiate his appetite for greatness. His delight was to sport in the wide regions of possibility; reality was a scene too narrow for his mind. He sent his faculties out upon discovery, into worlds where only imagination can travel, and delighted to form new modes of existence, and furnish sentiments and action to superior beings.” The enthusiastic, and, in many respects, forced productions of his earlier years, had alienated most minds and hearts from the true principles of creative art. Goethe, who had been diligently labouring to introduce, in his own country, a just method of composition, felt deeply pained by this effect. Of Schiller’s tragedy of the Robbers, in particular, he said: “Its character was utterly offensive to me. A powerful, though an immature genius, had here laid hold of the very paradoxes, moral and dramatic, from which I was struggling to get liberated, and poured them, in a boundless, rushing flood, all over the country.” And afterwards he adds: “I now thought all my labour was to prove in vain; the objects, and the way of handling them, to which I had been exercising all my powers, appeared as if defaced and set aside.” With such a view of the diversity between himself and Schiller, it was natural that he should not very earnestly desire an intercourse; he thought it would produce only an unpleasant conflict of opinion. This seems to have been the sole reason for his avoiding Schiller, as he confesses, “when he knew that he was at Weimar, in his neighbourhood.” That he was actuated by no feeling of rivalry, is evident, not only from his high encomiums on Schiller’s genius, and his candid acknowledgment, that “he did not blame him for what he had performed or purposed—that it was the nature and the privilege of every mortal to attempt working in his own peculiar way;” but is amply proved by the strong and enduring intimacy which subsequently subsisted between them.

Fortunately they were soon brought together. Misconceptions and fears vanished in conversation, and each found in the other a mind kindred in all its great elements. There still existed mutual differences of opinion, but these, by furnishing themes of philosophic discussion, served only to heighten mutual regard. Goethe,
who was the elder of the two by ten years, received from the younger all that homage to which his age, his longer study, and greater classical skill, entitled him. He found Schiller desirous, as a pupil, to receive lessons from his experience, and with a zeal, noble for its disinterestedness, exerted all his influence in giving a happy direction to his powers. He communicated with him freely on all the great topics of literary interest, accompanying his discourse with an affability of manner which insensibly won his entire heart, and at last chained them both in a friendship which only death could sever. His attachment to Schiller was displayed in many peculiar and striking forms. Not only did it appear in reducing the meteor-like emanations of Schiller’s mind nearer to the calm brightness of his own, but it entered deeply into his social and personal relations. It was owing mainly to Goethe’s influence that Schiller obtained a lucrative professorship at Jena, which enabled him to marry, and enjoy the comforts of domestic life. Goethe also co-operated with him in many highly useful publications — shared with him the superintendence of the drama — walked, and rode, and dwelt with him, ministering to him on all occasions the luxuries of a conversation which nicely adapted itself to his earnest and often fitful moods — entered society with him, and there, as was often remarked, busied himself in drawing out the resources of his shy companion, and presenting the luminous traits of his character and mind so as to attract the admiration which they merited.

Such was the treatment which one genius, before whom millions bowed in love and homage, bestowed upon another, his equal in all the grander characteristics of mind, and inferior only in the extent and variety of their exercise. It may be thought, that Goethe, safe in an acknowledged elevation above his compeers, could easily afford a prodigal patronage — that he was in no danger of subtracting from his own fame. But Schiller and himself, for a considerable time, divided public estimation; indeed, if we except qualified critics, the former had a numerical majority in his favour. That this circumstance did not in the least weaken their friendship, which continued ever unimpaired, affords convincing proof of its strong reality. No alliance, which springs from any thing else than a cordial appreciation of mutual worth, can stand the test of trial and time. It is gnawed in twain by that cancer-worm which issues from every dusty mound of isolated self-advantage, and sinks to speedy decay. Such was not the alliance between Goethe and Schiller.

It was an alliance of love, and it is beautiful indeed to contemplate! It is beautiful in itself; it is more striking from the chance which makes it nearly a lone evidence of the truth, practically almost hopeless, that an attraction unites all genius. We read the records of literary men, and what are they but a history of quar-
Almost every page is blotted with their failings, through envy; a passion which has done more to destroy the dignity, and pervert the exercise of mind, than all others united. Its influence has not been limited to the arena of literature; it has not simply rendered men calumnious critics, and confined their prejudiced efforts to an attack of each other, merely as authors; but, what is far worse, it has driven them, boldly or stealthily, into the privacies of domestic life and personal character; there to blight the peace of the fireside and altar, and tear away the supports of that enjoyment, which belonged to them simply as men and social beings. A literary ostracism disgraced the ancient world, and even a Demosthenes could reproach Eschines because he was the son of a courtezan, and procure his banishment to Rhodes. The animosities of the old conflicting sects in philosophy, in poetry, and the drama, are proverbial. In modern times, we behold a Dryden disgracing himself by a most malevolent controversy with an Elkanah Settle. Even an Addison and a Pope could not walk together the same path of poetry and criticism; the former has exposed himself to the imputation of having concerted literary ruses to undermine the reputation of his rival, and the latter, soon as his flattering success made him feel his equality, secretly and openly disparaged the former; they both could meet, and, after an angry debate, separate with feelings so soured as each to refuse a parting word of salutation. Such examples as these represent with painful accuracy the selfish pride of genius, and render almost vain the hope to find its ardour united with charity and love. With such a union its complete worth might be attained. An example like that presented by Goethe and Schiller re-enlivens us, and inspires the hope that it may yet find many imitators.

But we return more closely to our task. Schiller's immediate intimacy with Wieland, on coming to Weimar, has already been noticed. He soon began to assist in the *Deutsche Mercure*, which was then edited by Wieland. Besides this, he conducted his own *Thalia* at Leipsic, and pursued the Belgian History. He was thus amply employed, and his time, judging from the following passage in one of his letters, passed smoothly and happily. Writing from Weimar, May 2, 1788, he says: "The utmost political undisturbedness and freedom, a very tolerable disposition in the people, little constraint in social intercourse, a select circle of interesting persons and thinking heads, the respect paid to literary diligence—add to this the unexpensiveness of such a town as Weimar, are all circumstances which render it a highly agreeable residence. Why should I not be satisfied?" At this period he experienced no dissatisfaction but what arose from the want of a permanent settlement, and fixed support. This want at times occasioned him deep pain.
In 1788, the first and only volume of his History of the Revolt of the United Netherlands appeared. Of this work we can only state in general, that it realized the high expectations of the German public, and added very largely to the reputation of its author. It was chiefly instrumental, along with the influence of Goethe, and Voigt, head chaplain of the court, in securing for Schiller the chair of the professorship of history at Jena. To this situation, made vacant by the withdrawal of Eichorn, he repaired in 1789, after having been absent during a considerable time from Weimar. Part of this interval was spent in a hospitable visit to Madam Von Wollzogen, who had so kindly protected him, when, "empty in purse and hope," he fled from Stuttgart; but most of it in prosecuting an attachment with a lady by the name of Lengefeld, whom he had selected for his future companion. She was an inhabitant of Rudoldstadt, and, possessing high intellectual and domestic virtues, is said to have been every way calculated to add to his happiness. Their nuptials were consummated a few months after Schiller obtained his new seat at Jena. His novel and happy emotions on this double accession to his enjoyment—a post of honour and profit in one of the most flourishing institutions of his country, and a wife every way worthy of him—are glowingly described by himself. Writing to a friend, shortly after the event, he says:

"Life is quite a different thing by the side of a beloved wife, than so forsaken and alone—even in summer. Beautiful Nature! I now for the first time fully enjoy it, live in it. The world again clothes itself around me in poetic forms; old feelings are again awakening in my breast. What a life I am leading here! I look with a glad mind around me; my heart finds a perennial contentment without it—my spirit so fine, so refreshing a nourishment. My existence is settled in harmonious composure; not strained and impassioned, but peaceful and clear. I look to my future destiny with a cheerful heart; and wonder with myself how it all has happened so far beyond my expectations. Fate has conquered the difficulties for me; it has, I may say, forced me to the mark. From the future I expect every thing. A few years, and I shall live in the full enjoyment of my spirit; nay, I think my very life will be renewed; an inward poetic life will give it me again."

Such were the feelings with which Schiller entered upon his new duties. Besides the preparation of lectures, in which he proposed to unfold the nature and design of history, he early began to examine the records of the thirty years' war, with a design to become the historian of that period. His views of history exhibit in a striking manner the character of his mind. They are at once bold and expansive, and require, for their application to practice, an energy and perseverance, to which but few—in some respects, it may be said, not any—are equal. He adopted the definition commonly given to history, "philosophy teaching by example," in its most enlarged sense, as implying a union of all the great truths which affect mankind, under those aspects and in that form, which shall successively explain the character of
whole ages. As this idea, though manifestly adapted to general, had yet some bearings, in the mind of Schiller, on special historic composition, a few words in further elucidation may not be out of place. What is said will refer to the idea mainly in its largest application.

A glance at the world exhibits many nations in different degrees of civilization; and, if we suppose the point of view to be from the most cultivated nation, they all appear like children of various ages, standing around a matured adult. From the savage state of man, in which he is perfectly simple, stupid, superstitious, through a long series of intermediate stages, in which he displays a constantly increasing intelligence, there is a gradual progress upwards, till he reaches the point of his greatest civil and moral perfection. All the activities, the experiences, in general all the knowledge, which distinguish him in his highest state, are the fruit of his advance from the infancy to the manhood of society—they result from the conditions through which he has passed, between the extremes of being a solitary dweller in caves, and a free, refined, thinking citizen. That we may fully understand our present situation, therefore, that we may know why we are at such a grade of national culture, with such laws, such language, such manners, such freedom of conscience, we must go over all past transactions. These transactions form one great chain of causes and effects, and a whole history of the world is necessary to enable us to understand a single moment.

But, after making the deductions from the sum of human transactions, which the entire want of memorials in many cases, their disfigurement in others, our utter inability often to understand them, and the weakness of oral traditions, compel us to make, comparatively only a small proportion will remain as materials for universal history. From these the historian must select only those which have had a real, irresistible influence in creating the modern form of the world, and to perceive and understand them, his progress must be first from effects to causes. He must begin, with tracing out, in the current year or age, all the intellectual and moral effects which have a general bearing, and then go up to the next preceding year or age, marking there all the events which afford a solution of the first period, and so on backwards to the earliest memorials of the human race. From the last stage in the ascent, he can return by the steps which he has already taken, surveying in their natural order the grand series of events, and describing them with life, and certainty, and method.

This plan of proceeding as from one eminence to another, and surveying the intermediate field of vision, is very philosophic, and in a universal history, is doubtless the best which can be adopted. As events which have occurred at one period of time,
the laws of nature and of mind being uniform, will, under similar circumstances, inevitably occur again, and as they all stand connected in the relation of causes and effects, of means and end, all which are most grand and important, may in this way be accurately described, and by just deductions, much light may also be shed upon those times which have no memorials. The mind of Schiller, swelling with the conception of a great world-history, in endeavouring to adapt it too closely to particular history, was led into some defects. These appeared in his *Thirty Years’ War*, a history published in 1791, which was his first public effort of any note (his official duties excepted) after his location at Jena. This work displays, in its too great generalization of thought and feeling, some effects of that “cosmopolitan plan” of composition, which captivated its author. He seems in it, sometimes, to have forgotten, that special history, to be true to its aim, must as often be conversant with the minute and fractional, as with the general and collective exhibitions of nature. The painter who endeavours to sketch the outline of a wide-extended landscape, with only its most prominent characteristics, by stationing himself upon some commanding height, secures the best means of selecting and grouping. But he who would faithfully draw a given area of nature, and that small, must come down and examine individual objects. He must wind among the rocks and trees, observing the course of the ground, and the relative distances of minute objects—descend into the hollows, pursue the flexures of each babbling streamlet, and from strata, and leaf, and shrub, and water-slide, from every hillock and little depression, from each part of the whole, acquire that knowledge which will impart to his canvass the perfection of faithful imitation. To this want of attention to particulars, and a tendency occasionally to augment the relative weight of facts, is to be imputed the principal defect in Schiller’s history. But notwithstanding this, he has executed a noble task. In the ease and neatness of narration, the strength and beauty of illustrations, the at times almost overpowering grandeur of thought, and the philosophic aspect which prevails throughout, we soon forget critical defects, and are willing to allow the justness of that commendation, which in Germany ranks the *Thirty Years’ War* among the first of its historic monuments.

Soon after the appearance of this work, a disease in the chest, brought on by excessive labour, reduced Schiller so low that his life was in imminent danger. Though his suffering was extreme, he displayed a wonderful calmness, and is said never to have complained, except when the thought that his intellectual pursuits were interrupted, painfully chained his attention. Then he would express fervent desires for the abatement of his malady, and with a forced strength, often meditate profoundly on the in-
spiring topics which had exercised his mind when in health. His recovery to a tolerable degree of vigour was at last ensured, and he returned with alacrity to his studies.

But with the return of comparative health, he abandoned to a great extent his official duties at Jena, and devoted himself anew to his old field of labour, the drama. What were the causes of this change of purpose cannot be exactly ascertained. It was probably produced, however, by weariness of a monotonous round of duties, partly, perhaps, by physical inability to perform them, and chiefly by a reinspired thirst for the objects of his former interest. It is often true of genius, that it has an original, irresistible tendency to exert itself in only one sphere of action, and though it may occasionally strike out upon some bold and successful adventure, yet it will ever return again to the track prescribed by nature; like the eagle, which sometimes indeed soars to the high clouds, or sinks to some distant valley, but yet wheels its most numerous circles around the brow, and perches oftenest on the cliffs of its own home on the mountain. Dr. Johnson's authority, we know, is against this conclusion. He would make "that particular designation of mind for some certain employment, commonly called genius," the result of accident. Cowley, according to him, was made "irrecoverably a poet," simply because he happened to find Spenser's Fairy Queen on his mother's window; and Sir Joshua Reynolds the first painter of his age, because Richardson's treatise delighted him when quite a boy. Now for one youth who would become "wedded to verse" by the strains of the Fairy Queen, there are thousands by whom the immortal Spenser would be read with positive indifference, or with transient delight and a hasty forgetfulness; and for one who would be made a painter by Richardson's treatise, thousands more who would never dream of becoming practical artists. If accidents like these, which occur daily, have an influence in forming genius so decided, and almost exclusive, as that attributed to them by the English moralist, why have we not more men like Cowley and Reynolds? The truth is, that neither of these individuals would have been what they were, had there not existed some predisposing cause in their own minds, guiding them to the career in which they were distinguished, and binding them to it by a perpetual activity and energy. In an inextinguishable curiosity, and a strong power of penetration, joined with that susceptibility to the beautiful which allies itself only with a fervent imagination, we can recognise some elements in this cause, and at the same time higher sources of greatness in intellect, than mere external casualties can afford. In proportion as these qualities exceed in some minds their ordinary measure, those who possess the greater share will, in similar outward circumstances, exceed other men in mental stature. External causes
may awaken them into action, but can never form them, and the direction which they take is ever naturally the same. There is a truth lurking under the fiction which made the bees swarm about the mouth of Pindar as he lay in his infant cradle, and it is not said in vain of Moore, that "he was born with a rosebud between his lips, and a nightingale singing in his ear." The fire of the one, and the exquisite fancy of the other, are equally native. Milton and Pope, it is said, "lisped in numbers." In numbers also was their youthful utterance and their firm manly talk. Their whole life was a melody awakened at first from within, and enlarging, by a necessary law of their natures, till it swelled to the full harmony of poetry made perfect. So was it with Schiller. The moment he sat in the tall tree-top, admiring the lightning, he proved himself born to the devotion of poetry. The drama gave the first single impulse to his genius. To it, to dramatic criticism, and the collateral field of poetry, he consecrated the first vigorous portion of his life. The facilities which this department of literature affords for an unlimited display of the beautiful and vast—the optional modes which it allows of exhibiting men and character, with the accident and plan which give them development, suited best his ardent ideal temperament. Furnished by the mighty mother with the keys which unlock all the avenues to the human soul, and delighting, as he did, to select and arrange the treasures of his art, and pour over them all the subtle, irradiating light of his own spirit, he proved that he was irresistibly and permanently wedded to the drama.

The rest of his life, therefore, was spent mainly in poetry and criticism. Soon after his recovery from sickness, he began to study Àesthetic metaphysics, which composed a branch of the new philosophy of the times. Under this title the principles of the imitative arts were systematized by Kant, a man who in Germany completed the greatest mental revolution known since the days of Luther, and who in acuteness of intellect is ranked with a Plato and an Aristotle. Whatever modifications (and they are many) his opinions may have now undergone, it is certain that at one time they were quite universally admitted at home. His Critic of Pure Reason, published in 1781, in about five years after its first appearance, first began to attract general notice, and from that moment set all the thinking minds of Germany at work. Excitement was still further increased in 1792, by the publication of his Religion within the limits of mere Reason, and from the throne to the cottage of the intelligent peasant, from the man of years and understanding to the veriest academic stripling, all were equally infected with the zeal of transcendental philosophy. Schiller seized upon that part which relates to the doctrines of taste with great ardour. The advan-
Life of Schiller. [March,

tages, as well as some harm which he derived from it, together
with much of the learning which he had previously treasured up,
appeared in a number of essays, printed from time to time.
Among these the most important are those on *Grace and Dignity*; on *Naive and Sentimental Poetry*; and the Letters on
*Esthetic Cultivation of Man*; the other pieces are on *Tragic Art*; on *the Pathetic*, on *the Cause of our delight in Tragic Objects*, on *Employing the Low and Common in Art*. These pieces display great strength of thought, and much logical
acumen, but they are often covered by a seeming veil of mys-
ticism, and unless the reader is familiar with Kantian principles,
he will find it difficult at times to understand the aim of the au-
thor. But this want of intelligibility is true of only a portion of
the essays. They contain much which may be easily appre-
hended, pertinent illustrations true to nature, great truths pre-
sented in their naked aspects and in the drapery of a glowing
imagination, and principles of universal application settled by his-
toricprecedents. No one can rise from the perusal of them with-
out the consciousness of having gained much good.

This study of the principles of criticism, and of subjects which
relate solely to the understanding, was of great benefit to the
mind of Schiller. But yet, in his own opinion, it did him some
harm. This effect is best described in his own words.

"Criticism," he says, before he had reaped full advantage from the study,
"Criticism must now make good to me the damage which she herself has done.
And damaged me she has most certainly; for the boldness, the living glow which
I felt before a rule was known to me, have for several years been wanting. I
now see myself *create* and *form*: I watch the play of inspiration, and my fancy,
knowing she is not without witnesses of her movements, no longer moves with
equal freedom. I hope, however, ultimately, to advance so far that *art* may be-
come a second *nature*, as polished manners are to well-bred men; then imagina-
tion will regain her former freedom, and submit to none but voluntary limita-
tions."—p. 181.

It is certainly true, that criticism, if we embrace in this term
all the rules of the schools, and all particular usages, has done
much damage. Thus extended, it would give canonical authority
to many special forms, which, like some Aristotelian, result from
mere nicety of logic, to the superfluous or ridiculous precepts
inculcated by wrong taste, by biassed feelings, or by the blemishes
of great minds, and to that extravagant purism which is beyond
attainment. In this sense, it may well hamper any sane intel-
lect. But take that which only is just, the criticism which is
true to the immutable laws of nature, and place a young fiery
mind to acquire its rudiments, and become fitted for the first time
to its demands, and it is easy to see that it would for a while con-
strain mental effort. We do not, therefore, wonder that Schiller
complained—he could "*see himself create and form." But such
a state was not of long continuance. Use did render him so familiar with principles, that they became as a second nature.

Among other plans, he designed, it seems, an epic poem, the events of which were to be taken from the times of Gustavus and Frederic the Great. One of these personages was to be the hero; but the plan was soon exchanged for another, in which the scenes of the same period were to be represented in the immortal tragedy of Wallenstein. In 1793 he dropped his Thalia, which had subsisted for ten years, and instead edited the Horen, which was to be conducted on a more enlarged plan than the former work, uniting for its support the talents of the most distinguished men in Germany, and in particular of Goethe, who “engaged to go hand in hand with Schiller in the undertaking.” Besides this, he conducted a smaller publication entitled the Musen Almanach, which was intended as a vehicle for fugitive productions, as a receptacle for the flowers of poesy and wit. These three designs formed his intellectual occupations till the close of the eighteenth century. To the first, he consecrated “the finer essence of his genius;” to the second, his stores of critical learning, and the varied products of his understanding; and to the third, all the casual flights of his fancy, and the intermittent humour of the hours stolen from severer labour. Thus engaged, we shall omit any further notice of his literary pursuits till the commencement of the present century, and turn to contemplate him awhile in the sphere of private life. A passing view of his personal habits and modes of effort cannot fail, we think, to be agreeable. On these points we regret that his biographer has been unable to collect no more memorials; but though few in number, they are still highly interesting, and give us some accurate ideas concerning the manners of one whom we should delight to follow from day to day to the parlour and study-room.

His social hours seem to have been spent almost altogether in the company of literary friends. His indisposition to a fashionable life has already been noticed. Mere relaxation, which forms the aim of so large a part of society, was to him constraint. He did not love, nor was he master of that various persiflage, that casual, convenient thought, which suits the moments of shifting colloquy, and so he kept away from occasions fitted for such display; and instead, spent the time in intellectual conversation with Goethe, and Herder, and Wieland, and Schutz, and Reinhold, and many other learned associates. At home, in the bosom of his own family, he was at once kind and watchful to provide for domestic necessities. When the sickness to which allusion has already been made, interrupted his efforts, he exhibited a painful solicitude in behalf of his household. He feared that their means of support, now that he was unable to supply them, would be inevitably lost; and till the unexpected relief afforded him by
the pension of a thousand crowns for three years, jointly by the Duke of Holstein-Augustenburg, and Count Von Schimmelman, his anxiety had a sensible tendency to increase his disorder. With his wife, in particular, he was always on terms of the most intimate endearment; and from her received many a cup of consolation, both in moments of relaxation from labour, and when bowed in sadness by the malady which ever attended the last fourteen years of his life. Of his parents he preserved a grateful remembrance; in 1793 he went to Swabia to visit them in their age, and was received with all the joy which his unexpected good fortune and fame were calculated to excite.

"In his mode of life at Jena," says his biographer, "simplicity and uniformity were the most conspicuous qualities, the single excess which he admitted being that of zeal in the pursuits of literature, the sin which all his life had most easily beset him. His health had suffered much, and principally, it was thought, from the practice of composing by night; yet the charms of this practice were still too great for his self denial, and except in severe fits of sickness, he could not discontinue it. The highest, proudest pleasure of his mind was that glow of intellectual production, that 'fine frenzy,' which makes the poet, while it lasts, a new and nobler creature; exalting him into brighter regions, adorned by visions of magnificence and beauty, and delighting all his faculties by the intense consciousness of their exerted power. To enjoy this pleasure in perfection, the solitary stillness of night, diffusing its solemn influence over thought as well as earth and air, had at length in Schiller's case grown indispensable. For this purpose, accordingly, he was accustomed, in the present, as in former periods, to invert the common order of things: by day he read, refreshed himself with the aspect of nature, conversed or corresponded with his friends, but he wrote and studied in the night. And as his bodily feelings were too often those of languor and exhaustion, he adopted, in impatience of such mean impediments, the pernicious expedient of stimulants, which yield a momentary strength only to waste our remaining fund of it more speedily and surely." pp. 196, 197.

His place of study, as well as some peculiar traits of manner, are sketched in the following interesting extract from Doering. It cannot but be wished that he had better husbanded his powers than to exert them night after night till the near coming of day, and to relieve their necessary depression by stimulants. Such habits must have rapidly exhausted his physical strength, and prepared him for premature death.

"During summer, his place of study was in a garden, which at length he purchased in the suburbs of Jena. On the top of an acclivity from which there is a beautiful prospect into the valley of the Saal, and the fir mountains of the neighbouring forest, Schiller built himself a small house with a single chamber. It was his favourite abode during hours of composition; a great part of the works he then wrote were written here. In winter he likewise dwelt apart from the noise of men, in the Griesbachs' house, on the outside of the city trench. * * * On sitting down to his desk at nights, he was wont to keep some strong coffee, or wine-chocolate, but more frequently a flask of old rhenish, or champagne, standing by him, that he might from time to time repair the exhaustion of nature. Often the neighbours used to hear him earnestly declaiming, in the silence of the night: and whoever had an opportunity of watching him on such occasions, a thing very easy to be done from the heights lying opposite his little garden-house, on the other side of the dell, might see him now speaking aloud and walking swiftly to and fro in his chamber, then suddenly throwing himself
down into his chair and writing; and drinking the while, sometimes more than
once, from the glass standing near him. In winter, he was to be found at his
desk till four, or even five o'clock in the morning; in summer, till towards three.
He then went to bed, from which he seldom rose till nine or ten." pp. 197, 198.

Near the close of the eighteenth century, his Wallenstein appeared. This drama cost Schiller more labour than any other composition of the same kind, and exceeds any other in length and sustained power. Its matter would fill three common tragедies, and is, in fact, designed in three parts by its author. Its plan is, in general, a faithful representation of a great ambitious mind, struggling after the accomplishment of its destiny, foiled in its efforts, displaying itself in treason, and finally tortured to its ruin; such is Wallenstein, the hero of the play. A second in command, who has been his long and tried friend, a man of strong mind and of seeming but selfish morality, disguising, at last, faith to his emperor under a treacherous amity with the erring general, watches the steps which the latter takes towards defection, and is engaged in preventing their evil results; such is Octavio Piccolimini. His son, a youth bred in war, of exalted and vehement feelings, fervently attached to Wallenstein, under whom he was brought up, and concentrating a pure and passionate love upon Thekla, his "angelic daughter," is placed in a fierce struggle between love and duty, and nobly yielding to the latter, reaches a tragical end; such is Max Piccolimini. These chief characters are developed amid the stirring and tumultuous scenes of a military life. In the subordinate personages there is an immense variety, actuated by a thousand different emotions, and each sustaining a proper share in the grand movement—females and men, exhibiting in the stormy arena of the camp every feeling of which the human heart is susceptible. The comprehensiveness of this tragedy is truly wonderful. Hope and fear, love and hate, joy and sorrow, grandeur and desolation, are all presented in the manifold aspects of real life, painted by a poetic inspiration which seldom flags, is never entirely remitted, and which most generally pours itself out with convincing truth and beauty. As the two last and most important divisions of this tragedy have been translated by Mr. Coleridge, it is easily accessible. The poet has succeeded well in transfusing the spirit of the original into his version, and we are convinced that even an English reader cannot rise from the perusal of it without a deep glow of heart. It is justly considered as "the greatest drama of the eighteenth century."

About the time of its appearance, Schiller discontinued the Horen and Musen Almanach, as well, it would appear; on account of ill health, as of his desire to devote himself exclusively to art; the worship of Melpomene was so grateful to him, that he was eager to offer all the future first-fruits of his mind at her al-
tar. He was now in the acme of his fame and powers. Solicitations for preferment to high professional chairs, with the most tempting salaries, reached him from various quarters. An ample pension from the duke, however, by whom he was ennobled, strong literary friendships, and unwillingness to leave a vicinity to which his feelings had become closely habituated, easily detained him at Weimar. Here then chiefly, and occasionally at his "little garden-house at Jena," during the summer months, he passed the remainder of his life—a period which was short indeed, and which enabled him to fulfill but few of his many designs. One of these was the remodelling of his own and the principal tragedies of Germany "according to the latest views of scenic propriety," thereby forming a complete series of national dramatic writers. This labour he undertook in conjunction with Goethe, and proceeded with it to some length. But his chief efforts were devoted to the composition of four new tragedies, which appeared in the following order: Maria Stuart, the Maid of Orleans, the Bride of Messina, and William Tell. Besides these, he sketched and partly wrote many more. Of the four which were completed, the principal glory is assigned to the Maid of Orleans, though between this and William Tell the judgment wavers. Of the remaining two, Schiller's biographer considers the Bride of Messina as the most deficient in point of construction, Maria Stuart as wanting in a proper exhibition of "manners and true historical delineation." But with these defects, they each bear many impresses of superior beauty. They exhibit the mind which produced them in much of its strength. Of the four dramas now mentioned, our limits will not allow any critical examination; but readers can judge relatively concerning the merits of the Maid of Orleans and William Tell, when they are informed that these productions are ranked by all German critics among the highest of which their country can boast. On their first appearance, they were played to thousands of admiring audiences, who shouted till the whole land echoed with the voice of commendation. Among particular instances of approbation, the following is related in the volume before us.

"At the first exhibition of the Maid of Orleans at Leipsic, Schiller being in the theatre, though not among the audience, this feeling was displayed in rather a singular manner. When the curtain dropped at the end of the first act, there arose on all sides a shout of "Es lebe Friedrich Schiller," Live Frederic Schiller, accompanied by the sound of trumpets and other military music: at the conclusion of the piece, the whole assembly left their places, went out, and crowded round the door through which the poet was expected to come; and no sooner did he appear, than his admiring spectators, uncovering their heads, made an avenue for him to pass, and as he walked along, many, we are told, held up their children, and exclaimed, "that is he!" pp. 257, 258.

Here is another instance, of a different kind, quoted from Doe-
ring, which illustrates his modest demeanour on such occasions. He was always rather displeased than gratified by public demonstrations in his favour.

"Another testimony of approval he received on the first production of his play at Weimar. Knowing and valuing as he did the public of that vicinity, it could not but surprise him greatly, when a certain young Doctor S—— called out to him, "Bravo, Schiller!" from the gallery, in a very loud tone of voice. Offended at such impertinence, the poet hissed strongly, in which the audience joined him. He likewise expressed in words his displeasure at this conduct; and the youthful sprig of medicine was, by direction of the court, further punished for his indiscreet applause, by some admonitions from the police." p. 258.

His mode of life at Weimar was materially the same as at Jena. His mornings were spent in relaxation with his family; his afternoons in revising compositions, and his nights in study. The same scrupulous exactness in filling up each moment of time with something useful or accessory to the great purposes of being, ever attended him. It may be said of him with striking justice, in the fervent language in which Coleridge describes "the man of methodical industry and honourable pursuits," that "he realized the ideal divisions of time, and gave a character and individuality to its moments. If the idle are described as killing time, he may be justly said to have called it into life and moral being, while he made it the distinct object, not only of the consciousness, but of the conscience. He organized the hours, and gave them a soul: and that, the very essence of which is to fleet away, and evermore to have been, he took up into his own permanence, and communicated to it the imperishableness of a spiritual nature." Whether in affectionate colloquy with his wife and children, or ministering to the wants and tenderness of friends, or tasking thought beneath the shadow of the dense and lonely night, his great, predominant desire was to perfect his intellect. Other men have been equally elevated, perhaps, in their conceptions of an aim, but alas, in how many even of these instances, has want of action turned strength to the feebleness of infancy! But in Schiller the power and the will to act coincided. While he felt the swell of thought, he at the same time carved channels for its current, and kept it in motion; while the perfect form of the goddess Genius hovered ever o'er him in drapery of light, his constant cry was,

--- Lass ihre Hand mich fühlen,
Den Schatten nur von ihres Mantels Saum,
Und in das Leben tritt der hohle Traum.*

Among many pleasing proofs of his constant activity of mind, allusion has already been made to his habit of taking solitary ex-

* Let me but feel her hand, or touch her mantle's shade,
Then bright and real shall my dream be made.

Die Erwartung. Schiller.
cursions for the purpose of reflection. He continued this practice to the end of his life. He was often seen passing rapidly through the streets of Weimar, with his note-book in his hand, darting swiftly into some lonely avenue when he anticipated interruption, and going forth to some one of the thousand sheltered and silent retreats in the suburbs. Many a nook and green glade, on hills, in the groves, by the fountain, and brook, and river, are now pointed out as the spots of his communings with nature. It was his manner in this respect which has given such a life and truth to his natural descriptions. Like Wordsworth, he drew from actual observation. The features of their great mother, which each selected, are often different, however; their modes of combining them totally distinct. The English poet is slowly progressive in his survey of objects, minute in delineation, often to a fault, and impresses the mind by the simple beauty of particulars, and the just order in which one emotion succeeds another in a series. Schiller, on the other hand, glances rapidly over objects, seizes prominent beauties, presents them under a collective aspect, and compels one strong and indivisible feeling. In general, the former reads nature as he steps and halts by its every appearance; the latter, on an elevation, from which he seldom descends, where the view is more commanding, and the emotion which is raised grander. Both are equally faithful, each accurately skilful in his own sphere.

During the period of Schiller’s greatest literary labour, he was, as has been intimated, labouring with a pulmonary disease, which, though it left him some intervals of comparative quiet, never entirely relaxed its hold upon his system. He bore it all without a murmur, and, after the first violent attack, with a disregard which amounted to positive indifference. He never allowed it to interrupt his plans of effort. If pain became severe, he would summon up new energies and forget it. The time from his first arrival at Jena seems all to have been spent in this way, in a struggle between the aches of body and the activities of mind. The latter, indeed, had been so far triumphant. But to the former its sure hour of success must come, and sad indeed was the crisis of its victory over the ardent Schiller; for it conquered him in his proudest expansion of mind; in the rich autumn of ripe, yet undecaying manhood of soul! While returning from Berlin in 1804, where he had been to see his Wilhelm Tell performed, he was attacked by a violent paroxysm of his malady. A strange and partial recovery enabled him again to vision plans of literary labour, and partly execute a few. But his hopes were soon utterly prostrate. A third attack was fatal. The manner of his death is thus described in the volume before us.

“"The spring of 1805, which Schiller had anticipated with no ordinary hopes of enjoyment and activity, came on in its course, cold, bleak, and stormy; and
along with it his sickness returned. The help of physicians was vain; the unwearyed services of trembling affection were vain; his disorder kept increasing; on the ninth of May it reached a crisis. Early in the morning of that day he grew insensible, and by degrees delirious. Among his expressions the word Leuchtenberg was frequently noticed; a word of no import; indicating, as some thought, the writer of that name, whose works he had been lately reading; according to others, the castle of Leuchtenberg, which, a few days before his sickness, he had been proposing to visit. The poet and the sage was soon to low; but his friends were spared the further pain of seeing him depart in madness. The fiery canopy of physical suffering, which had bewildered and blinded his thinking faculties, was drawn aside; and the spirit of Schiller looked forth in its usual serenity, once again before it passed away for ever. After noon his delirium abated; about four o'clock he fell into a soft sleep, from which he ere long awoke in the full possession of his senses. Restored to consciousness in that hour when the soul is cut off from human help, and man must front the king of terrors on his own strength, Schiller did not faint or fail in this his last and sharpest trial. Feeling that his end was come, he addressed himself to meet it as became him; not with affected carelessness or superstitious fear, but with the quiet, unpretending manliness which had marked the tenor of his life. Of his friends and family he took a touching but a tranquil farewell; he ordered that his funeral should be private, without pomp or parade. Some one inquiring how he felt, he said: 'calmer and calmer;' simple but memorable words, expressive of the mild heroism of the man. About six he sank into a deep sleep; once for a moment he looked up with a lively air, and said: 'many things are growing plain and clear to me!' Again he closed his eyes; and his sleep deepened and deepened, till it changed into the sleep from which there is no awakening."

If death be indeed the most fiery trial of humanity, if, more than any other test, it decides the character, what pleasing evidences of moral heroism and unshaken reliance, shine from the dying couch of Schiller! The past revealed no spectres to torture or alarm him. His life had been spent with comparatively no taint of evil—it had been one splendid dream of the great, and the good, and the beautiful, which forbade to passion its sway. Indolence, that prolific mother of almost all the vices, had in him never nourished one of her brood—no misdirection or perversion of powers claimed from him penance. In an elevation above the common wants and wishes which render our race the foes of each other, nursing the high conceptions and feelings,

"Which make man glorious and divine,"

his aim had been mental perfection and virtue. With such a retrospect, no wonder that, in the awful state of suspension between two worlds, he grew calmer and calmer, and saw nothing to fear amid the disclosing mysteries of eternity. Great truths grew plain and clear to him, and in the deep conviction of their sublime reality, he passed gently away.

The scene of his burial was peculiar. It took place in the dead of night, between the hours of twelve and one. "The overclouded heaven," says Doering, "threatened rain. But as the bier was set down beside the grave, the clouds suddenly split asunder, and the moon, coming forth in peaceful clearness, threw
her first rays on the coffin of the departed. They lowered him into the grave, and the moon again retired behind her clouds. A fierce tempest of wind began to howl, as if it were reminding the bystanders of their great, irreparable loss,” a loss which was indeed great, and for which all Germany, surprised at the event, mourned with fervent sorrow. His age and personal appearance at this period, are described in the following paragraph.

“Schiller's age was forty-five years and a few months when he died. Sickness had long wasted his form, which at no time could boast of faultless symmetry. He was tall and strongly boned; but un muscular and lean; his body, it might be perceived, was wasting under the energy of a spirit too keen for it. His face was pale, the cheeks and temples rather hollow, the chin somewhat deep, and slightly projecting, the nose irregularly aquiline, his hair inclined to auburn. Withal his countenance was attractive, and had a certain manly beauty. The lips were curved together in a line, expressing delicate and honest sensibility; a silent enthusiasm, impetuosity not unchecked by melancholy, gleamed in his softly kindled eye and pale cheeks, and the brow was high and thoughtful. To judge from his portraits, Schiller's face expressed well the features of his mind: it is mildness tempering strength; fiery ardour shining through the clouds of suffering and disappointment, deep but patiently endured. Pale was its proper tint; the cheeks and temples were lost hollow. There are few faces that affect us more than Schiller's: it is at once meek, tender, unpretending, and heroic.”

We have thus far followed the illustrious subject of this article, in the natural order of his life and labour, to their close. It has been attempted to exhibit his character as a student, as a husband, as a social being, in a manner which shall convey a correct view of each, and at the same time impress their supereminent merit as an example. His chief literary efforts have all been noticed, but in a manner very brief, and disproportionate to the greatness of the object. A reader who would not judge subordinately of an author, should be familiar with his works themselves. In any other way, he either receives his opinions from others, who but express their private judgments, or derives them from copious analyses, and extracts well chosen. This latter method is, ordinarily perhaps, well enough adapted for the pages of a review; but where, as in the present case, works swell to a great extent and variety, it involves much difficulty. Besides his principal, Schiller has a very extensive range of minor productions. Of fugitive poetry, in every variety of composition, two volumes appear among his works. There are also philosophical sketches, tales illustrative of real life, and fictitious, dramatic fragments, and letters of criticism, all of which display the author's modes of thought, and strength, in a greater or less degree. Quotations, then, to be just, must be numerous; they must exhibit both merits and defects, in prose and in poetry; they must be portions of argumentative, didactic, and imaginative writing, and be accompanied with constant explanations of context, and remarks of inference—a course which would enlarge too much the present article: if abridged, or few in number, the view afforded
would be too faint either to excite liveliness of interest or give exercise to the power of judging. For these reasons, it has been thought best to omit them almost entirely, and instead, simply to offer the impressions made upon an individual mind by the author's works. It has been our fortune to peruse many of them; they were among our first essays in learning the language, and, if the reader will pardon this personal detail, we shall confess that the extreme beauty of the portions upon which our first experiments were made, had a principal share in overcoming a repugnance, sufficiently strong, to the slow acquisition of its difficult rudiments. We shall close our article with a few additional remarks on the general character of Schiller's mind and style.

It is sometimes usual to characterize genius by a particular feature. Some predominant quality is often found in its products, which imparts to them an identity, somewhat as a woof of uniform colour and consistency, penetrating a warp of various hues, similarly unites the whole web. In a poet, this quality, if found thus specific and general, is either sublimity or beauty; sometimes both united, or some one of their thousand forms. Thus Homer is said to be both sublime and sweet, Virgil gracefully simple and delicate, Lucan fiery, Tasso rich, Milton sublime, Byron energetic. If the genius of Schiller were to be distinguished by a single word, it would be strength. Strength, wild, majestic, or calm, sportive, beautiful, marks every play of his inspiration. In his poetry, it displays itself, with all the advantage of dramatic fitness, in a passionate concentration of thought, and a deep energy of expression. He often appears, on points of lively interest, crowded to bursting with ideas, and labouring after language to which he can communicate some part of the vital force with which he is himself agitated. As the weakness of language renders this attempt vain, and as he still must secure some outward symbol of his feelings, it frequently happens that he employs words in a sense and arrangement which fail to depict accurately what he intends to signify, and thus leave his meaning in obscurity. This obscurity rarely, however, completely blinds; it is one into which, generally, just enough light enters to keep the reader in that state of tense anxiety which conduces so highly to sublime emotion. In his prose, the main characteristic appears under the same conditions as in his poetry, but less often in the forms of the imagination. It appears where pleasure is the sole aim of the writer; where, at first view, any vigour of conception or language might seem misplaced. Scenes of the most placid beauty, the softest natural scenery, or the sweetest play of the affections, are drawn in a manner singularly vivid; and the emotion raised is a complex one of serenity and power, like that felt while gazing on the calm, or gently tremulous surface of a river, and knowing all the while that the channel is wide and deep, and
the current irresistible in its motion. On philosophical subjects, poignant brevity and antithesis take the place of metaphor and simile, or the simple thought is enlarged to gigantic dimensions by similar accumulations. Schiller here often displays his strength in a searching logic. He addresses the understanding by first principles, sometimes in a comprehensive view of their effects, making them to carry the full convictions of experience, and sometimes presenting them, like the guardian-sword, in the naked aspect of certainty. But perhaps his energy appears most strikingly when he describes the more powerful passions. Love, joy, sublime awe at the wonderful and fear of the dreadful, hate, revenge, piercing grief attended with the consciousness of wrong, or resulting from great and unavoidable calamity, these emotions he paints in colours of fire. Here his figures of speech, prompted as they are fairly by imagination and passion, astonish by their boldness, and overwhelm by their power. We cannot refrain from introducing a few passages in illustration of our meaning. If we are not mistaken, they will exhibit prominently that trait of strength which has been under consideration.

The first passage to be cited describes a murderer in the act of committing his crime. He is an unsuccessful rival in love of the man whom he slays, and has been thrice apprehended by him while poaching, and committed to a horrid imprisonment. Burning with jealousy, and a desire of revenge, and yet awake to the claims of conscience, while poaching a fourth time he accidentally discovers the author of all his sufferings, at the very moment when his gun was levelled at a deer. His emotions and act are thus described in his own words.

"But the sudden sight of a hat, which lay a few yards from me, upon the ground, terrified me. I looked around cautiously, and spied the huntsman Robert behind the large trunk of an oak, aiming his shot at the same animal which I had selected for a sacrifice. A deadly chillness ran through my limbs at this sight. There was the man whom I hated more terribly than any other living thing, and this man was in the power of my bullet. At this moment it seemed to me that the whole world lay within the range of my fusil, and that the whole hatred of my life was concentrated upon that single tip of the finger with which I should make the murderous pressure. An invisible, frightful power, floated over me, and the hour-hand of my destiny pointed irrevocably to this black minute. My arm trembled as I submitted to my gun the alarming choice—my teeth smote together as in a fever chill, and my breath tarried suffocatingly in my lungs. The barrel of my gun wavered a minute in doubtful suspense, between the man and the deer—a minute—and yet another—and yet another. Vengeance and conscience wrestled stubbornly and dubiously—but vengeance prevailed, and the huntsman lay dead upon the ground. "From this time," continues the narration, "his sleep was broken; the eternal anguish of death corroded his spirit; the frightful spectre of suspicion rattled behind him as he walked, tormented him when he waked, went to bed with him when he slept, and haunted him with alarming dreams. Dumb conscience found again its voice, and the sleeping adder of repentance awoke in the universal storm of his bosom."

In the Conspiracy of Fiesco, Schiller describes Fiesco as desiring the sovereignty of Genoa, not for the ordinary purposes
of selfish ambition, but that he may exert to better advantage the noble and commanding qualities of his mind. To represent the difference between his influence as an individual in society, and as possessed of the supremacy, he uses the following eminently bold figure.

"Spread out the thunder into its single tones, and it becomes a lullaby for children; but pour it out together in one quick peal, and the royal sound shall rend the heavens."

In the same tragedy, the following idea of love is from the lips of Leonora. With respect to Fiesco, her husband, she wishes that

"Her name should lie in secret behind every one of his thoughts; should speak to him from every object of nature; that for him, this bright, majestic universe itself, were but as the shining jewel on which her image, only hers, stood engraved."

In one of his philosophic letters, after arguing with great power against the theory that selfishness is the basis of love, his concluding paragraph exhibits his convictions on the side of virtue and truth, fervidly expressed.

"I believe in the reality of disinterested love. If it is not so, I am lost, and give up God, and immortality, and virtue. A soul that loves only itself, is a floating atom in empty infinite space."

Another prominent feature of Schiller's mind is its philosophic tendency. Facts and appearances, whether in the world of nature or of spirit, are perceived by him in their just order as causes and effects, are traced out in all their relations to time and space and society, and presented under those aspects which strike at once from their perfect consistency with the supreme harmony and fitness of things. The faculty here implied, peculiarly distinguishes the man of talent from the man of ordinary capacity and observation. While the latter refers objects of the senses, or subjects of thought, to his immediate wants and situation, or associates them only by their most obvious properties, and in forms easily perceptible, the former sees their connexion not only with himself, but with others, studies their minute and at first view imperceptible conditions, and arranges many particulars under some one grand conclusion. In this way the mind of Schiller operates, and wherever it deals with the real, the probable, the natural, invests them with a permanent beauty. If his senses are awakened by external objects, it is not merely a passive impression which he receives, nor is he contented with the bare finite images of things, disposed in his memory as simple magnitudes and colours and figures; but his whole soul is alive, and never ceases to act till a thousand emotions have crossed it, and it has treasured up, under expressive symbols, a meaning deep and abiding as its own essence. If the mountain delights him, it is not simply because it is peaked in clouds, and shaggy with tremendous rock-masses, and terrible with its precipices; or that it shoots trees and streamlets from its sides and
base, and slopes in acclivities of surpassing richness and variety; but because all these appearances are material emblems of that which is spiritual, which the soul can appropriate to express its own undying glories, and shadow forth the greatness of a supreme intelligence. The river, the tree, the plant, the veriest atom of dust, in his meditative mind assume a deep moral beauty, and communicate emotions which delight both by their novelty and the admirable fitness with which they rise.

With the same philosophic vision he looks upon the conflict of human feelings. Character and conduct become in his hands manifestations of principles. He shows continually that he has not been a chance observer of life, and that the wants, the passions, the propensities of men have not fallen upon his attention in vain. They have all been reflected upon and treasured as true indications of nature. Sometimes, however, in representing them, he discovers the same tendency, which has been before noticed, to extend too far the bearing of facts, and deduce conclusions too remotely. But these defects originated almost entirely from the comprehensive character of his mind. He was fond of assembling many things together, and binding them by a single chain; and it is not strange, so endlessly mixed and various are the shades of human actions, that he sometimes collected incongruous materials. In the effort he always shows a process of reflection carried a little too far, passing by its very depth and impetuosity accurate limits, and losing itself somewhat in the confusion of an unknown region.

But there is one defect apparent in his poetry, of considerable importance. He sometimes indulges in a speculative metaphysical vein of thought, which now loses itself in a too minute analysis of ideas, now in confused wanderings among the abstract properties of matter and mind. In the first case, like the English metaphysical poets of the seventeenth century, he elaborates a thought into many particularities, creates remote analogies by subtleties of distinction, and aims to form relations between ideal parts and an actual whole. This course generally ends in loss of effect. The understanding may, perhaps, be pleased with an exhibition of skill, with "exilities" of discrimination, but the heart is not touched. It may be said of all such attempts, as of those of Donne, and Denham, and Cowley, that "they can no more represent the prospects of nature, than he who dissects a sunbeam can exhibit the wide effulgence of a summer noon." In the second case, where Schiller interweaves in his writings fragments from the Platonic system of ontologies, the extreme difficulty of expressing ideas, which in distinction from those of sense, may be called uncompounded and infinite, render him often vague. Some hero in his tragedy is made to talk on freedom, on justice, on being, as qualities independent of human experience, as the
abstract essences of spirit; and the reader, unless accustomed to speculations of this kind, finds himself involved in darkness, which is unbroken but by a faint ray of consciousness within his own bosom. Of eternal and immutable principles he has an idea, but when they are totally divested of relation to time and place, and placed co-eternal with eternity beyond all finite bounds, his mind, tumultuous and weakened, can no longer follow them. When used, as they often are, without any attempt to define them separately, and simply excited by a felicitous combination of real facts, they then receive a grandeur, as expressions which are partly understood, and partly involved in the mystery of generalities. Their occurrence, however, anywhere, is interesting, as it reveals the operation of Schiller's mind. It would seem, at times, that he grew tired with comprehending the finite and real—that the very ease with which his mind then acted, became to him a state of comparative inertia, and breaking away into those boundless regions where thought knows no limit, he struggles to comprehend the infinite, to create a great unreal arena, upon which images may sport in all the wildness of a phantom magnificence. Here his fervid spirit delights, till, exhausted of its excessive energy, it is content to return to its former state of quiet activity, or sinks into temporary prostration.

In conclusion, we would remark, that the writings of Schiller are in a peculiar manner a true representative of himself. By this is implied, not only that he reveals all the elements and the full force of his genius, but a test of his actual character and conduct. Schiller's writings show what he is as a man. He enters on an argument, or solves a difficult problem in morals, not only with a thorough relish in the process itself, but with a delighted foresight of the bearing of great principles on the happiness of mankind. The feelings depicted in his dramas, in the touching bursts of his songs, and lyrics, and ballads, are in a sense his own feelings. Even the malignant and selfish passions are conceived with such enthusiasm, that they seem to agitate his own bosom. The purer emotions and his own are identical. The Knight of Toggenburg, who, full of "calm hope," sits year after year before the window of his cloistered love, till, yet turned to the window, his face becomes, one morning, the "pale, still face" of a corpse, paints a devotion which Schiller could have easily realized. The deep and all-pervading spirit of delight which breaks forth in his Ode to Joy, exhibits his own expansiveness of heart while contemplating the wonders of creation and created intelligence; and the oath with which he there leagues the universe of men to the support of truth and justice, expresses his own fervent desire that these immortal benefactions should be universally and triumphantly extended.
ART. IV.—VIEW OF OHIO.


In a former number of this Journal, (Vol. X. p. 29,) we presented a sketch of the institutions of Ohio in one aspect, namely, that of criminal jurisprudence. We now purpose to consider them in their civil aspect. The simple fact, that a state, whose whole history embraces but forty-four years, and which has been a member of the Union exactly thirty years, at the moment we are writing, has in this brief space attained the rank of fourth among the twenty-four, is of itself sufficient to stimulate an enlightened curiosity to investigate the causes of its unequalled progress. By what miracle does it come to pass, that a star, which so recently was not visible in our brilliant constellation, has all at once shot up to the fourth magnitude? Have mines of gold been discovered to lure adventurers hither in such throngs? Does a perpetual summer invite the lovers of ease and comfort to escape hither from the cold bleak places of the earth? Is there some mysterious fountain whose waters confer perpetual health and youth on all who taste them? If none of these allurements exist in Ohio; if gold be not dug from the bosom of her earth; if winter, and ice, and frost be there; if men grow old, and languish, and die, as elsewhere; what has given to this state of yesterday her million of inhabitants? The answer must be sought in her history and her geography. The following remarks will in part contain it; but neither our limits nor means of information enable us to give it with anything like fulness. To reply in a word, we should say, the fertility of the soil has tempted men thither, and industry and enterprise have made them thrive.

All the tract of country lying north of the river Ohio, between Pennsylvania on the east, and the river Mississippi on the west, including an extent of 400,000 square miles, and now composing the states of Ohio, Indiana, and Illinois, the territory of Michigan, and the North Western territory, was originally the property of two of the colonies, those of Virginia and Connecticut. To the former belonged all of this tract which lies south of the forty-first parallel of latitude, and to the latter, all which lies north. The charters to both from the British crown, in regard to eastern and western boundaries, extended from the Atlantic to the Pacific Ocean; thus lavishing upon two infant colonies,
through ignorance of our geography, domain sufficient for thrice as many kingdoms, each larger than that of Great Britain. The descriptive clause in the Virginia charter, which was granted by James the First in 1609, concluded thus:—"and all that space and circuit of land lying from the sea coast of the precinct aforesaid, up into the land throughout from sea to sea west and north-west." That of the Connecticut charter, which was granted by Charles the Second in 1662, was in this respect of similar import. It happened, however, that the British crown could not make good its own title to the vast territory west of the Mississippi, and consequently the grants to Virginia and Connecticut extended only to that river.

After the peace of 1783, by which Great Britain parted with her jurisdiction over all the territory of the United States, the conflicting claims of the several states, under their vague and ill-defined charters, began to be a fruitful subject of contention, and threatened to destroy the harmony which had so wonderfully prevailed among them. No adjustment could be made, either by commissioners or otherwise, without producing dissatisfaction somewhere; for the losing party would almost necessarily be chagrined at seeing perhaps a princely heritage awarded to its rival. In this state of things, Congress, addressing itself to the public spirit and magnanimity of all the states interested, proposed that each, for the general welfare, should give up to the United States, all its claims to vacant territory, and thus, at a word, annihilate contention. Such an appeal to the Old Thirteen could not be made in vain. All the states laid down their offerings on the altar of concord, and none more cheerfully than the two in question. What magnificent offerings they were, will appear from the fact, that the cessions thus made, together with the purchases of Louisiana and Florida, have placed at the disposal of the United States above a thousand millions of acres; a domain out of which empire after empire might be carved, and still leave room for more. What is to become of this stupendous public fund, is a question, the magnitude of which may well confound our ablest statesmen. But there it is, and every citizen of the Union has a share in it.

The cessions of Virginia and Connecticut, with which alone our subject is connected, were made in 1784 and 1786, each state reserving between three and four millions of acres for its own disposal, but yielding to Congress jurisdiction over the whole. The tract reserved by Virginia, between the Scioto and Little Miami, and called the Virginia Military District, was appropriated to pay the bounties promised to her troops for their services during the Revolution. That reserved by Connecticut, in the north-eastern quarter of the state, and called the Western Reserve, has produced her present ample school fund. These
two cessions, like every other, were made upon the express condition, that the lands thus ceded should be held or disposed of for the common benefit of every member of the Union; a fact, which may illustrate the justice of the claims asserted by some of the new states, to the exclusive possession of all the public lands within their territorial limits.

Congress having thus, by an illustrious exhibition of patriotism on the part of the states, acquired jurisdiction over the whole North Western Territory, proceeded to exercise it, by passing, on the 13th of July 1787, the celebrated Ordinance establishing a territorial government over this region, where, since the beginning of time till then, nature had been the sole lawgiver. This ordinance will justify any extent of panegyric which language can frame. The praise of Mr. Webster, when he declared in the Senate, that no lawgiver since the time of Solon had evinced greater political forecast than the author of this ordinance, was not extravagant; although considering its source and import, such praise, could it have been applied, might have flattered the stern soul of Lycurgus himself. This author had been sneeringly spoken of by another senator as "one Nathan Dane of Massachusetts;" and although he was then living, and still lives to benefit the present and future ages by his enlightened labours and charities, yet the aspersion cast by the above and other expressions upon a great and pure patriot, long since withdrawn from public life, was justly considered by Mr. Webster as making Mr. Dane an exception to the rule, that death only must unseal the lips of eulogy.

The vast importance of this ordinance, and the probability that many of our readers are not familiar with it, induce us to attempt an abstract of its contents; although its comprehensive brevity renders it impossible to convey a complete idea of it in a shorter compass than its own language fills.

After regulating in the plainest manner the descent and transfer of property, until laws should be adopted for that purpose, it provided a temporary government, consisting of a governor, secretary, and three judges, to be appointed by Congress. The governor and judges were to adopt such laws from the original states as Congress should approve, until a general assembly should be organized in the territory, which might be done as soon as there should be five thousand inhabitants. This assembly was to consist of the governor, a legislative council of five to be appointed by Congress, and a house of representatives to be chosen by the people. This body, by joint ballot, might elect a delegate to Congress, who should have the privilege of debating but not of voting. So far, the ordinance has served as a model for all subsequent territorial governments. But its most admirable features are yet to be mentioned. Having thus provided
for the immediate present, its author directed his sagacity into
the boundless future, and framed six memorable articles of com-
pact between the original states and the people and states within
the territory, which were to remain for ever unalterable, unless
by common consent. The object of these articles was "to
fix and establish the fundamental principles of civil and religious
liberty as the basis of all laws, constitutions, and governments,
which for ever hereafter shall be formed in the said territory."

1. No person was ever to be molested on account of his mode
of worship or religious sentiments.

2. The inhabitants were ever to have the benefits of the writ
of habeas corpus, of trial by jury, of proportionate representa-
tion, of bail except for capital offences, of moderate fines, of
exemption from cruel or unusual punishments, and of being
compensated for their property or services, when the public exi-
gencies should require them. In addition to which, no law was
ever to be passed which should interfere with private contracts
previously entered into in good faith.

3. Schools and the means of education were for ever to be en-
couraged, and the utmost good faith observed towards the In-
dians.

4. The territory and the states to be formed therein, were for
ever to remain a part of the United States; were to bear their
proportion of the public burthens; never to interfere with the
primary disposal of the soil by Congress; never to impose a tax
on the lands owned by the United States; and in no case were
non-resident proprietors to be taxed higher than residents. The
navigable waters within the territory, and the carrying places
between them, were to be common highways, and for ever free
to all the citizens of the Union.

5. Not less than three nor more than five states were to be
formed within the territory; but so soon as there should be sixty
thousand inhabitants within the limits designated, or sooner if
deemed expedient, a state might be formed, which should be ad-
mitted into the Union on an equal footing with the other states,
provided its constitution should be conformable to the principles
of these articles.

6. There was to be neither slavery nor involuntary servitude
within the territory, except for the punishment of crimes. But
if a slave should escape from one of the original states, he might
be reclaimed and carried back.

Such is the outline of this inimitable specimen of legislation.
It was framed a few months previous to the Federal Constitu-
tion. So far as we know, it is the first written form of govern-
ment, in which the three great principles of entire religious fre-
dom, an obligation to encourage schools, and an absolute prohi-
bition of slavery, were ever incorporated together. At the time
it came thus complete from the hands of its author, there was
not one civilized inhabitant within the whole territory; and it
would be delightful to hear from him what were his anticipations
at the time he was penning it. Did he once dream that he should
live to see it unfolding its mighty results among two millions of
free, prosperous, and happy people, who, by accepting the terms
of this compact, have given a positive pledge, as sacred as men
by their language and actions can give; that the great principles
therein contained, shall for ever be preserved inviolate? Hitherto
the deduction of the obligation of allegiance to government and
laws, from a social compact, had been only a convenient theo-
ry; but now it has become a splendid reality; and in this respect,
the inhabitants of this territory sustain such a relation to govern-
ment as no other people ever have borne.

Our readers are no doubt aware, that in the senatorial debate
to which reference has been made, it was asserted that this ordi-
nance was "chiefly copied" from a plan previously proposed by
Mr. Jefferson. But happily, the protracted life of Mr. Dane has
enabled him to vindicate his claim to originality, which he has
modestly but completely done, in the appendix to the ninth
volume of his "Abridgment of American Law;" a vast work,
by which he has nobly paid that debt, which Lord Bacon de-
clared every man owes to his profession. From this vindication
we learn, that the provision against impairing contracts pre-
viously made, was entirely original. It has been copied from
this ordinance, which is encomium enough, into the federal con-
stitution, and into most, if not all of the state constitutions. In-
deed its vast importance, as a bulwark against retroactive and un-
just legislation, is too obvious to need comment. The same is
true of the provision securing to the Indians their rights and pro-
erty. This also, in 1802, was made the fundamental part of a
southern compact. The plan of government also was entirely
new. And the titles to property were more completely divest-
ed of their feudality, than any other in the Union were at that
time. This is of immense consequence, when we reflect that
titles to land, once taking root, are likely to be permanent, and
that in this case they were planted over four hundred thousand
square miles. They have taken root as was intended, and hence
Ohio's entire system of laws relating to real property, is far more
simple, certain, and truly republican, than any of the original
states enjoy. The slave article is not entirely original. Both
Mr. Jefferson and Mr. King had proposed something of the
kind. But their schemes were deemed by Mr. Dane imperfect,
because they admitted slavery throughout the whole territory
until 1800, and in some parts, for ever. This article as it now
stands, was not inserted in the ordinance as first reported, but
was added on motion of Mr. Dane. In the great debate on the
Missouri question, this ordinance was spoken of as a northern usurpation, especially the six articles of compact. But, as Mr. Dane remarks, the southern attempt to run it down would not do; for, as a western senator said in that debate, it had been the cloud by day, and a pillar of fire by night, in settling the country. Mr. Dane concludes his remarks by the following paragraph.

"On the whole, if there be any praise or any blame in this ordinance, especially in the titles of property and the permanent parts, which are the most important, it belongs to Massachusetts, as one of her members formed it and furnished the matter with the exceptions following. First, he was assisted in the committee in regard to the temporary organization, almost solely by Mr. C. Pinney, who did so little, that he felt himself at liberty to condemn this ordinance in the Missouri debate. Secondly, the author took from Mr. Jefferson's resolve of '84, in substance, the six provisions of the fourth article of compact. Thirdly, he took the words of the slave article from Mr. King's motion made in 1785, and extended its operation as to time and extent of territory, as above mentioned. As to matter, his invention furnished the provisions in respect to impairing contracts and the Indian security, and some other smaller matters. The residue, no doubt, he selected from existing laws."

We are unwilling to take leave of this part of our subject, without offering the homage of our profound admiration to the venerable man whose name is thus identified with the beginning of our history, as completely as was the name of Numa with that of Rome. But the Egeria who counselled Mr. Dane was no fabled goddess. He sought her, not in the shady grove, but in the recesses of his own clear, pure, and sagacious mind. We believe it has fallen to the lot of few men to have so little of the dross of prejudice or passion mingled with the refined gold of intellect. As a statesman, we have seen his judgment was unerring. As a lawyer, we know his learning to be immense. As a citizen, so blameless have been his private walks, that we have never heard that he had an enemy. We have alluded to his magnificent charities. Perhaps all our readers may not know that he is the benefactor who established the Dane Professorship of Law in Harvard University, of which Judge Story is the accomplished incumbent, and who has recently added the Dane Law College to the commodious and beautiful cluster of college edifices. From the eloquent dedicatory address of President Quincy, we extract the following part of his tribute to the founder; only regretting that we have not room for the whole:

"It was not necessary, in order to preserve the name of Nathan Dane, and transmit it with honour to posterity, that it should be associated with this great design and useful endowment. An undeviating course of faithful and strenuous labours, during a long life, had secured to him a reputation for skill, fidelity, and wisdom, in all the various social relations, private and public, which few had equalled, and still fewer excelled. His name was already associated intimately with the learning, talent, and virtue of the period in which he had been called to act. Independent of this foundation, the fabric of his character had been long raised, and, by enduring materials, cemented with the history and prosperity of his country."
We now proceed to notice some of the events of the early settlement of Ohio.

The first settlement was made at Marietta, on the 7th of April 1788, by forty-seven adventurers from New England, and chiefly from Massachusetts. They came under the auspices of the Ohio Company, who had purchased of government about a million of acres, at the price of two-thirds of a dollar per acre. This company had their first choice within this ample and rich domain, but unfortunately selected the poorest tract in its whole compass. An anecdote is told, which, if true, would seem to show that their shrewdness for once overreached itself. It is said that when the party arrived at Wheeling, on their way to the settlement, they met with Ebenezer Zane, afterwards the proprietor of Zanesville, and at that time familiar with the Ohio country. They asked his opinion as to the best place of location, and he in honest simplicity named several, either of which would have verified his recommendation. He did not, however, mention the tract about the mouth of the Muskingum. What could be the reason? Possibly he had an eye to it himself, and if so, it must be the best. The party at once took up their march, and without looking further, planted themselves there. The first judicial court was held at Marietta, in September of the same year, and it would be amusing to see a record of their proceedings. We may presume there were no actions of trespass for cutting down trees. This was the court for Washington county, which had been organized the July preceding. During the autumn, twenty families were added to them, thus making a snug little society. Though the land in their vicinity was bad for the western country, it was not worse than that which they had left; and they brought with them a spirit of enterprise which would make up for anything. Will the inhabitants of the sea-board believe, that before the year 1806, in this wilderness, at least fifteen hundred miles above tide water, ship building was carried on to a very considerable extent? such is the fact, although it has since been discontinued.

The next settlement was made in the Miami country, at Columbia, six miles above Cincinnati, on the 16th of November 1788, under the auspices of John Cleves Symmes of New Jersey, who had purchased from the government, for himself and others, about a million of acres, though, from difficulty in making the payments, it was finally reduced to a little over three hundred thousand. The price was the same as before, two-thirds of a dollar per acre; but the land was infinitely better. It is said that this was one of the places recommended by Zane to the Marietta settlers.

Cincinnati was settled the December following; the precise day is not certainly known, but we shall call it the 26th, for the
following reason. In one of the unpublished letters of Judge Symmes, which we have perused, is the following paragraph.

"On the 24th of December, Colonel Patterson of Lexington, who is concerned with Mr. Denman, in the section at the mouth of Licking river, sailed from Limestone in company with Mr. Tuttle, Captain Henry, Mr. Ludlow, and about twelve others, in order to form a station, and lay off a town opposite Licking. They suffered much from the inclemency of the weather and floating ice, which filled the Ohio from shore to shore. Perseverance, however, triumphing over difficulty, they landed safe on a most delightful high bank of the Ohio, where they founded the town of Losantiville, which populates considerably."

This town of Losantiville is now the city of Cincinnati. Limestone, the place mentioned above, is now Maysville; and as the presumption is, that they must have floated down in two days, we have ventured to date the origin of Cincinnati from the 26th of December 1788. As the time of year was within four days the same as that of the arrival of the Pilgrims at Plymouth, and as the weather is described as exceedingly inclement, we may fancy that their feelings and sufferings were not greatly dissimilar. The streets were laid out during the winter, and their courses marked on the trees, the whole being then a dense and heavy forest. What a revolution forty-three years have produced!

The sale of the section on which Cincinnati is laid out, was the second made within the Miami Purchase. We have been informed that the purchasers paid for it in land warrants which only cost them forty-nine dollars. How little did Symmes discern the future, when he sold this spot so cheap! We shall learn the reason from his letters before mentioned, of which we shall avail ourselves at some length; for it seems a pity that so much various and useful information, in regard to the first settlement of this most important section of Ohio, should pass into oblivion. Judge Symmes had once resolved, as he says in one of these letters, to write a short history of his efforts, but too many cares prevented him from executing it; and it is but right that his letters, which happily have been preserved, should now speak for him.

The name, Losantiville, first given to this town, is of singular derivation, or rather composition, and shows that one at least of the purchasers had made some progress in his humanities. It was invented by Captain Robert Filson, who was soon after killed by the Indians, and contains a kind of Mosaic description of the situation of the town. The L is the initial of Licking; os is the Latin for mouth; anti the Greek for opposite; and ville the French for town. These together make L-os-anti-ville, or, the town opposite the mouth of the Licking. This name, however, devised with so much pedantry, the town was destined soon to lose. On the 9th of January 1790, Symmes thus writes:—
 Governor St. Clair arrived at Losantiville on the 2d instant. He has organized this purchase into a county. His excellency complimented me with the honour of naming the county. I called it Hamilton, after the secretary of the treasury. The governor has made Losantiville the county town, by the name of Cincinnati, so that Losantiville will become extinct."

In all the letters subsequent to this, we uniformly find this name terminating with an a, thus, Cincinnata. This is probably the reason of the prevailing pronunciation, which our eastern friends find so much fault with. It seems that Judge Symmes had some critical scruples on the subject, for on the 19th of June 1791, he writes to his correspondent in New Jersey as follows:

"Having mentioned Cincinnata, I beg, Sir, you will inquire of the literati in Jersey, whether Cincinnati or Cincinnatus be most proper? The design I had in giving that name to the place, was in honour of the order of the Cincinnati, and to denote the chief place of their residence. And as far as my little acquaintance with cases and genders extends, I think the name of a town should terminate in the feminine gender, where it is not perfectly neuter. Cincinnati is the title of the order of knighthood, and cannot, I think, be the place where the knights of the order dwell. I have frequent combats in this country on the subject, because most men spell the place with t, when I always do with a. Please to set me right, if I am wrong."

It would seem from this letter that Judge Symmes was the author of this name, though the preceding letter intimates that it was the suggestion of the governor, and such is the general opinion of Ohio antiquaries. As to the manner in which the "knights" are spoken of, we have only to say, if this was the common style of the time, no wonder such a violent opposition was made to them.

The first court was held in Cincinnati in October 1791, and the first territorial assembly, under the ordinance, in September 1799. We shall here anticipate a little, and state the progress of its population in round numbers up to the present time. It was, in 1795, 500; in 1800, 750; in 1805, 960; in 1810, 3230; in 1815, 4000; in 1820, 9000; in 1830, probably 32,000. We venture to say, that the history of the world does not furnish one instance of a city built up thus rapidly, without any other agency than that of individual industry and enterprise. We look upon it as a phenomenon in the history of population. And what is more, we can, at present, perceive no reason why the increase should not be proportionate for the next twenty years.

It was never the intention of Judge Symmes and his co-proprietors that this should have been the spot for the city of the west: otherwise, he would not have sold it as he did. The site originally selected by him, during his first visit, was the old fort at the confluence of the Great Miami and Ohio. But upon visiting this spot in February 1789, immediately after a great freshet, he found it ten or fifteen feet under water. This must have been a sad damper, considering that Cincinnati was already sold;
though recent experience has shown that even that site is not too elevated for similar visitations. The spot next selected was North Bend, where the distance across the neck from the Ohio to the Great Miami is not much more than a mile. From this near approach the two rivers recede before meeting, so as to form a peninsula of about three thousand acres. The idea was to lay out the city across this neck, from river to river, and have the whole peninsula for a magnificent manor, to belong to the proprietors. “But upon examination, this neck was considerably broken with hills and small streams, in such a manner as to forbid the laying out of the city from the Ohio to the Miami.”

Being thus foiled a second time in his darling scheme, he balanced for some time between two spots. One was about three miles east of North Bend, on the Ohio; the other about the same distance north, on the Miami, twelve miles from its mouth. He inclined to prefer the latter; and though neither project ever amounted to anything, his arguments may interest the reader, as illustrating the notions then entertained of the future resources of this region. Under this impression, we shall make a considerable extract from one of his letters on this subject.

“I know that at first thought most men will decide in favour of that on the Ohio, from the supposition that the Ohio will command more trade and business than the Miami. I will readily grant that more trade will be passing up and down the Ohio, and many more boats constantly plying. But some objections arise to this spot, notwithstanding. You must know that a number of towns are building on the banks of the Ohio, from Pittsburg to Louisville, and even further down. Every one of these will be aiming at some importance. When a boat is freighted at any of the upper towns on the Ohio, unless the merchants in our city will give the Orleans price, or near it, the merchants of the upper towns will not fail to go down the river to the highest market. And as merchants will be stewed all along the Ohio, they will have the same advantage of navigation, in all respects, with ours. But a more important objection lies to this spot on the Ohio, from its distance from the Great Miami. The extent of country spreading for many miles on both sides of this river, is beyond all dispute equal, and I believe superior, in point of soil, water, and timber, to any tract of equal dimensions to be found in the United States. From this Egypt on Miami, in a very few years, will be poured down its stream, to the Ohio, the products of the country from two hundred miles above, which may be principally collected at a trading town low down on the banks of that river. Here no rival city can divide the trade of the river. I know well that the ‘Point,’ (the spot first selected,) would be best of all with regard to trade, was there to be found an eligible spot for a city; but this I pronounce to be impossible, unless you raise her, like Venice, out of the waters. Half an hour’s gallop from North Bend brings you to the city plat on the Miami. One mile’s portage is all the space which lies between the Miami and North Bend, where a sufficient number of merchants may and no doubt will settle, to command the share of trade on the Ohio.”

Such were some of the sanguine speculations of this enterprising man, at a time when there were not fifty inhabitants between the Miamies, when savages were prowling in all directions, and when he himself, as appears from another part of the same letter, had but just secured the shelter of a log house for himself and his family.
"We landed about three o'clock in the afternoon, and raised what in this country is called a camp; by setting two forks of saplings in the ground, placing a ridge pole across, and leaning boat boards, which I had brought from Limestone, one end on the ground, and the other against the ridge pole; enclosing one end of the camp, and leaving the other open to the weather, for a door, where the fire was made, to fence against the cold, which was very intense. In this hut I lived six weeks, before I was able to erect myself a log house, and cover it, so as to get into it with my family and property."

This presents an idea, though a very faint one, of the trials of a western pioneer, when the west was all a vast wilderness. But the want of a comfortable shelter was as nothing compared with the ever present danger from the surrounding savages. It was not till the decisive victory of Wayne, which resulted in the memorable Greenville Treaty of 1795, after Harmer and St. Clair had been successively defeated, with terrible havoc, and many a settler had fallen in secret ambush, that the pioneers could feel themselves, for one moment, secure against the most dreaded, because most merciless of all enemies. Judge Symmes repeatedly complains, in his letters, of the indifference of government on the score of defence.

"At Muskingum, about three hundred men were stationed, though that post was not to be named, in point of danger, with Miami. Whereas only one ensign and seventeen men were all the guard allowed me for the defence and protection of this slaughter house, as some in Kentucky were pleased to term the Miami Purchase."

And again:

"What will be the issue God only knows. I shall, however, maintain the ground as long as possible, illly prepared as we are. I can but perish, as many a better man has done before me. It will be but just, however, if we are to have no assistance, to advertise me thereof immediately, that we may all resort to one station, and make the best defence we can."

It is not our purpose to detail the ambuscades and battles which filled up the first six years of the history of this settlement. But there were some passages between Judge Symmes and the Indians, which in justice to him, as well as to the Indians, ought not to be omitted. He came to the west with a strong distrust of Indian integrity. So confirmed was his opinion of their faithlessness, that he says, "I do not promise myself much, though every tribe should promise every thing we request. We may talk of treaties as we please, but I am certain we must fight or leave the ground." Yet upon his arrival he seems to have resolved to deal justly with them; for he writes, "I met with one camp when up the Great Miami, but would not suffer them to be hurt, though they were in our power. This the Kentuckians thought unpardonable in me, but I was determined not to interrupt the treaty in the least." It would seem that the Kentuckians had always been disposed towards violent measures; for in a subsequent letter, Judge Symmes writes that some of them even threatened to cross the river, and put every Indian to death whom they should
find within the Miami Purchase. He adds, "I am very sorry that the people of Kentucky cannot enjoy equal peace and quiet from the savages; perhaps they might, if they would act as moderately towards them." It would seem from this, that the red men had improved upon acquaintance. In truth, we have always been of opinion, that the Indians are peaceably disposed until they have been provoked. We are not aware of an instance, either on this or the southern continent, where the first meeting between the white and the red men has not been of the most amicable and confiding character on the part of the latter. They have always been prone to consider us gods rather than men, until our behaviour evinced the contrary. If there be any exception, in the case of a first meeting, it is where rumour has anticipated the arrival of the whites, and told of the outrages they have elsewhere committed. At any rate, the conduct of the Indians in this region does not form an exception. For, some time before the arrival of Judge Symmes, the neighbouring Indians sent a deputation to the settlement at Columbia, stating their desire to live on terms of friendship with the whites, and for that purpose requesting an interview with Symmes as soon as he should arrive. This interview accordingly took place, and the following is the account which he gives of it. The Indians conferred through a white man who had resided many years among them.

"The chief, the others sitting round, wished to know how far I was supported by the United States, and whether the thirteen fires had sent me hither. I answered them in the affirmative, and spread before them the thirteen stripes, which I had in a flag then in my camp. I pointed to the troops in their uniform, then on parade, and informed the chief that those were the warriors which the thirteen fires kept in constant pay, to avenge their quarrels; and that though the United States were desirous of peace with them, yet they were able to chastise any aggressor who should dare to offend them. And to demonstrate this, I showed them the seal of my commission, (as judge), on which the American arms were impressed; observing, that while the eagle held the branch of a tree, as an emblem of peace, in one claw, she had strong and sharp arrows in the other, which denoted her power to punish her enemies. The chief, who observed the device on the seal with great attention, replied by the interpreter, 'that he could not perceive any intimations of peace from the attitude the eagle was in, having her wings spread, as in flight, when folding of the wings denoted rest and peace; that he could not understand how the branch of a tree could be considered as a pacific emblem, because rods designed for correction were always taken from the boughs of trees; that to him, the eagle appeared, from her bearing a large whip in one claw, and such a number of arrows in the other, and in full career of flight, to be wholly bent on war and mischief.'"

We should think it would have been difficult to answer this critique of the shrewd old chief, as, in sooth, we have never met with so good a one, not even excepting the humorous one of Franklin, in which he preferred the turkey to the eagle. However, the judge states that he succeeded in perfectly satisfying the Indians of the friendly dispositions of the whites; and he
concludes, "having lived chiefly at my expense, (nor was it a very small one, as they had whiskey at their pleasure gratis) for about four weeks, they took leave in the most friendly manner." This friendship continued until the Indians found themselves imposed upon by the avarice of the whites. The whiskey they bought froze before it reached their camp. This was surely most provoking. They had to pay forty buck-skins, worth a dollar each, and a horse worth fifteen pounds, for an old rifle. These and numerous similar impositions, related with just censure by Symmes, soon led to reprisals and recriminations, which finally broke out into open hostility, terminating only with the Greenville treaty. But the conduct of Symmes was throughout forbearing and humane.

Indeed the perusal of his letters, added to what we gather concerning him from tradition, has imbued us with respect for his memory. All the titles within this purchase are traced up to him, and he is justly accused of carelessness and want of method, in regard to his sales and assurances. But his heart seems to have been right. He did not enrich himself at the expense of the settlers, for he died poor. This indicates a freedom from avarice, to be credited against a lack of prudence, as unquestionably the means of a splendid fortune were within his control. If we take into view the very difficult sphere in which he acted, as the leader of a colony, obliged to consult his co-proprietors at home, surrounded by savages, almost neglected at first by government, and continually irritated and harassed by complaints from some and the defalcations of others, we shall be inclined to make allowance for all the alleged defects in his character and management. To the complaints of his co-proprietors, in 1795, he replies, relying on his own integrity, that he will employ his first leisure in writing a complete history from the commencement of the project, that every man concerned may have his due. He then indignantly asks—

"Who first formed the design, and in the adventurous search after distant lands sacrificed rest and peace? Who had endured toil, hunger, cold, and tempest, without shelter, in a wilderness, while exploring the country previous to the contract; and afterwards persevering for years, at the hazard of his life, not only from the elements, but from the surrounding hostile savages? Who has expended thousands of dollars in the project of establishing settlements in this country? Whose reputation as a man of sense and business would have been blasted, and who would have been inevitably ruined by the undertaking had that project failed and the bubble burst?"

To the charge of having used freedom with the name of a friend, he replies with dignity, and makes, as we think, a just discrimination.

"If it is to be understood, that where friendship or a disposition to serve a person exists and is avowed, it operates as a seal upon the lips of the person professing that friendship, I must acknowledge that heretofore I knew not the extent of that word. May we never call in question the conduct of the per-
son whom we regard? God is my friend, but he will never countenance my fail-
ings, though he may forgive them."

He became involved in a controversy with the governor, growing out of the arbitrary conduct of the latter, especially his putting Cincinnati under military government.

"Nor do the people," he writes, "find their subordination to martial law a very pleasant thing. A few days ago a very decent citizen from New England, as I was credibly informed, was put in irons, his house burnt by the military, and he afterwards banished from the territory. I have always had something in my nature, which was shocked at acts of tyranny, and when at that place, my eyes and ears are every day saluted with more or less of those acts which border hard upon it."

Yet he did not on this account refuse to accompany St. Clair in his disastrous campaign. The following is his account of the matter.

"Not long since I made General St. Clair a tender of my services on the expedition against the Indians. He replied, 'I am very willing you should go, sir, but by — you do not go as a Dutch deputy.' I answered that I did not recol-
lect the anecdote of the Dutch deputation to which he alluded. His excellency replied: "The Dutch in some of their wars sent forth an army under the com-
mand of a general officer, but appointed a deputation of burgheers to attend the general to the war, that they might advise him when to fight and when to de-
cline it.' I inferred from this, that I should be considered by him rather as a spy than otherwise."

About three years after the purchase was made, there was a project before Congress to lower the price of lands, similar to that recommended by the present executive. We quote from the comment of Symmes, not only on account of the correctness of his views, but also to show his early assurance of the future greatness of the west. After enumerating his personal sacrifices and those of the settlers, and the importance of their exertions to government in enhancing the value of the neighbouring lands, he continues:

"And shall these considerations have no weight with government in our fa-
vour? But instead of favour, to which we are fairly entitled, are we to suffer a real loss of property, by bringing our certificates forward at an early day in aid of government, and pushing forward to make settlements, when others more in-
terestedly tardy, griped hard their certificates, and less patriotically bold and adventurous to extend the empire of the United States, and reclaim from savage men and beasts a country which may one day prove the brightest jewel in the regalia of the nation, sat quietly by their own fire-sides, until the United States, at the expense of half a million of dollars, should in a great degree have subjugated the hostile Indians, and now step forth and seize the prize at one third of the prime cost of ours? Is that what you call fair?"

We now take leave of the correspondence of Judge Symmes, and the history of the Miami Purchase. To a charge of having allotted a disproportionate space to this part of our subject, we should plead guilty; but offer in justification, the vast con-
sequences which have grown out of these beginnings; and the fact, that the character and opinions of the Pioneer to whom this por-
tion of the country owes so much, have not hitherto, to our knowledge, been brought before the public.

Of the settlement of the other portions of the state we need say but little. No lodgment was made on the Lake until after the ratification of the Greenville treaty. But from this epoch, all danger being now removed, and the cheapness of the land and its unrivalled fertility being then widely known, its rapid settlement became a matter of course. How rapid this was, will appear from the following statement of the population of the state at different periods, in round numbers. In 1790, 3,000; in 1800, 30,000; in 1810, 231,000; in 1820, 581,000; in 1830, 937,000. Thus it appears, that during the first ten years the population multiplied itself ten times; in the second ten years, seven times; in the third ten years, nearly two and a half times; and in the fourth ten years, nearly twice. That it will double in the next ten years we have no expectation; for the field is widening apace, in which emigrants may choose their locations, and a smaller number will of course fall to Ohio's share. But when we consider that the old world is sending off its inhabitants in swarms as from a hive; that there are six millions of acres within her borders not yet disposed of; that her taxes, owing to the completion of her canals, and other obvious causes, will now rapidly diminish; while the various inducements to settlement, arising from her stupendous public works, her improved systems of education, her extensive commercial intercourse, her various manufacturing establishments, and the enterprising character of her population, will be as rapidly increasing; when we take these things into view, we cannot believe that her increase for the next ten years, will fall much short of the proportion for the last. These various suggestions, however, will be enlarged upon before we close. In the meantime, a few more historical facts demand our notice.

The first territorial legislature under the Ordinance met at Cincinnati in September 1799. From the adoption of the ordinance down to this time, making a period of twelve years, the temporary provisions of the ordinance were in force, and the laws by which the territory was governed, were such as the governor and judges adopted from the original states, with the approbation of Congress. That these laws, adopted at different times and from different states, though chiefly from Massachusetts and Pennsylvania, should have formed an ill-assorted, disjointed, and heterogeneous system, if system it could be called, full of omissions and inconsistencies, will not be matter of wonder. But the evil was not extensive, for it operated upon but few; and the territorial assembly applied an immediate remedy, by repealing nearly the whole. Their substitutes had the merit of a closer connexion and correspondence, but owing to haste and inexperience were
still very deficient. This period, during which the territorial legislature existed, is called the second grade of territorial government. It continued but three years. For on the 30th of April 1802, although the population was then only about thirty thousand, Congress passed an act authorizing the call of a convention to frame a state constitution. On the 1st of November following, the convention met at Chillicothe, framed the present constitution, and adjourned on the 29th of the same month. Thus in fourteen years from the first settlement, Ohio became a member of the Union. From this time her history is summed up in one word, onward. We shall therefore proceed to submit a few observations on the leading provisions of the constitution, to which no amendment has yet been made.

One excellent feature is, that the House of Representatives can never exceed seventy-two in number, nor the Senate thirty-six. If the maxim be good in the main, that in the multitude of counsellors there is safety, yet legislative experience proves it can only be that safety, which Rome obtained through Fabius, namely, delay. Faction and intrigue may perhaps operate with greater facility in such small bodies; but as a compensation for this, the legislature can always act with despatch, and cannot become a mob.

The governor has no negative upon the acts of the legislature. This is a departure from the ordinance, which in the main, the constitution has followed as far as practicable. The reason of this is said to be, that Governor St. Clair exercised his veto prerogative so frequently under the ordinance, as to disgust the people; and they concluded that the liability of such a power to be abused, was greater than the probability of deriving benefit from its exercise. They therefore excluded it from the constitution. And the only way in which the governor can prevent the operation of laws, is by the prerogative of pardon. This he exercises most liberally. Governor M'Arthur, in his last message, assigns the following cogent reasons. "Many of the convicts have been pardoned, more frequently for the purpose of making room for the reception of others, and to save expense to the state, than for any just claim they may have had on executive clemency." For the credit of the state we are sorry this could not be kept a secret. But the frankness of the late excellent governor would expose it.

The governor has, with some trifling exceptions, no appointing power. All public officers are elected, either by the legislature or the people. If asked, what power then the governor has, we are constrained to say that it comes exceedingly near to being no power at all: and as economy seems to have been the guiding star of the convention, we almost wonder they did not dispense with this officer altogether. However, it sounds well to have such an appendage, and only costs one thousand dollars per
year. Not much less than this would pay the clerk hire for making out commissions and pardons, which are now the chief civil functions of the governor.

The ordinance did not admit universal suffrage, but the constitution in effect does. Under the former, a freehold in fifty acres of land was necessary in order to be an elector, and in two hundred, in order to be eligible. But now the constitution only makes it necessary that an elector should have paid or been charged with a state or county tax. Practically, this amounts to universal suffrage, so far as property is concerned; for the fact of having paid a tax is presumed, and the only questions made at the polls are, as to age, citizenship, and residence of one year. Precisely the same is true of eligibility to office. They have no poll-tax, the constitution having declared such tax to be "grievous and oppressive." But as every kind of property, and many occupations are liable to taxation, and as almost every man is willing, though he have no property, to pay something in the way of tax, for the right of voting, it may be laid down as a fact, that property does not enter into the right of suffrage in Ohio. And we add, in this connexion, that her elections are determined by pluralities, and not majorities. Hence, although when there are several candidates, the person chosen may be the choice of a very small minority, yet we are bound to presume from the fact of his having most votes, that he is the most worthy. Besides, they are saved the trouble of several fruitless attempts, which is so common where majorities are required. On the whole, therefore, the system of pluralities seems to be decidedly preferable.

The most objectionable part of the constitution is that which relates to the judiciary. It would be hardly possible to make it worse by any degree of ingenuity. First, all the judges are elected by the legislature; which opens a wide door for party and political bias. Secondly, they are elected for only seven years; which subjects them to the possibility of a removal without cause, impairs their independence, if they wish for a re-election, and takes away the strongest of all motives for severe study to accomplish themselves for their high functions. Thirdly, there are too few judges of the Supreme Court, and too many of the Common Pleas. The state is divided into seventy-three counties. The Supreme Court must be held once a year in each of these counties by two judges, and there are only four to perform these enormous duties. Add to which, the whole four must hold a court in bank once a year at Columbus, to decide all difficult questions, as a court of last resort. But the opposite defect exists in the organization of the lower court. For the state is divided into nine circuits, having one president judge for each circuit, and three associate judges for each county; making in
all, two hundred and twenty-eight judges of the Common Pleas. Lastly, the salaries are much too small, though this is not the fault of the constitution. The supreme judges have only twelve hundred dollars per year, the president judges of the Common Pleas, one thousand per year, and the associate judges, two dollars and fifty cents per day. Hence it is clear that a good lawyer cannot accept either of these offices without a pecuniary sacrifice. That the state now has an excellent supreme bench, can only be ascribed to the public spirit of the incumbents. As to the Common Pleas, as a court of law, the less we scrutinize it the better. Very few of the associate judges make any pretensions to legal information. On this topic of the judiciary, much might be said, for it is by far the greatest evil under which Ohio labours. But we must leave it with the remark, that she can never hope to see her judicial decisions of permanent authority at home, nor her reports received with respect abroad, until a thorough change takes place in this branch of government.

In the eighth article is contained the Bill of Rights, and we know of no constitution which has gone further in erecting barriers for the security of persons and property. It begins with the assertion, "that all men are born equally free and independent." This we think a decided improvement upon the phraseology of the Declaration of Independence, which asserts "that all men are born equal;" for the former is literally true, while the latter is literally false, although no doubt true in the sense intended. It prohibits slavery pursuant to the compact in the ordinance, and declares that the constitution shall never be so altered as to admit that evil. It authorizes the people to instruct their representatives. It adopts and amplifies the humane doctrines of the ordinance, in regard to crimes, punishments, and bail. On the subject of religion and education, we shall quote its language.

"Sect. 3. That all men have a natural and indefeasible right to worship Almighty God, according to the dictates of conscience; that no human authority can, in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; and that no preference shall ever be given by law to any religious society or mode of worship; and no religious test shall be required as a qualification to any office of trust or profit. But religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of instruction shall for ever be encouraged by legislative provision, not inconsistent with the rights of conscience."

We presume these principles will find a response in every republican bosom. And we are equally proud of the language used on the subject of the press, which we shall also quote.

"Section 6. That the printing presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer; and no law shall ever restrain the right thereof. Every citizen has an indisputable right to speak, write, or print, upon any subject, as he thinks proper, being liable for the abuse of that liberty. In prosecu-
tions respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases."

The last clause in this section seems to be superfluous or unmeaning. But the spirit of the whole section is excellent. We shall allude to but one point more, and that is the right of incorporation. We have never seen it carried so far. The words are: "Every association of persons when regularly formed, and having given themselves a name, may be entitled to receive letters of incorporation, to enable them to hold estates real and personal, for the support of their schools, academies, colleges, universities, and for other purposes." Taking this language literally, we should suppose it gave the legislature no discretion on the subject of incorporations, so far as relates to the holding of property. But we believe that, in practice, as much discretion has been exercised here as anywhere else.

From the view now presented, we think it will be evident that the constitution of Ohio is an experiment to ascertain the minimum of power necessary for government. It was framed at the precise moment when approbation of a strong government began to be held a reproach. Mr. Jefferson had just come into power, and his popular notions on the subject are presumed to have had a very decided influence over the convention. Favourite as he was in Ohio, it would be singular if this had not been the case. But, however this may be, the truth is clear, that the constitution aims at governing as little through public agents, and as much through the immediate action of the citizens in their primary capacity, as the nature of a representative government will admit. Scarcely any thing is left to individual discretion, because that discretion might possibly be abused. And if the excellence of a government is to be tested by the prosperity which exists under it, the government of Ohio would seem to be inimitable. But it may be said by one disposed to find fault, that the cause of her prosperity lies deeper than the constitution; that it springs from the soil itself, and the hardy character of those who cultivate it; and, therefore, that as she must have flourished in spite of a bad government, the test of prosperity is a fallacious one. Be it so. We have stated the facts, and we leave our readers to draw their own conclusions. They will probably think, with her most intelligent citizens, that her constitution might be amended with advantage. We cannot suppose that it entered into the minds of its framers, when they adapted it to thirty thousand inhabitants scattered thinly over an immense tract of country then just beginning to be disforested, that it would, without any alteration whatever, control the destinies of
a million, engaged in all the various pursuits of agriculture, commerce, and manufactures. But so it is, and there seems to be little prospect of a change. To all that can be urged in favour of reform, the ready answer is, "let well enough alone." Even those provisions relating to the judiciary, which we have mentioned as most objectionable, form the strongest obstacles to amendment; for under the present arrangement, every respectable farmer or mechanic may expect to reach the dignity of judge, without that toilsome novitiate which lawyers elsewhere are compelled to go through. Considerations like this, together with that deep reluctance which men always feel, when it is proposed to disturb the foundations of government, will probably postpone to a distant day the chance of constitutional reform.

We shall now submit a few remarks on the spirit and leading features of the civil legislation. As mentioned in the beginning of this article, we have on a former occasion glanced at the subject of criminal legislation. We then stated that no common law was recognised in Ohio in regard to crimes. But owing to the vast diversity and complexity which belong to the nature of property, it would be nearly if not quite impracticable to make it depend exclusively upon statutory provision. We know that there are men, of high authority too, who are perfectly sanguine in the belief that a complete civil code is a feasible thing. We have no time nor disposition to argue this point; but we have never heard of the man or men, whose accuracy or sagacity we should be willing to trust so far as to consent that all our civil rights should be decided by the best code they could frame, though they should devote their whole lives to the task. Not that we by any means believe the common law to be all sufficient, though it do comprise "the gathered wisdom of a thousand years." We incline to the golden mean in this momentous matter. We would adhere to the common law, but not blindly. We would trim and prune the old tree, and engraft new scions in abundance, but not cut it down and plant a new one. We would take the common law, to borrow one of its phrases, without impeachment of waste. We would use the privilege of indefinite alteration, but not extirpation—and this has been the doctrine of the legislators and judges. The common law is authority in Ohio in all civil cases, where the statutory provisions have not, either expressly or by implication, provided a substitute. But in this respect, they entertain no very deep-rooted reverence for established forms, nor a very strong antipathy to innovation. On the contrary, they think it quite self evident that maxims and principles, which either originated in accident or abuse, or in times so dark and remote that we cannot penetrate their reasons, must be prima facie susceptible of improvement, if there be any truth in the boast that mankind are growing wiser. On
this belief, they have constantly practised. And we shall specify some of the important particulars in which reform has been introduced into the law handed down by their ancestors; enough at least to show, as already intimated, that the most odious badges of feudality, which have clung so inveterately to the system in all its vicissitudes hitherto, have been torn off in Ohio with no timid hand.

The title to real property is of the simplest nature that could be conceived. It consists of possession and the right of possession. Where these are separated they can be united by the action of ejectment. There is no other action for trying the title to land. *Real actions*, as they are technically called, are unknown in Ohio. The people acknowledge no *jus proprietatis* which can be asserted any time within sixty years by *writ of right*. Twenty-one years is the only limitation, with the addition of ten more in cases of disability. This is certainly a most important innovation, and will preserve them from that most vexatious and perplexing kind of litigation, which arises from dragging forth to light long dormant claims. The *Astor cases*, for example, will never be repeated in Ohio.

The English doctrine of *seisin*, with its endless refinements and abuses, is altogether eschewed. If a man has had land properly conveyed to him, though he has never been within a hundred miles of it, it is his to all legal intents and purposes; and he may assert his claim to it by action, convey it by deed or will, or transmit it to his heirs, as well as if he had been in actual possession of the land, or received the twig and turf from the hands of his grantor.

The English Statute of Uses, with all its troublesome refinements, is not recognised. *Trust estates* stand on their original foundation. If a man chooses to vest the legal title in one and the use in another, the law effectuates his intention. And thus a careful ancestor has the simplest possible method of preventing his estate from being squandered by an improvident heir. Nothing is retained of this famous statute, except one of the forms of conveyance to which it gave rise, namely, that of bargain and sale. This simple form was established by the ordinance, and the people are burthened with no other. Every man who can write, might, with a very little trouble, become his own conveyancer. In short, simplicity has been the grand aim of all the legislation respecting real property.

Ohio admits no tying up of estates by way of *entailment*, whereby a whimsical old miser may live long after he is dead. No man can limit the destination of his property further than to such persons as are in being at the time, and their immediate issue.

No distinction is known between joint tenants, tenants in com-
mon, and tenants in parcenary. All who have joint interests, are tenants in common. Here again simplicity has gained the mastery over technicality, and a hundred avenues to litigation are at once closed up. Let the tired student at law declare how much space in his memory is hereby saved for weightier matters.

Aliens are admitted to the same rights and privileges, in all respects, in regard to real property, as citizens. A freehold in the soil is given them the moment they choose to have it. In this respect, no country is known but the great globe itself. The situation of Ohio prescribes this rule. With millions of vacant acres around her, it is important that she should hold out every inducement to the stranger to take up his abode with her; and what stronger inducement can be offered than an unrestricted interest in her fertile soil?

In regard to the widow’s dower, her tabulum in naufragio, if she chance to have a reckless husband, she is not stinted to her one third of the lands of which he was seised by a legal title during the marriage; but in addition, one third of every equitable interest which he had in lands at the time of his death is given to her. And as to the personality, she gets the whole after the debts are paid if there be no children; otherwise one half, unless such residue exceed four hundred dollars; then one half of the first four hundred, and one third of the remainder.

Nor does the legislative gallantry stop here. Every female is privileged from arrest for any debt or demand arising from contract. In this respect females are placed on the same footing with the officers and soldiers of the revolution.

On the subject of marriage and divorce, too, Ohio claims to be extremely liberal. Males of the age of eighteen, and females of the age of fourteen, who are not nearer of kin than first cousins, are permitted to marry. And if males be of the age of twenty-one, and females of the age of eighteen, no consent but their own is required for the union. But should the luckless pair, after experiment, find that they had mistaken each other, and become the advocates of disunion, the law compassionates their case, and grants them an absolute divorce on much easier terms than they could obtain it in England. For besides what would be held sufficient grounds there, for an entire severance of the nuptial tie, wilful absence for three years, extreme cruelty however manifested, or imprisonment in the penitentiary, is held as likewise sufficient. Of the policy of thus increasing the possibilities of divorce, we leave each one to form his own opinion. So far as our observation extends, we do not perceive that marriages are thereby rendered less happy while they continue; and certainly the heart of many a luckless spouse must be gladdened
at escaping from a galling yoke, who must have borne it till death under the English law.*

In regard to improvements made on land to which the occupant supposed he had a good title, but found himself mistaken, the cruel principle of the common law has been discarded. It is held that these improvements belong to him who honestly made them, and not to him who recovers the land; and the latter has his choice, either to take the land and pay for the improvements, or be paid for the land, and give up his claim. It is difficult to conceive of a more equitable and salutary reform.

The legal rate of interest is six per cent., but there is no law against usury. The intention of the law is to provide a rate of interest, where the parties have not provided one, and not to restrain them from contracting for themselves. This proceeds upon the simple and manifest truth, that individuals are as capable of estimating the worth of money, as of land or any other commodity. But the statute is so worded, that only six per cent. can be recovered as interest on the face of the contract. But in lending money, this difficulty is always obviated by including the interest with the principal in the note, or taking separate notes. For so long as it does not appear on the face of the note, that more than six per cent. is allowed, the question cannot be raised. And, in fact, the average rate of interest in the more populous parts of the state, is seldom less and often more than ten per cent.

Probably our Eastern brethren may have some interest in knowing what facilities creditors have to collect their debts under the laws of Ohio. We are compelled to inform them that these facilities are few. The legislators seem to have considered the debtor as a very unfortunate person, whose case should be compassionated as much as possible. The presumption being, that, as between debtor and creditor, the debtor is the poorer man of the two, there are divers means provided by which he may escape the usual consequences of his situation. It was a saying of Franklin, that he who runs in debt to another, gives him power over his liberty. This is literally true in some of the states, but not in Ohio. You cannot there confine a debtor one hour in prison, if he is willing to take the benefit of the insolvent act; and very few hopeless debtors are averse to this step. But should any one choose to go to prison, rather than give up his property as that act requires, he may have the privilege of ranging through the whole town or city in which the prison is situ-

* Since writing the above, a bill has been brought before the legislature, which proposes to do away with the prescribed causes of divorce, and leave the question entirely to a jury. This would be running to the other extreme; and we hope, that the present law, which forms a just medium between the extremes of severity and laxity, will be suffered to continue.
ated; such being the liberal notions of the lawgivers on the subject of prison limits. "But," says the creditor, "if I cannot proceed against the person of the debtor, I surely may against his property." Not so readily, we answer. You cannot, as in many of the states, attack property in the first instance, and hold it for security until you can obtain judgment. You can do this only in the case of an absent or absconding debtor. In no other case can you obtain any hold of your debtor’s property until you have recovered judgment against him. Now, in the ordinary course of things, unless he is so accommodating as to confess judgment, you cannot obtain it in less than eight or nine months; and should he take it into his head to appeal, this judgment will not avail you under twelve or fifteen months. In the meantime, your debtor, provoked no doubt by the commencement of a suit, unless he have some scruples of honesty to prevent him, will probably make over his property so as to prefer other more polite and accommodating creditors, or turn it into cash and pocket it, or both, as the case may be, and then put you at defiance. Mortifying as the confession is, truth compels us to say, that this is often done, and as the laws now stand, there are no means of preventing it. The creditor is completely in the power of the debtor, instead of the reverse. Attempts have been recently made, but without success, to procure the interference of the courts of chancery. It was thought that the doctrine of preferring creditors, though unfortunately sanctioned in courts of law, could not find favour in courts of equity, because there the maxim is, that equality is equity. But while the court of chancery expressed in strong language their abomination of that principle, by which one man might give a credit to another, so as to enable him to obtain the confidence of strangers, and having thus furnished the means of extensive fraud and imposition, be nevertheless entitled to a preference, in case of the insolvency of the latter, on the ground that his debt is what is termed confidential; yet the court considered itself as bound by precedent not to interfere, by way of injunction, against making such a preference. We leave this topic, with the remark, that while we would never vote for imprisonment for debt, on account of its glaring inhumanity, yet we would most heartily vote for a bankrupt law, which would compel the debtor to treat all creditors alike; and if we could not have this, we would in all cases allow creditors to proceed against the property of their debtors in the first instance.*

* Since writing the above, we rejoice to learn that the Court in Bank have decided a case which goes far towards breaking up all assignments made by insolvent debtors to prefer creditors. All we regret is, that this had not been done by the legislature instead of the court, because an act of the legislature could not have been retroactive in its operation. But a vast avenue to fraud is now shut up, if the decision goes as far as stated.
We shall now direct our attention for a moment to the resources and public improvements of the state.

The state of Ohio covers a surface of 40,000 square miles, or 25,000,000 of acres. About one-fourth of this immense quantity is yet in the hands of the United States, for sale at the minimum price of one dollar and a quarter per acre. Let some of our Eastern brethren, who are delving among rocks, or upon worn out and barren lands, which nevertheless cost from five to ten times as much, ponder upon this fact. In the meantime, we should be unjust to the liberal spirit always manifested by Congress towards this state, if we did not glance at the munificent donations which have been made for public purposes. We shall state the quantities in round numbers.

1. One thirty-sixth part of all the land within the state, has been given for the support of schools—say 700,000 acres.
2. Three entire townships, each six miles square, have been given for the endowment of colleges. Two of these belong to the Ohio University at Athens, and the third to the Miami University at Oxford—say 70,000 acres.
3. The salt lands within the state, at first reserved by Congress from its sales, have been given for literary purposes generally, at the discretion of the legislature—say 27,000 acres.
4. One thirty-sixth part of the land in the Ohio Company’s and Symmes’s purchase, has been given for the support of religion, without distinction of sect—say 35,000 acres.
5. For the construction of two important roads, one from the Maumee river to the Western Reserve, and the other from Columbus to Sandusky, a donation has been made of about 91,000 acres.
6. For the construction of her two canals, a donation has been made of about 840,000 acres.

The aggregate of all these donations to the state, for the above important purposes, is 1,763,000 acres, or about one-fourteenth part of the entire surface of Ohio. Also, by a compact made with the state, at the time of being admitted into the Union, Congress stipulated to allow five per cent. of the nett proceeds of the sales of public lands within the state, for the construction of such roads as Congress should assent to, and three per cent. for the construction of state roads generally, without reference to Congress; making a total of eight per cent. on the nett proceeds of the public lands, for internal improvement. But this is burdened with the condition, that the public lands should be exempted from taxation until five years from the time of sale. And, therefore, so far from gaining any thing by this arrangement, it may be doubted if the state has not been greatly a loser. By the compact in the ordinance, as we have seen, the state had
already precluded herself from taxing the public lands until they were sold by government. But this exemption for five years more, was another matter; and it has annually deprived the state of a large source of revenue, for which, though we have not the means of settling the question, we have little hesitation in saying the above allowance does not furnish an equivalent. However, she assented to the compact with her eyes open, and has no right to complain. The generosity of Congress on all other occasions should put a seal upon her lips.

Here it is also proper to mention, that besides the above donations to the state, Congress has made donations of lands within the state, to individuals and associations out of the state, for reasons which we have not time to detail, to the amount of about 2,700,000 acres. These donations have been of immense benefit to the state in the increase of its population. And if we add them to the preceding aggregate, we shall find that Congress has actually given away 4,463,000 acres of its lands within the state of Ohio, or almost one-fifth part of its entire surface.

For several years the land above appropriated for common schools, was leased by trustees appointed for the purpose, and the proceeds expended in the payment of teachers, without any regular plan. But the year 1825 was signalized by the commencement of a most bold and beneficial course of legislation, which will cause that year to be long remembered as an era in the history of Ohio. For some time previous, efforts had been made by the friends of education, particularly those who had emigrated from New England, to establish the system of Free Schools. We have seen that both the ordinance and the constitution enjoined this as a duty. But the opposition was too strong to be overcome by any appeals. The popular answer to all arguments was, that education, like religion, ought to be a matter purely of individual concern; that if men chose that their children should grow up in ignorance, they had a right so to do, since the worst would be their own; and that if they chose otherwise, they might provide schools at their own expense. It was unfair that others should be compelled to help them. At length, however, by a process which is denominated log rolling, in the west, this great project was triumphantly carried in conjunction with another. The glorious success of the canal policy in New York had induced many of the leading citizens to wish for the establishment of the same system in Ohio; but this project also had not friends enough to carry it by itself. A coalition, therefore, was effected in 1825, between the friends of free schools and the friends of canals, by the strength of which all opposition was borne down, and both these great measures were effected in the same session of the legislature.
The mind instinctively pauses for a moment to dwell upon the sublime moral spectacle of an infant state, thus boldly entering the lists with the mightiest, to contend for the palm of public improvements. Having no present means, but relying on her future prospects, and confidently assured that a draft on posterity would be promptly answered, she threw herself upon her credit with the world, and provided for borrowing funds sufficient to accomplish her vast undertakings without delay. The debt she then contracted now amounts to a little less than five millions of dollars. The spade was at once applied; anon boats were seen plying on portions finished; and now, the whole length of navigable canals within the state is four hundred miles. Before she obtained from art this rich accession to her water privileges, she had already received from nature an inheritance which the world might have envied. On the north she had Lake Erie, on which navies may ride; on the south, the beautiful Ohio uniting her with the ocean, and in the interior a number of rivers which would elsewhere be called large. And to all this she has now added the above vast extent of canals. So that now there is no hazard in the assertion, that no spot of the same extent on the face of the globe contains greater facilities both for internal and external communication. We say nothing of the numerous turnpike and rail-road companies which have recently been incorporated, and some of which have made considerable progress in their works, because were they even now completed, much as they would add to the public accommodation, they would dwindle into insignificance by the side of the two canals. But it is proper here to state that the length of post roads in Ohio is now 8,060 miles, and the annual amount of mail transportation within the state is 1,739,985 miles. As, however, she desires to leave no false impression, she must admit that her roads are for the most part exceedingly bad. Her soil is too rich to furnish gravel, and without Macadamizing, she cannot make good roads. This she is beginning to do.

Perhaps some of our readers may be curious to know how the credit of Ohio sustains this experiment. We answer, that if they will consult the prices current either of the Eastern states or of Europe, they will find Ohio canal stock quoted at twenty-nine above par. And the message of her governor informs us "that the commissioners of the canal fund have very recently disposed of 100,000 dollars of additional 6 per cent. stock, at the rate of 124 dollars cash, for 100 dollars; making the whole amount received 124,000." And as the gross amount of tolls received during the last year, when a considerable portion of the principal canal was not completed, exceeded 111,000 dollars, we may safely predict, not only that her credit, should it be necessary
to enlarge it, will increase with her increasing means; but that, without requiring much longer the aid of taxes, the tolls of themselves will, besides paying the entire interest of the debt, begin the foundation of a sinking fund.

As the canals and free schools came into existence by each other's aid, so, by subsequent legislation, they have been continued in fellowship. For instead of leasing the school lands, as was formerly done, provision is now made for selling them, where those interested will consent; and the proceeds constitute a permanent school fund, under the direction of the legislature, on which the state is pledged to pay the annual interest of six per cent. This fund, as fast as it accumulates, is expended upon the canals, and although recently established, its amount, as we learn from the governor's message, is already 435,000 dollars. What it may become, if judiciously managed, may be predicted from the fact, that the school lands, as already stated, exceed 700,000 acres; which, at the price of only five dollars per acre, (and many sections will bring more than that now), would amount to 3,500,000 dollars. It may in the end greatly exceed this amount. At all events, education is well provided for in future. At present, owing to the sparse population of many parts of the state, and the low price of school lands in the vicinity of the public lands; together with the fact that the legislature has not thought it prudent to levy a higher tax than three-fourths of a mill upon the dollar for the support of schools, or to allow the townships to levy any tax at all except for the construction of school houses; the free schools do not flourish as much as their sanguine friends expected. But the tree is planted, its roots are spreading, and ere long its golden fruit will be gathered in abundance by every son and daughter of Ohio.

Were it not for the interest to be paid on the canal debt, which, as we have intimated, will soon be more than paid by tolls, the taxes would be uncommonly light. For the government is as cheap a one, in all its parts, as could have been devised. Both houses of assembly include but 108 members; the highest salary in the state is but 1200 dollars; and there are very few even as much. Indeed the great error has been in making it too cheap. But, since 1825, the taxes have been so high, in consequence of the canal debt, that the most judicious friend of free schools would not have asked for their increase. It would have endangered, and perhaps destroyed the system altogether. As it is, the system is gaining popularity every year.

To illustrate the subjects and extent of taxation, we subjoin the returns for 1831, not having yet obtained those for 1832. The valuation of real estate was made in 1825; personal estate is valued every year.
### View of Ohio

**[March, 1831]**

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land, not including town lots, being</td>
<td>$40,738,554</td>
</tr>
<tr>
<td>15,587,441 acres, with the buildings</td>
<td></td>
</tr>
<tr>
<td>thereon</td>
<td></td>
</tr>
<tr>
<td>Town lots, with their buildings,</td>
<td>9,165,096</td>
</tr>
<tr>
<td>Horses, 195,540 in number,</td>
<td>7,821,600</td>
</tr>
<tr>
<td>Cattle, 332,510 in number,</td>
<td>3,060,080</td>
</tr>
<tr>
<td>Merchants' capital,</td>
<td>4,622,562</td>
</tr>
<tr>
<td>Pleasure carriages, 214 in number,</td>
<td>35,883</td>
</tr>
</tbody>
</table>

Making the total amount of taxable capital, $65,443,775

On this amount the following taxes were assessed:

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>For state and canal purposes,</td>
<td>$237,427</td>
</tr>
<tr>
<td>For county purposes,</td>
<td>256,241</td>
</tr>
<tr>
<td>For roads,</td>
<td>60,153</td>
</tr>
<tr>
<td>For township purposes,</td>
<td>47,462</td>
</tr>
</tbody>
</table>

Total amount, for all purposes, $601,283

This makes the rate of taxation in Ohio, for 1831, a small fraction over **nine mills** upon the dollar, or a little less than one per cent. For the year 1829, it was a small fraction over **eight mills** on the dollar.

In the above abstract we have not included a tax upon lawyers and physicians, which, in 1831, amounted to 1779 dollars. The law imposing this tax, provides that it shall be assessed in proportion to professional income, but shall not exceed five dollars. It has met great opposition, on the ground of being a **poll tax**, which, as we have seen, the constitution prohibits. But the Supreme Court has lately decided, as we believe correctly, that it is not a poll tax, and is constitutional. In the above abstract for 1831, the number of pleasure carriages is 214; in 1829 it was only 129; from which it would appear that luxury is making rapid strides among them, or rather that a feeling of wealth is fast becoming prevalent, when the vehicles of pleasure almost double in two years. Another fact worth noticing is, that the whole amount of landed property, as valued in 1825, being the two first items in the above abstract, is not quite fifty millions; whereas, in 1815, it was sixty-one millions. The intelligent reader need not be told that this is no proof that Ohio is not advancing in wealth. It only proves that money was vastly more plenty in 1815 than in 1825, and all kinds of property were estimated proportionally higher.

To show how much the taxes will be diminished, when the canals shall be able to support themselves, we take the following statements from the Governor's Message:
The total amount of interest due on the canal debt, for the year 1832, is about $285,000.

The nett amount received from tolls the same year, $104,302.
The proceeds of the lands granted by Congress for canal purposes, for the same year, 58,103.

Which, together, make $162,405.

Leaving, to be defrayed by taxes, $122,595.

This sum, taking the above valuation of 1831 for the standard, amounts to nearly two mills upon the dollar on the taxable property of the state; which is about two ninths of the entire public burthen, soon to be removed.

Our plan requires us to add a few facts in regard to the population of the state and the militia.

By reference to the census of 1830, we find the following results:

Free white males, 479,718
Free white females, 448,616
Free coloured population, 9,568
Slaves, 6

This statement makes the entire population 937,903. It shows the excess of free white males over females to be 31,097; a natural result, when we reflect how much more prone to emigration males are than females. And it offers to our fair Eastern sisters, this fact for their serious contemplation; that Ohio can furnish thirty-one thousand spare husbands. As to the free blacks, we wonder there are so many; for the laws hold them in no favour. Her position, by the side of slave-holding states, has compelled her to resort to severe legislation in self-defence, against this very worst kind of population. No negro or mulatto is allowed to settle in the state, without giving bonds, with good security, in the sum of five hundred dollars, for good behaviour, and against becoming a township charge; and any person employing a negro or mulatto who has not complied with this provision, is liable to a fine of one hundred dollars. This salutary, though severe law, is very seldom enforced, and hence the above large number of blacks. The disfranchising laws do not deter them from settling in the state. They cannot vote; they have no benefit from the free schools; and they cannot even be witnesses, in any case, civil or criminal, where a white person is a party. These laws are strictly enforced, and the last is peculiarly hard in its operation; yet still they come, and throng the prisons. Feeling themselves oppressed by the laws, they have few scruples against transgressing them. We speak now of the mass of blacks;
of course there are exceptions. As to the six slaves returned in
the census, we have only to say, that if there be slaves in Ohio,
they are voluntary slaves, which is nearly the same as being
free.

The whole number of militia, in 1830, was 116,000; in 1831,
126,000; and in 1832, 126,000. The reason of an increase of
10,000 in one year, and none the next, we know not, unless it
be that the militia system is fast depreciating in popularity. That
it is so depreciating all over the Union, except in South Carolina,
does not surprise us. As to the militia law of Ohio, we fully agree
with the new governor, Robert Lucas, who says, in his recent
inaugural address, "our present militia law is defective in all its
parts." On the score of moral tendency, we think it might be
easily made out, that the present militia system encourages in-
temperance, exposes the soldier to ridicule, cherishes false notions
of importance in the officer, leads to prodigality and extravagance,
and is used as a powerful political engine; but we shall not dwell
on these objections. On the score of expense, we think its evils
are most sensibly felt; and in proof of this, we submit the fol-
lowing facts and calculations.

There are in the state sixteen divisions of militia, and five
officers to each division, making the whole number of division
officers 80.

There are fifty-three brigades, and four officers for each bri-
gade, making the whole number of brigade officers 212.

The number of regiments we cannot state exactly, not having
the returns before us. But in a brigade, there cannot be less
than two, nor more than eight regiments. Taking four as the
average, we have 212 regiments; and there being nine com-
missoned, and four non-commissioned officers to each regiment,
we have, for the whole number of regimental commissioned of-
ficers, 1908; non-commissioned, 848.

For the same reason we cannot state the number of companies.
But in a regiment, there cannot be less than eight, nor more than
fifteen companies. Taking ten, which is less than the mean, to
be the average, we have 2120 companies. And there being three
commissioned officers, and ten non-commissioned officers to each
company, we have, for the whole number of commissioned com-
pany officers, 6,360; non-commissioned, 21,200.

The result is, that of the 126,000 enrolled in the militia, we
have, exclusive of the governor and staff,
Commissioned officers, - - - - - - - - 8,560
Non-commissioned officers, - - - - - - - - 22,048

Total of officers, - - - - - - - - - - - - 30,608
Leaving, for privates, in round numbers, - - - - - - - - 95,000
Now, passing over the ludicrous disproportion between officers and privates, to arrive at some conception of the enormous burden which this cumbersome system imposes upon the citizens, we submit the following estimates.

The uniform and equipments of all the commissioned officers, supposing a new set necessary no oftener than every five years, and calling the average cost of each set only thirty dollars, amount yearly to $51,360.

These commissioned officers are required to hold one officer muster of two days, and two company musters of one day, in each year, making in all four days; now, calling the time of each only one dollar per day, and the expenses half a dollar, the whole amounts to $51,360. Thus the aggregate yearly expense to commissioned officers amounts to $102,720.

Classing non-commissioned officers with privates in regard to expense, we have of both, in round numbers, one hundred and seventeen thousand. These are required to muster twice each year, or pay their fines, which for both days would be one dollar and seventy-five cents each. Taking this to be a little greater than the average value of their time, we may fix the latter at one dollar and fifty cents for both days. This, for the whole number, would amount to $175,500.

Supposing none of these to procure uniforms, (which many do), each must, at all events, have his musket and accoutrements, or pay fifty cents fine per year, which is probably less than the annual cost. But taking this for the annual cost, and allowing the same for the expenses of each at both musters, the whole would amount to $117,000.

We presume we have fixed each of these estimates considerably below the reality, and we have said nothing of the time and expense of spectators who throng to military shows, nor of the expenses of elections, treats, and the like. Yet, even upon this estimate, the aggregate expense incurred by the officers and soldiers of the militia, is $395,220, which is about two-thirds of all the taxes paid within the state. We should probably have been safe in calling it half a million.

And now the question arises, what good do they or the public receive in return for this enormous outlay? Would not every useful purpose be equally well answered by having the militia simply enrolled and officered, and arms provided for them in proper magazines? Does the discipline acquired by mustering amount to any thing? Ought not the expenses of defence to be a property tax, and not a personal or poll tax? As it is, do not those have to bear the burthen, who are least interested in the object? We have no space to discuss these questions, but they seem to answer themselves. And we leave the subject with de-
View of Ohio.

claring our sincere conviction, that the present militia system is a vast public nuisance.

We intended to state some other facts, but we fear to lengthen this article. We have confined ourselves to simple facts. If these evince an unprecedented growth already, and open boundless prospects for the future, there is nothing vainglorious in making them known. The subject of state resources and securities has recently assumed a fearful importance. There are dark omens abroad, which indicate that each state may yet be cast loose from the grand confederacy, and thrown for support and defence upon itself alone. Should so vast a calamity be laid up in store for this once happy country; should our Union, the envy of the world, be wrecked in the tempest of political excitement now gathering so fast; there will, at least, be some feeble consolation in knowing, that when the worst comes which can come, Ohio will have the materials for an imposing government within herself. But the dearest satisfaction of all will spring from the proud recollection, that during her brief but splendid career, she has never done an act or uttered a sentiment unfriendly to the Union, or tending to hasten the awful catastrophe. What would not some of her sisters give, in that hopeless hour, for a like solace? Oh, when the last throb of our matchless constitution shall have ceased, and the dungeons and palaces of tyranny shall be ringing with the shouts of fiendish triumph over the downfall of liberty, how unutterably bitter will be the consciousness of having inflicted the first parricidal stab! Let the last page in our history be thus written with blood, and what struggling patriot will ever dare to pronounce aloud the awful name of Freedom? The example of America, which had hitherto been a tower of strength to the cause wherever espoused, will then be its damnation. "She tried the experiment," it will be said, "under every earthly advantage, and utterly failed. At the moment when, in her giant strength, she could have defied the world in arms, her own children laid her low. Against their ingratitude she was not proof. With insatiable fury they tore her glorious limbs asunder, and she fell to rise no more. Tell us not then of the possibility of Freedom; if she was unfit for Americans, she is unfit for mortals. Let her never again be tempted from her native Heaven." Such will be the enduring consequences, all over the globe, of the great American Experiment, so auspiciously commenced, so disastrously concluded. We have said Ohio would have some consolation in the contemplation of her own resources. Alas, we almost retract the words. Of what use her canals, her turnpikes, her rivers, and her lakes, when they serve but to connect her with hostile communities? But the event is with Providence.
In every age of the world, the question has been asked and answered—what is human fame? Religion has turned from it; philosophy has pretended to despise it; and yet, while the earth exists, the heart of man will always swell with this darling aspiration. To Napoleon, present fame was the breath of life; remembrance hereafter was earthly immortality. In his estimation, glory was the broad line that distinguished our race from the brutes that live and die in the fields: and never was an end more amply attained, than that of him, who has rendered “all past eminence doubtful—all future renown impossible.”

The wonderful splendour of Napoleon is not to be compressed in its emanations. He closed the French revolution, because he united in himself all the genius and all the gigantic force of the masses, by which it was begun. Every thing that touches him is endowed at once with immortality; every individual swept along in his career, becomes at once the property of remotest posterity. Some of those thus brought to an unexpected trial, added personal reputation to the honour of their name; while others, says our author, with characteristic chivalrousness, “captivated hearts by sensibility and elevation of soul, carried to the loftiest extreme.”

Of the family of Napoleon, none has established a fairer claim to the admiration of mankind, than Hortense Beauharnais. It is doubtless owing to the very amiability of her character, and the retiring virtues by which it was marked, that less is to be found in print concerning her, than any other member of the imperial dynasty. We looked, in consequence, with particular interest, at this volume of Messrs. Colburn and Bentley, fondly believing that our wishes, as students of French memoirs, were about to be gratified.

We have now given the work its due share of consideration, and the result is disappointment. As Mémoires sur la Duchesse de St. Leu, it is a failure—in spite of its portrait, romances, et douze gravures. We will add, that unless both proceeded from the same pen, this publication is full of plagiarism from the “Mémoires sur la Cour de Louis Napoléon et sur la Hollande”—(Bruxelles, 1828), a livraison in the series of Mémoires contemporains.

The present volume appears anonymously; but, from a number of circumstances, it seems to be the production of Count De la
Pierre de la Garde, a writer who has already figured in print. This gentleman was an emigrant from France, and has resided many years in the Russian territories. He was the author of a number of romances or sentimental songs, some of which had attracted Hortense's attention, and exercised her talents in musical composition. In the year 1819, the count happened to pass through Augsburg, where he paid a visit to the ex-queen, and presented her with a collection of his writings. The reception was kind, according to the regular course of well-bred civility. A complimentary letter, pronouncing the verses received to be charming, was duly returned, with a selection from Hortense's own romances, illustrated by drawings from the pencil of the authoress. Such certificates were not to be lost. The letter is exhibited to the public in a very neat fac-simile; and the drawings are displayed in a copious appendix, reflecting high credit on the amateur talent that produced them. There is no intrinsic reason for believing that M. de la Garde ever saw or knew any more of his heroine than we have just described.

The deep interest attached to the daughter of Josephine, induces us to lay before our readers some account of her life and character, without regard to the deficiency of the material. In the attainment of this object, we are content to take our author for better or worse; giving him such help as other authorities have placed within our reach.

Hortense Fanny de Beauharnais was born at Paris, the 10th of April, 1783, when the nobility were still resplendent with that prosperity, which, according to our author, was the worthy reward of service done to the state, in arms or magistracy. "Paris had not yet learned to gaze enviously upon this elevated class, which was as pre-eminent by the elegance of its manners, as by the privileges to which it attached little importance." Those were indeed happy and honourable days; and when our author comes to describe their manifold superiorities, he is at no loss for a wellchosen specification. "Every young girl of family could then—not perhaps aspire to the throne—but at least flatter herself with the belief of rising to it without difficulty; Madame de Maintenon had shown that royal blood was not essential to the easy exercise of its power."

The father of Hortense was Alexandre, Vicomte de Beauharnais, a younger son of a noble family, and consequently a soldier. He served in the United States with distinction, as a major under Rochambeau, which of course made him "plus philosophe que courtisan," and "ready to hail in France that aurora of freedom, which he had already seen resplendent in America." As a philosopher, he was harnessed to the same cart with the Abbé Siéyès, at the feast of the Federation in the Champ de Mars; as a republican, he was the zealous opponent of all abuses, and
an advocate of reform. In 1789 he was elected to the States General by the nobility of Blois; but his votes were always with the third estate, and there were few members more popular and distinguished. He was president of the National Assembly at the time of the king’s flight, and acquired great reputation by his firm announcement of this important news. “Gentlemen,” said Beauharnais, “the king departed last night; let us pass to the order of the day.”

Beauharnais possessed some distinction as a military officer, which raised him to the chief command of the army of the Rhine, and the ministry of war. When the evil times of the revolution arrived, he resigned his various offices. The ex-vicomte had wooed liberty with the devotion of a true knight, and the impatient ardour characteristic of his country; but he was a man of honour and action, and disapproving the excesses of the day, he firmly resisted them. The close of his career was easily to be foreseen. In 1794 he perished on the scaffold, in the thirty-fourth year of his age, leaving two infant children, Eugene and Hortense, to the care of Josephine, who had just arrived with the latter from the islands of the West Indies.

In turning to these poetical shores, and to the infancy of his heroine, the muse of our author is at once inspired. “Under the burning sky of the Antilles, where the sun darts perpendicular rays, his influence is felt in the enlivened soul, and over the body, to which he imparts the soft Creole languor.” Of course Hortense is compared to l’intéressante Virginie; and though the episode in the Etudes de la Nature is declared to be an “ouvrage qui par la perfection de ses détails et le charme de son coloris, laisse si peu de chances de pouvoir l’imiter,” yet the author certainly does his best in noble rivalry. He must excuse us for passing over this and similar portions of his work. Our present business is with the plain details of prose, in preference to the flights of poetry, however inspired.

After the execution of Beauharnais, the suspicions of the terrorists extended to his widow. She was arrested, and continued in prison until the fall of Robespierre. Her unfortunate children remained in the charge of an old servant, whose means being unequal to her fidelity, Eugene bound himself apprentice to a joiner, and Hortense found employment with a linen-draper. The spirits of Josephine, under these accumulated misfortunes, seem to have been supported by a weakness not uncommon among French ladies, even of education and intelligence. She looked back with no little reliance upon the prophecy of an old Creole hag, which had promised her the throne of France. Our author seems to think that this “avenir si brillant” must also have occupied “la jeune Hortense.” “More than once she made it the starting point of those delicious dreams, which are courted
with equal affection by childhood, the flower of life, and age itself. Happier, doubtless, would she have been, if destiny had reserved for her a fortune less brilliant or less unequal, and if she had felt, in the morning of her years, all the truth of the wise motto she afterwards adopted—"little known, little troubled."

Whether her mother's liberation restored Hortense to these delicious dreams, we cannot undertake to say; but it certainly performed a more important service, in sending her back to her studies, which were now pursued under the direction of Madame Campan, at St. Germain.

The mention of this celebrated instructress produces an eulogy of her establishment and herself. Of course many points of resemblance are discovered between the former and the school of Madame de Maintenon at St. Cyr. It is true, that the one had "le Grand Roi pour auditeur;" but the other was compensated by "cet essaim de jeunes braves, qui jetaient déjà un si grand lustre sur les armes Françaises." This consolation was no doubt as grateful to the young ladies as to our chivalrous author.

Caroline Bonaparte, afterwards Queen of Naples, was Hortense's schoolmate at Madame Campan's; but no particular intimacy grew up between these celebrated ladies. Adèle Augié, the niece of the instructress, sympathized better with the heart of Mademoiselle Beauharnais; the friendship then commenced was unlike ordinary school attachments, and a whole after life proved its sincerity, at least on the side of royalty.

We have now arrived at the marriage of Josephine with the young heir of the revolution. Our author very correctly places this date in 1796; but he unluckily forgets that he had fixed Alexandre Beauharnais (p. 3) in full command of the army of the Rhine in 1797, which certainly might have produced an fâcheux contretemps. An error of less consequence is made in the age of Eugène, who was sixteen years old at the time of his mother's marriage. It must be confessed that belles dévise and noble sentiments might sometimes be exchanged with advantage for historical accuracy.

The fortune of Napoleon, whether in good or evil, was always gigantic, and its strides were proportioned to its magnitude. The 18th Brumaire brought his family as rulers to the Tuileries of the Grand Monarque. Hortense was now wooed by the wealthiest and most illustrious of France. Her education had been successful, and she added to the usual stores of information, a particular excellence in all those various "arts d'agrément," which, according to Madame Campan, are the ornament of the rich and the wealth of the poor. Her beauty was not pre-eminent in the gossip of Paris; but at the same time, she was far—very far—from the "Judicium Paridis, spretexque injuria formæ."
Her person was of the middle size, interesting and graceful: her features were not regular, but the complexion was of the most dazzling white, with light hair and expressive blue eyes. The turn of her mind was romantic and affecionate, though mixed with a degree of ambition and love of admiration. In conversation she was sprightly and full of intelligence. Hortense was in short the counterpart of Josephine in bodily and mental graces, with less levity, more sentiment, and more firmness of character.

M. de la Garde, after proper consideration, decides that the duty of loving according to political rules, must have been to Hortense a sad drawback upon all her grandeur. She had already distinguished the merit of "un caractère aventureux, une belle figure, une tourrure élégante et décidée. C'était M. de Paulo." This young noble realized the fancied pictures of "ces jeunes seigneurs si brillans de grace, de bravoure et d'urbanité, qui ne se forment qu'auprès des trônes." He was a fierce anti-republican, and had attracted public notice by stirring up the peasantry in the neighbourhood of Toulouse. Loyalty and his perfect good breeding—the dangers he had run and his fine person—were sufficient recommendations to a young heart like that of Hortense: more discretion was to have been expected from Josephine; but the feminine weakness of her character was prevailed upon, and she too was induced to encourage the scheme of matrimony.

There was still one person to be consulted before the course of true love could run smooth. The boisterous vanity of M. de Paulo displeased the First Consul, and the First Consul ruled over all France with a sway as undivided as was that of Rome in the famous year, Julio et Césare consilibus. A punishment was inflicted upon the hapless lover, such as no true Frenchman can ever contemplate with resignation—the same which reduced all the philosophy of Voltaire and De Staël to whining plaintiveness. In the cause of his king, (a thorough Vendean heartily hated la patrie,) M. de Paulo had braved death sur le champ d'honneur: now for a small love affair, republican tyranny exiled him from his dear Paris, even into the extremities of Languedoc.

Hortense never again saw this her first love. "Even if they had met," says her biographer, "maturer judgment would have confirmed the decision of the First Consul." Few young ladies who have differed with their guardians on such subjects, have ever ultimately come to any other conclusion: but the matrimonial knot is more easily regretted than untied. Our author, with his usual affection for the romantic, asks permission to believe that "the image of M. de Paulo presented itself at times to the imagination of Hortense; and that this vision of childhood disturbed the pomp of royalty, and increased the vanity of gran-
deur.” For our part, we have too high an opinion both of her good sense and virtuous self-discipline, to entertain any such impression.

According to Bourrienne, (it is proper to acknowledge the lack of authority,) Hortense had, about this time, another wandering of the heart, of which he was the well-selected confidant. Duroc, a gallant and distinguished officer, had quitted the ordinary line of the army, to be attached more immediately to the person of Napoleon. His temperament was cold and phlegmatic—his mind composed and full of reflection. To him, Hortense is said to have given her whole heart, though the feeling was returned with very unequal ardour. The First Consul consented to the proposed marriage, against the wishes of Josephine. Every thing appeared to be settled, including an ample provision for the young couple, when Duroc was informed that Bonaparte’s son-in-law was not to continue in the consular establishment, but must prepare himself for an immediate journey to a high command in the south. “He may keep his daughter, for me;” was the conclusion of the unromantic lieutenant, which changed at once all the destinies of Hortense.

The course of our history now introduces a most important personage. Louis Bonaparte, the third brother of Napoleon, was born at Ajaccio in 1778. Early in life he entered the military service, under the guardianship of his great relative, whose fraternal affection was worthy of all admiration. The character of Louis formed a striking contrast to his destiny. The dreams of Rousseau had deeply possessed themselves of his whole mind, and were the constant objects of all his aspirations. Sighing after the Utopia of perpetual peace—he was a soldier by profession. A lover of republicanism—he reigned as king. Disliking all pomp—he was the centre of a court’s ceremonies. Seeking quietness—he was carried away by all the torrent of political revolutions: and sincerely attached to his brother, he contributed to the first shocks which finally crumbled his greatness into ruin.

In some respects, the character of Louis was a contradiction to itself. He was romantic without ardour, and warm in his feelings though silently reflective. His was the romance that produces the novel rather than the hero. On one occasion, the mayor of a small town prefaced what was evidently intended for a long speech, with the complimentary commencement, “Young and valiant hero!” “Dear sir,” said Louis, interrupting him, “you mean my brother: I shall take care to inform him of your kind feelings.”

It would be unjust to omit in this sketch, the many good qualities for which its subject was unquestionably distinguished. He was a gallant soldier, and had even exhibited military talents; but his courage was of that negative character which is displayed
in a calm forgetfulness of self. He would brave every peril to
cover Napoleon with his body, or to carry the message of mercy
to an enemy infuriate with despair; but victory cheered him not,
and he gazed upon Napoleon's battle fields, as upon hecatombs
of human immolation. All his impulses were honourable; his
feelings of duty keen, even to sensitiveness. Placed in many
situations, Louis Bonaparte would have been happy in his life,
and admirable in his character; raised to royalty, he was morally
lowered and personally miserable.

It was said by Napoleon at St. Helena, that Louis and Hor-
tense were attached to each other at the time of their marriage;
and such was undoubtedly his impression. But there is every
other reason to believe that the union was really and solely effect-
ed by the management of Josephine. The wife of Bonaparte
already began to feel that her husband's destiny had placed her
above the race of valiant tacticos, who surrounded his consular
throne. On the other hand, the temporary sway of a republic
was not admitted to alliance with hereditary rule: and as the
idea of delay never enters the mind of a French mother with a
marriageable daughter, Louis Bonaparte was the only fitting sub-
ject for the match-making propensity. There can be little doubt,
also, that the desire to strengthen her influence in her husband's
family, had much to do with the eagerness of Josephine. In the
female character of her country, domestic manœuvreing is quite
consistent with suavity of disposition and generosity of heart.

According to one of the parties most deeply interested, the
plan of this marriage was vigorously pressed after the brilliant
campaign of Marengo. Louis had the highest respect for the
character of Hortense; but he declined from a clear perception
of the total dissimilarity of their dispositions; and a journey to
Potsdam was undertaken to avoid farther importunities. Upon
his return, the movements were renewed, which sent him, post
haste, to join the army in Spain under General Leclere. In Oc-
tober 1801, he was again in Paris, exposed to the indefatigable
applications of Josephine. One evening, at a ball, his sister-in-
law brought on a private conversation; Napoleon joined them—
consent was yielded in a moment of weakness—and on the fourth
of January 1802, the nuptial benediction was bestowed. "Never,"
exclaims Louis Bonaparte, "was there a more gloomy ceremony:
ever had husband and wife a stronger presentiment of all the
horrors of a forced and ill-suited marriage."

At this time, reports of the most injurious character were
abroad, in relation to the affection of the First Consul for his
step-daughter. In France they were chiefly kept alive by idle
gossip, without real reflection on the whole atrocity of the accu-
sation; but in England they were cherished as a part of that sys-
tem, which delighted to represent Napoleon as a monster given
up to the most violent and brutal passions. History has pronounced her judgment on the character of the age's hero; and we pass over these by-gone calumnies with all the contempt they so richly deserve. Louis knew how to appreciate them; though occasionally his self-love was so far piqued as to produce reproaches to his wife.

The taste and talents of Hortense were now more generally known to the world, by the publication of a collection of Romances composed by herself. The extraordinary popularity of these melodies proves them to be fully entitled to all the enthusiasm of our memoir-writer. "Le beau Dunois"—"Ne m'oubliez pas"—"Le bon Chevalier," and the "Complainte d'Héloïse"—have indeed been repeated in "the saloons of Paris, and the dungeons of exile." To the "banks of the Thames and the Tagus," our author may add, in his next edition, the shores of the mightier Mississippi and St. Lawrence, where these delightful melodies have been sung and admired by thousands.

The first of Hortense's family was Napoleon Charles, who died in early childhood. The First Consul would have adopted him but for the refusal of the father. The second, Napoleon Louis, was christened in Paris by Pope Pius; it was in his favour that Louis intended to abdicate the crown of Holland. The third and last issue of the marriage received the name of Charles Louis Napoleon.

France, that had set the fashion of European republics, now gave the example of monarchy under a new dynasty drawn fresh from the people. The numerous petty states dependent upon her power, were not long in perceiving the great advantages of the last order of things; and in advance of the rest, the Bavarian republic sent a deputation to ask for a sovereign and a Bonaparte. Of course, this reasonable request was not to be refused. In the language of the treaty, "Sa majesté défera à ce veau." Louis was proclaimed King of Holland, with the hereditary title of constable of the empire, merely to remind him and his heirs of their duties towards France, and that they were to never cease being Frenchmen.

The only opposition to this political arrangement came from the quarter whence it was least expected. Louis declined the proffered elevation, under pretext that the climate of Holland was ill-suited to the situation of his health; he preferred a life of retirement. "Better the death of royalty," is said to have been Napoleon's characteristic answer, and the protocols and treaties went on without stopping. Where one mind only is to be consulted, things in general are easily settled. The brows of Louis were encircled by the crown, which, according to our author, he had no right to decline. He was the partner of Hortense in fortune—his refusal was for her a forced abdication—and the chance
of royalty was a part of his contract in their marriage. We doubt whether this reasoning had all the influence over Louis, ascribed to it in the pages before us.

In June 1806, the new sovereigns took possession of their kingdom. Deputations came in crowds to congratulate them; even before their solemn entry into the capital. Louis was known to his new subjects, and sincerely esteemed, but the reception of Hortense was much more brilliant and enthusiastic. A young queen is always interesting; the graces of youth and beauty, a little well-timed condescension, music, dancing, and a host of other accomplishments, moved even the phlegm of Holland to a degree of unparalleled excitement.

King Louis was not long in turning his mind to subjects of more permanent importance. He had been sent to Holland as a French prefect, but he determined, in singleness of heart, to labour for the good of those who had intrusted themselves to his guidance, and to earn "the title of national majesty." Napoleon was first surprised and irritated by the discharge of the French troops who had accompanied his brother. "No sooner," exclaimed the Emperor, "have I made a king, than he sets up for himself, by the grace of God." The Dutch were of course delighted; and they rejoiced still more, when, one by one, under various pretexts, all the dignitaries of the palace found themselves travelling the high road leading towards la belle France. Among the rest went M. de Broc, the husband of Adèle Auguié, whom we have already mentioned as the inseparable friend of Hortense. He was despatched upon a mission of congratulation to King Joseph at Madrid; where he was left, in consequence of an unfortunate failure in the memory of Louis. All the vacant places were immediately filled with Hollanders, who now sincerely saluted the "national majesty."

It is possible that in the instance of M. de Broc, the king was moved by other reasons beside his general policy. The wife of this grand marshal of the palace, seems to have been a woman of firmness, "qui, bravant tout—jusqu'à la colère même du roi—soutenait son ami." This "ami" was Hortense, who on her part, "poured all her griefs into the bosom of her faithful friend, and drew thence the strength necessary for resignation." We confess ourselves no admirers of this system of eternal attachment, by which a third person is interposed between husband and wife. Our author exclaims with his usual enthusiasm, "Ah! why should the bonds of such a sympathy be ever dissolved?"

It may be that Louis mistook sympathy for hostility, and the strength communicated to the queen, for evil counsels directed against himself. But if any scheme for removing the confidant was concealed under the honorary exile of the grand marshal, the unlucky king was in this as much disappointed, as in most
of his political contrivances. Madame de Broc remained with Hortense, and when Louis parted from her, he found himself without a wife or the hope of domestic comfort.

The Queen of Holland by no means participated in her husband's views of the administration of the kingdom. She was surrounded by the French party, and her gentle heart looked no further than their immediate sufferings. She considered herself bound to increase sympathy and patronage, in a proportion equal to the cold discouragement of Louis. The divisions of the palace became generally notorious, and the results were publicly canvassed.

It is no part of our present subject to discuss the various labours of Louis for the public good, in the finances, arts, jurisprudence, education, and improvements of the country. He sincerely loved and respected his subjects, in whose behalf he exhibited energy and talent. If the course of his policy laid him open to the charge of ingratitude towards Napoleon, his defence is to be found in the total prostration of Dutch commerce, and in the duty of a true and independent prince. It is impossible to study his career, without a strong feeling of admiration for the firmness of the man and the integrity of the sovereign. The Emperor, in his moments of irritation, used to call the Dutch a nation of contrabandistes, of whom the king was only chief smuggler. There can be no doubt that Louis executed the continental system with deep reluctance, and contrary to his own avowed opinion: but he never either broke it himself, or consented to its violation by others. With him, lucre was the least and meanest of temptations. The Russian ambassador—by way of sounding him on this very subject—once hinted that there were "ways of compounding with heaven;" "but not with hell," replied the true-hearted sovereign.

In the month of May, 1807, Hortense sustained a terrible shock in the death of her son Napoleon, who fell a victim to the croup, then a malady almost unknown. The effects of her grief were so powerful as to produce fears for her life; and as Louis, too, seemed pining away in the sombre melancholy of his character, they were advised to travel to the waters of the Pyrenees. After an absence of some duration, the king re-assumed his throne; but the queen continued in France, with the excuse of pregnancy, and exhibited no impatience to lessen her necessary stay.

The next remarkable incident affecting the life of Hortense, was the divorce of her mother from the great architect of their general fortunes. State policy—before which all other voices are stilled—had decreed that the bonds of years should be severed, and that the partners who had ascended together the hill of fortune, should separate upon its summit. The Austrian alliance
seemed the key-stone of the lofty arch of Napoleon's glory. His oldest enemy appeared but as another pillar of consolidation. All the world was interested in this great event, for the nuptial doves were believed to be the harbingers of universal peace. We have seen the result, in which history has taught for the hundredth time, how little connexion exists between private feeling and public action. State policy, which is but self-interest applied to the affairs of nations, sacrificed poor Josephine, and shook the soul of Napoleon; state policy arrayed the German legions against his tottering throne—hurled the daughter of Austria from her elevation—and proclaimed the son-in-law of Francis, the outlaw and enemy of the human race.

Hortense was charged by Napoleon with the heavy task of breaking to her mother this grievous affliction; for the conqueror of a hundred battles feared his own heart. The choice was well conceived; none could sweeten so kindly the bitter draught, or soothe so gently the first out-break of natural feelings, as the affectionate and devoted daughter. When this duty was performed, Eugene and Hortense resolved to share their mother's solitude, and to abandon all the fortune which had come to them through her marriage. It was the influence of Josephine that finally restored them to resignation.

The adopted children of Napoleon were necessarily present at the nuptial ceremony. Eugene's demeanour was changed from the gaiety of his nature to grave composure, but he was dignified and a man. Hortense was one of the four queens who bore the train of her mother's successor. Tears escaped from her eyes, and when the dreadful "yes" was pronounced, she screamed and fainted away. The tribute of nature was thus paid; from that moment she was the queen of Holland.

Louis had been in Paris during the late ceremonies, residing at his mother's palace, and never meeting his wife except in public. The royal pair had even joined in an appeal to the family council for a separation, which was refused after full advisement. As the court of France, however, had now lost many of its attractions, Hortense acceded to her husband's request, and in April 1810, returned to Holland. Her stay was unfortunately confined to a few weeks, and does not appear to have been marked by any serious effort at reconciliation on either side. A short journey made to the castle of Loo, under pretext of ill health, was the cover of a secret escape to France, without the knowledge and against the wishes of her husband. Thus was accomplished the final disunion of this ill-met couple. In the whole course of their marriage, they resided together barely four months; and even this short period was subdivided into four different times, separated by long intervals.

An impartial consideration of the domestic disputes of the king.
and queen, brings us to the usual conclusion in such cases: both had legitimate causes of complaint; both were blameable. Each was possessed of qualities well calculated to inspire affection, and which never commanded less than respect. It is possible, that with a more auspicious commencement, their union might have been crowned with happiness. It may be that their hearts would have voluntarily sought each other, if they had been left untouched by the deadening sense of compulsive duty. "Often," says our author, "the same wheels, which, by proper meeting, would accomplish all the objects of the mechanic, clash and crush each other by an untimely revolution." Louis' dreams of matrimony had always reflected the cottage and shepherdess: he found a wife, soft and generous in her temper, but loving the world with all its vanities of dress and ceremony. Nature had formed her to be admired, and she was not unwilling to receive the tribute: fortune too had made her a queen—she was fitted to adorn a crown, and quite content to bear its burthen. It is easy to understand how the feelings of Louis seemed nothing but peevish and teasing complaint; while the conduct of Hortense was, in the eyes of her husband, only volatility and folly.

Both Napoleon and Josephine blamed Hortense for this matrimonial separation—not that her conduct offered a more positive ground of exception than her husband's, but because patient endurance is woman's honour and her duty. The empress called submission and complacency the grand secrets of female policy: and the affectation of independence apparent in her daughter's conduct, found no favour even in maternal eyes. Napoleon bestowed upon Hortense all the praise for generosity and virtue to which he knew her to be entitled; he condemned the caprices and peevishness of Louis; but his sentiment was, that a wife and mother should command patience, and perhaps even love.

After the separation, the Queen of Holland returned to her mother, who continued to wear the title of Empress, with the possession of a large establishment. Travelling was their frequent amusement. At one time, they resided in the neighbourhood of Aix, in Savoy, where there are celebrated mineral springs, surrounded by the most romantic scenery. Hortense and her constant attendant Madame de Broc, made frequent excursions on foot, to admire the glorious spectacles of nature, and to imitate them with the feeble means of art. In their ascent to the summit of a mountain, they were arrested by a deep ravine—its sides covered with Alpine firs, and a noisy torrent rolling upon the rocky bottom. A board was laid across, over which Hortense passed lightly and in safety: a piercing cry strikes her ears—she turns—and the first object is her hapless friend precipitated from rock to rock, and disappearing at last in the abyss below. This melancholy event is of course the subject of much
poetical exclamation on the part of our author; but we have no disposition to smile upon any thing connected with such a catastrophe.

Our reader has now arrived at the political crisis of 1814. After battling like a lion at bay—rising greater and nobler from every calamity—Napoleon was hurled from his throne, and the Scythian banners floated over Paris. A message from the Emperor Alexander, in which the character of a conqueror was studiously concealed under the forms of respectful courtesy, pressed Josephine and Hortense to return to Malmaison, or to receive his visit wherever it might be agreeable. The mother accepted the proffered kindness; while the daughter, in a spirit of true magnanimity, repaired to Rambouillet to share the perils of the second spouse of Napoleon. She only went to Malmaison when Maria Louisa had departed for Vienna with an escort of Austrian soldiers.

The anxious attentions of the allied sovereigns gave to the residence of Josephine the splendour, if not the gaiety of a court. The solicitude displayed in relation to every thing that concerned the welfare of her family, was such as almost to excite the suspicion of a political project. The most generous offers were made for their future establishment. She who was the widow of Napoleon’s fortune, felt that for her no gift was worth the acceptance. Hortense had children; and for their sake she accepted the duchy of St. Leu, erected by Louis XVIII., according to an express stipulation inserted by the allied monarchs in the treaty of Fontainebleau. A sovereignty had been offered to her, which she declined.

The death of Josephine followed closely upon these events. Our author well describes the funeral honours paid to this exemplary woman by the assembled kings: and he paints with deep feeling the grief of all France, which was now beyond the suspicion of flattery. The sensations of her children at this last stroke of fate, are better left to the sympathies of our readers.

The splendid monument that now covers the remains of the partner of the modern Charlemagne, bears only these few touching words: “Eugene and Hortense to Josephine.”

After the first burst of grief had gone by, Hortense visited Louis XVIII., in order to thank him personally, for his attentions and kindness. The king was old and physically affected; but he had by no means forgotten the graces of his younger days, and the laborious politeness of a veteran courtier. Vanity belongs to all ages and all times. He was anxious to shine before a lady distinguished for amiability even more than her rank; and in the true spirit of a pedant prince, he summoned to his assistance the polished phrases and over refined wit of the academy. Every thing in Hortense was far removed from affectation; her attrac-
tions came from nature, and were dispensed without the touch of art. The royal Bourbon must have issued from this interview with some degree of self-complacency; for his praises of the princess were so loud and frequent, as to produce a scandalous report among the courtiers that he had turned Bonapartist.

Louis Bonaparte—unable to reconcile the policy of Napoleon with the prosperity of his subjects, and unwilling to be styled a king where he was merely the impotent witness of new calamities—had abdicated the throne of Holland on the 1st of July 1810. In the autumn of 1814 he arrived at Rome; from which place he demanded of Hortense the restoration of his eldest child. The answer of the mother is easily anticipated. It produced a most disagreeable lawsuit, attended with long discussions, in which a decree was finally rendered for the father, on the 7th of March 1815. Before it could be put into execution, the great arbiter had arrived, who suffered no other power to determine questions relating to the imperial family.

Napoleon landed at Cannes, and all France was conquered with the speed of his post horses. The luckless Bourbon in vain addressed the army with the whole of his slender array of family reminiscences. The sturdy grenadiers cared but little for Francis I., "who had lost all but honour," and the command of Henri Quatre to "follow the white plume." They looked at the gouty form of the unwarlike monarch, and turned away to dream of the glories of the "Grande Armée," and the fresh remembrance of "le petit Caporal." In a few days the emperor was at the Tuileries.

Hortense obtained an interview with great difficulty, and only after much solicitation. The friends of the imperial dynasty had conceived a jealous suspicion of her attachment, founded upon the visit to King Louis, the acceptance of the duchy of St. Leu, and the particular favour of the allied sovereigns. The Emperor received his step-daughter with angry reproaches; but his feelings were at length soothed, and his judgment satisfied. He admitted, that in a political crisis, the obligations of a woman were far different from those of a man; the firmness of the latter is bound to resistance, and his deeds are glory; the weakness of the former can only submit, for conflict is impossible. There was no defection, therefore, in accepting favours freely offered by those who were armed with power, or treason in the exhibition of ordinary gratitude.

Napoleon placed a decided negative upon all the wishes of Louis in his domestic arrangements. The influence of Hortense was also successfully exerted in behalf of the present Queen of France, who had sustained very serious injury in the precipitation of her flight. She was allowed to remain in Paris, with her
daughter the Dutchess of Bourbon, and with the enjoyment of a most liberal pension.

Our history is now fast approaching to its conclusion. The Emperor went to his gallant army and to Waterloo. On his return, he was guarded in Malmaison by the troops of the provisional government; and from the solitude of captivity, he gazed abroad upon the cold world and his shipwrecked fortunes. He was not long, however, without that comfort which is imparted by the sympathy of sincere attachment. Hortense came—a voluntary prisoner—to lighten the burthen of affliction, by devoting her whole soul to the task of consolation. Napoleon felt deeply this last proof of his daughter's tenderness. They parted only when he proceeded to Rochefort, and thence—to St. Helena.

It was the policy of the restored government to impute the late disaster to treason and conspiracy; for every excuse was to be seized that could palliate the disgrace of a shameful flight, and save the Bourbons from the conclusion of general unpopularity. Among other victims to this cruelty of cowardice was Hortense, who came in for a large share of the current accusations. It was decreed that there had been extensive plots in the army—that corruption was busy along Napoleon's route—and that movements still existed against the government. The Dutchess of St. Leu was the contriver of the past, and the active centre of all preparations for the future. These unfounded charges became the grounds of an order to quit the French territory, which was executed in the middle of July 1815.

Hortense's journey was of course interrupted by the new-born zeal of petty authorities, anxious to distinguish themselves in their fresh service. An attempt to arrest her at Dijon, was frustrated by the interference of Prince Schwartzenberg. Much vexation was also endured at Geneva; but she at length arrived at Aix in Savoy, where she was invited to remain by the authorities, in grateful remembrance of former bounties.

It was at this place that she found herself under the necessity of yielding to her husband the care of her eldest child; for with the fall of Napoleon, the sentence of the court regained its full vigour. The shock to her feelings was unquestionably severe, in spite of M. de la Garde's heading—"désespoir d'Hortense"—which regularly appears on every occasion of calamity. A translator, converting such phrases into plain English, must take care to avoid literalness. The thermometers of national feeling are to be compared; and it will be found that a French lady's désespoir ranges with the excited grief of our American fair.

An order of the allied sovereigns compelled Hortense to resume her interrupted journey. While passing through the territory of Geneva, a little adventure occurred, possessing some interest. The house in which she staid was surrounded by a
guard of old soldiers, most of whom had followed the tricolor. Hortense went among them—announced herself as Napoleon's daughter—and thanked their employers that she was once again among the warriors of France. The grenadiers fell upon their knees, and tears rolled down their weather-beaten cheeks. This simple spectacle was in itself sufficiently romantic, without our author's idle suspicion, that those who departed weeping, had perhaps arrived as assassins.

After an asylum had been refused to the wanderer by her near relative, the Grand-duke of Baden, an invitation reached her from Eugene's father-in-law, the King of Bavaria. Augsburg was in consequence selected as her place of residence, and she continued there in repose during several years. Her eldest son returned to her with the consent of Louis. She was now indeed possessed of the elements of happiness; for she was surrounded by her children—in the society of her brother—with ample range for the enjoyment of every taste—and receiving that free and delightful homage, which was rendered to the woman and not to the queen.

The continued peace of Europe enabled Hortense to extend the line of her travels, by calming the nervous tremors of legitimate sovereigns. Eight months of the year are now usually spent at Lindau, an agreeable château on the romantic borders of the lake of Constance. Since the death of Eugene—by a sudden attack of apoplexy in 1824—her winters have been passed in Rome or Florence, instead of Augsburg and Munich. The establishments of the ex-queen are splendid, but without any of the clogs of ceremony. A numerous suite of servants is the only relic that shows the mistress to have been more than Dutchess of St. Leu; if the royal title is preserved, it is rather as a respectful habit than as an exaction.

Numerous visiters seek introduction to this celebrated lady, and all are freely gratified who have the least claim to her notice. She is found in the midst of a circle as varied as her fortunes. Strangers from every quarter of the globe—gay courtiers and disabled warriors—the aspirants of the present, and the mourning relics of the past—are here brought together by different feelings, and united in one bond of common interest. The manners of Hortense possess so much delightful simplicity, that there seems but a single step from first acquaintance to intimacy. She listens with charming attention, and in her turn converses freely and eloquently. The history of the days gone by, is of course a fruitful theme, to which she turns without unwillingness, and of which she speaks as a disinterested chronicler.

Her amusements are many—all springing from herself. Music, dancing, private theatricals, painting, study both of books and nature—these are the quiet substitutes for royal grandeur.
Her subjects are the surrounding poor, upon whom her bounty flows as an inexhaustible stream, fertilizing even more by the care that applies it, than its natural magnitude. The presence of her children adds also to her pleasures and occupations. The celebrated poet, Casimir Delavigne, was the tutor of the younger son.

The fame of Hortense is now definitely settled, for hers has been the unusual lot, to live with posterity, to receive its judgment, and to enjoy in life that grateful tribute which comes too often only to the grave. Her story is a rare example of private virtues enlarged by exaltation, and hurled again from eminence without the loss of dignity or love. In the day of prosperity, its honours seemed to have been hers by birth; and when she fell, her moral sublimity was greater than the gifts of fortune. In the high places, the breezes of admiration were not always able to disperse those mists that gather around every eminence; now that she is herself alone, there is but one voice sounding her praises throughout the world. Such a woman, in the language of M. de la Garde, "by descending from sovereignty only narrows her power of usefulness. Removed from the intoxicating incense of courts, she has still the balm of memory, the pleasures of reflection, and the delight of conferring happiness, which is not less lively in the emotion because its sphere is more confined. A woman like Hortense reigns without royalty; she wears her splendour as the ruby its purple. The empire that remains may well compensate a diadem's loss; for it is the power a woman most covets—better known, better loved."

As M. de la Garde has already been sufficiently noticed, we shall now take French leave, using no farther ceremony. This work has left our hopes disappointed, but it may still be recommended as an useful collection of the existing body of materials relating to Hortense, written in an amusing style, with much piquancy. If our treatment of the Comte has sometimes been cavalier, it is sufficient to remind him that we are reviewers, and that in the course of our profession we have adopted that belle devise he is so fond of repeating, "Fay ce que doy, advienne que pourra."

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The period that elapsed from the close of the revolutionary war, until the time when the restrictions imposed by the European belligerents in 1806 and 1807 crippled our commerce,
afforded an opportunity for the exercise of mercantile talent, enter-
prise, and industry, probably unparalleled in history. Among
those whose good fortune placed them within reach of the favour-
able circumstances afforded by this epoch, and who possessed the
intelligence and perseverance required to improve its advantages,
Stephen Girard occupies probably the most conspicuous place.
Rising from the lowest beginnings, and destitute alike of con-
nections in our country, and patrimonial estate, he elevated him-
self, by strenuous and unremitting efforts, to a height of wealth
hitherto unequalled among us, and which probably will never be
surpassed.

If some part of his success be due to the favourable aspect of
the times in which he lived, a far greater portion is to be ascri-
bled to his own unremitting and patient industry, and to the clear
and lucid action of his mind. The ancients were not far wrong
when they classed good fortune among the most prominent of
personal recommendations; and as in the game of chess it is said
that no one can be a loser except by his own bad play, so in the
affairs of the world, those who are unfortunate will, if they can-
didly consider their own career, most frequently find that there
have been errors of judgment on their part, at epochs on which
the turn of their fortunes depended. The parallel fails in the
other direction. Games of skill may be gained in consequence
of the bad play of an opponent, but enormous superiority in
worldly wealth may generally be traced with certainty to the
superior ability of the party who attains it. The strong exertion
of reason, which is so essential an element of commercial success,
is often averse to and incompatible with the more amiable quali-
ties of heart; nay, sympathy for the distresses, and anxiety to
promote the advantages of others, may even be the cause of those
errors of judgment which diminish profit or cause destructive
losses. From feebleness of this description, the subject of the
memoir before us was free, and in the aid which he not unfre-
quently conferred upon others, he carefully avoided that impru-
dent exertion of kindness, which injures the bestower without
being of real benefit to the receiver.

Steady, persevering, and judicious in his pursuit of wealth,
he seemed, to those who could not penetrate his hidden motives,
to covet it for its own sake, and to labour for no other purpose
than to see his hoards and investments increase. The simple
and economic mode of life that permitted the accumulation of
the small gains on which the superstructure of his fortune was
built, remained unchanged when he was able to count his ships
by squadrons, his mansions by scores, and his moneyed capital
by millions. What might have been styled frugality in the begin-
ing of his career, had the air of degenerating into parsimony;
and in a country where, perhaps more than in any other, wealth
seems to be chiefly desired for the eclat which its elegant expenditure furnishes, the character of Mr. Girard remained an enigma. It was even more inscrutable to those who saw him more nearly than others, and were aware that to an attention to business, and a strict economy deserving almost the epithet of miserly, was added benevolence of an active description, that shunned no personal exertion or sacrifice. This part of his character was before the public in the remarkable instance of his officiating at the hospitals in the melancholy years of pestilence, when the services of nurses and attendants could not be purchased by money.

It is many years since an obscure rumour was heard that Mr. Girard intended to devote his wealth to some great public object; the large square so carefully preserved in a part of the City of Philadelphia, where it might have been occupied by dwellings to great advantage, seemed to corroborate the idea; but all such surmises continued vague and indistinct, until the publication of his will developed the plan he had so long cherished, and to provide for which, he had, while in possession of unbounded wealth, limited his own personal desires to the smallest provision compatible with comfort.

After providing by legacy for his relations, and bequests to a number of individuals employed by or dependant upon him, the residue of his vast estate he devoted to public purposes. Of these, the foundation of a college for the education of orphans is the most conspicuous, and has not only the greatest direct appropriation, but is made the residuary legatee. It is our intention to devote this article to the consideration of this bequest, and to an inquiry into the most proper methods of carrying into full effect the intentions and views of the testator.

There are none of all the mighty and honoured names who are classed and remembered as benefactors of our race, to whom gratitude is as justly due as those who have contributed their aid to the foundation and endowment of seminaries of learning. It is indeed an oft repeated remark, and which has a tendency to depreciate merit of this sort, that great and important discoveries rarely emanate from the walls of universities and colleges; it has also been urged, that the most powerful and influential talents may often exist among those who have never enjoyed public instruction. The former of these reproaches, even if true, is far from being a real fault. The duty of the instructors in public institutions, is to teach that which is already known, and where this duty is faithfully performed, it rarely happens that either leisure or opportunity will be afforded to extend the boundaries of human knowledge. Their task is humble in its pretensions, and laborious in its execution; and although it will, in its accomplishment, fill the mind with accurate views of all
existing learning, it is only by complete and entire devotion to particular objects, that progress can now be made in the far extended fields of scientific research.

If it has happened that there are persons who have led the armies of nations to conquest, consolidated the foundations of their country’s liberties, and wielded the energies of fierce democracies, without the apparent aid of collegiate instruction, still it will be found that they have drawn largely for the elements of their success upon the learning of the schools, and found the means of their usefulness in the employment of minds and means prepared to their hands by education, in which they may themselves have taken no direct part, but of which they have skilfully made use. Well conducted and liberally endowed seminaries of learning, stamp their own character on the nation which possesses them; its arts and its arms, its internal government, and its foreign relations, all partake of their influence. If the general diffusion of the mere elements of knowledge has a tendency to render a population industrious, moral, and direct it to successful enterprises; so will the possession of facilities for learning of a higher character, enlarge its influence among its neighbours, increase its power far beyond the proportion of its mere physical strength, secure the permanency of free institutions, when it has the good fortune to possess them, or prepare the way for liberal government without revolutionary violence, when that element of happiness is wanting.

A popular outcry has been raised against our colleges, on the ground of their being accessible only to the wealthy; and they have been treated as aristocratic in their nature, and opposed to popular institutions in their influence. It is not our present purpose to show how futile the first of these objections is, by the exhibition of the munificent patronage which many of them present to those with no other recommendation but honest zeal. But in their influence they are as directly opposed to aristocracy as can well be imagined. Two sources of exclusiveness exist in our country, the influence of wealth, and the power derived from political association. The former acts upon our society, the latter upon our public measures. The first is controlled and dispelled at almost every generation, by the equal division of property among all the children of the same family; the second is dependant on the breath of popular favour, by which it was originally inflated. To the former there is at present no counterpoising influence; the pride of purse prevails over all other considerations. Respectable descent, literary reputation, political eminence, unblemished character, singly or united, prevail not to burst the barriers within which commercial wealth has intrenched itself. But there is yet a partial, although inefficient counterpoise to these influences. This exists in intelligence and learning. The
one furnishes the means of acquiring the influence either of wealth or of politics, according to the direction its possessor may give it; the latter compensates for the want of both, even in its individual possessor, and requires only to be more generally diffused to neutralize their influence in our social circles, and aspire to an equality with them in public estimation. This intelligence may be partly the fruit of natural endowments, but such endowments require culture and improvement; this learning may be attained by strenuous labour, although unaided, but its acquisition may be rendered far more direct and easy, by the help of those who have already been successful in its pursuit.

For these objects public seminaries of education furnish the most direct and efficient means. In them may be collected as instructors those who have rendered themselves eminent in any particular pursuit; and their united talent and learning may be applied to further the common aim. In them also the student will be roused to emulation by the success of others, determine the force and capacity of his own mind by generous competition, and have his attention directed to such objects as are of real importance. In private and unassisted study, not only is progress necessarily more slow, but time is often wasted in pursuits of no value, and of which the slightest hint would have sufficed to show the worthlessness.

A public institution will also combine the means and facilities of acquiring knowledge, in libraries, apparatus, and collections of every description, that are hardly accessible to the wealthy, but which, by the parties intended as objects of Mr. Girard’s bounty, would be wholly unattainable.

Such views appear to have influenced Mr. Girard in his munificent bequest.

"Whereas," says he in his Will, "I have been for a long time impressed with the importance of educating the poor, and of placing them, by the early cultivation of their minds, and the development of their moral principles, above the many temptations, to which, through poverty or ignorance, they are exposed." He then directs the application of as great a portion of two millions of dollars, as may be necessary to erect a college sufficiently spacious for the accommodation of at least three hundred scholars, and the requisite teachers and other persons necessary in such an institution; and in supplying the said college with decent and suitable furniture, as well as books and all things needful to carry into effect his general design.

In considering the plan best calculated to meet the views of the munificent founder, two heads naturally present themselves: 1. Discipline, 2. the Distribution and Arrangement of Studies.

In respect to the first of these, however important as the basis of all correct instruction, little need be said in this place. It will
in fact depend more for its character and influence upon those who may be called to administer it, than upon its mere form.

In an institution wholly supported by its endowment, all its scholars may be considered as standing upon a footing of perfect equality. This cannot, however, be real, for differences must exist even in those who answer in all respects the description of the founder, in their own resources and prospects, in the influence of their relations and friends, and in the greater or less respectability of their connexions. Every appearance of inequality may however be extinguished by precautions of the simplest nature. These will consist mainly in prescribing complete uniformity of dress, of simple and modest character, and forbidding the supply of money from any extrinsic source.

The founder has, indeed, forbidden "any distinctive dress," but this need not, we conceive, exclude uniformity. It would be sufficient to meet his views that the dress should be plain and without ornament, that it should conform in a degree to the fashion of the day, so that the pupils in their appearance in public should not be distinguished by differences of any marked character from children of parents of the respectable middle classes.

Sequestered from society and cloistered for the whole of their time in intimate connexion with minds at their most active epoch, means must be provided to occupy every instant of time, for when employment is not provided, mischief will be resorted to as a relief from ennui. Two modes of meeting this necessity have in their turn been applied, the monastic and the military. It is sufficient to say, that the spirit of the age wholly rejects the first, and therefore the second alone remains as suited to the purpose. To constitute a military discipline, it is by no means necessary that the scholars be ranked in regular battalions, be instructed in the management of arms, and the minutiae of the drill. These may or may not be introduced as amusements, as means of affording variety of occupation, and as relaxations from severer studies. But so much of military arrangement as shall prescribe the exact place of every individual, in his passage from one occupation to another, in his seat in the class rooms, and in every possible duty; as shall prescribe definite hours and periods for business, for relaxation, and for repose; as shall place every word and action under the superintendence of its appropriate director; and shall call into action a spirit of regularity and subordination in the many, of well tempered command and supervision in those worthy of the trust, will be found of incalculable benefit. By a system well arranged and ordered, in which all may, if qualified, be called to command in capacities suited to their years and abilities, and all who enjoy command shall be united in the preservation of order, that spirit of combination so prejudicial to many of our institutions will be effectually controlled. The
whole detail of such a system may be executed by the scholars themselves, and a single officer of the institution will be competent to direct it. His position will be one of great responsibility and labour, and he should be burdened with no other duties. It would be improper that he should fill the highest station, or have any control over the instructors; for while the efficient discipline of the student is to be obtained on the one hand, that perfect independence which will ensure responsibility of character and reputation, must be secured to the teacher on the other. The institution must therefore have one common head directing both its literary interests and its discipline; of tempered and moderate powers in respect to the officers, whether directors of studies or superintendents of occupation; while the latter should have unlimited authority in their respective departments.

A military system affords greater room for the encouragement of exemplary conduct by reward, and the repression of irregularity by punishment, than can be furnished by any other. The mere right of command, accompanied by personal insignia of office, is itself an object of ambition, and will furnish a powerful stimulus to exertion; while a fear of degradation in those who have attained it, and of losing all pretensions to it in those who have not, will, in most cases, serve as a substitute for punishment. Another series of rewards flows from the course of studies, and the two, when united, will, in all probability, be efficient in meeting every contingency, whether arising from personal conduct, or progress in knowledge.

The correctness and accuracy afforded by a system founded on military principles, is so well understood that it has been adopted and accepted even by those most averse to its very name. The method of Lancaster has borrowed its most efficient means from military example, and all that has been added to hide its real origin, has rather tended to impair than improve it. In fixing the gradation of military rank and command, it will be always attended with extreme danger to commit powers to members of the classes over which they are to be exerted. No adequate instruction can be given by such to their own fellows, and generous dispositions will hardly tolerate the exercise of power by their own equals in age and learning.

It would be in vain to hope that any of the most admirably planned and effectually executed measures of prevention could wholly obviate the necessity of punishment. Provision must therefore be made for the application of penalties in all necessary cases, and the provision itself will often be the surest means of prevention. A certainty must exist that every lapse in duty will be surely followed by its appropriate pain; and power must exist, even to separate from the institution all who are unworthy of its advantages. This should, however, be inflicted only in
two cases, incorrigible defect of character, and direct resistance to constituted authority, persevered in after fair opportunity has been afforded for reflection.

To inflict such punishments, and to confer rewards, should be the province of a council, or *Senatus Academicus*, formed upon principles that will be hereafter developed. Full power for such purposes is conferred in the will of the founder, but he has guarded with the utmost benevolence against its improper exercise.

In our consideration of the subject of discipline, we have seen the necessity of a common head to the institution. The officer charged with that discipline ought not, as has been argued, to be loaded with any part of the duty of instruction. This does not apply to the head. In order that he shall command respectability in the eyes of his coadjutors, and still more in the view of the public, he ought not only to be able to bear an active part in the business of education, but should actually perform duties of instruction in a branch of such importance as shall place him, independently of his supreme office, first in general estimation. In his relations to the chiefs of other departments of studies, he should stand *primus inter pares*; to the students, as supreme and uncontrolled. It is, in truth, better that injustice should be actually committed for want of mature deliberation, than that the decisions and decrees of the apparent head should be susceptible of inquiry and reversal by an appeal to any extrinsic source. To exercise such high authority without risk of complaint, his reputation in science or literature should be lofty, and his character for mildness, firmness, and impartiality, thoroughly established; and while the public body to whom the general superintendence of the concerns of the institution is committed by the will of the founder, should retain the power of removal and dismissal of every officer, they ought wholly to separate themselves from any direct interference with its discipline. It is sufficient that the officers they appoint be responsible to them, but the exercise of that responsibility should be left unshackled.

The will of the founder evidently points to an education of a practical nature—one that will fit for the active pursuits of life; or if there be any exception, will prepare for usefulness in conducting the instruction of the institution itself. The learned professions that constitute almost the sole object of all our other seminaries of elevated rank, seem to have been in a great degree left out of view, at least so far as direct preparation for them is concerned. It is in strict compliance, therefore, with this implied wish, that our examination of the order and distribution of studies shall be conducted.

The intention of the founder to make the access to the institution purely gratuitous, renders it imperative that admission should take place at as early an age as possible. Orphans by the letter
of the will, a great portion of them will be destitute of the ordinary means of an elementary education, and even of the comforts and necessaries of life. On the other hand, the rules and discipline of a collegiate institution, are inapplicable to those who have not already passed the helplessness of infancy, and are incapable of feeling the influence of moral obligation. With due consideration of both sides of this question, the age of ten years may be taken as the earliest at which it would be proper to allow of admission. Up to this epoch, it might fairly be expected that the friends of the parties entitled to admission should take charge of them, and furnish the means of education; and even in extreme cases of poverty, there are in every part of our country numerous and noble public institutions, that would subsist the objects of the founder; and furnish the intended pupils with all the elementary knowledge which would necessarily be required.

Even at the age of ten years, obstacles difficult to surmount will occur. At that epoch the care of their own personal cleanliness, so essential to health and comfort, can hardly be intrusted to themselves, even under the most careful inspection; and superintendents of the male sex could hardly be found qualified or willing to undertake the charge of this most essential point. Yet all the benevolent views of Mr. Girard’s will might be frustrated, were admission denied until a more advanced age. It would therefore seem indispensable, that discreet and respectable matrons, habituated to the care of children, should be provided, and intrusted with the personal care of the younger pupils.

Receiving pupils at this age, it might be fairly expected that they should come furnished with some of the elements of knowledge. By youths blessed with the care of attentive parents, a large portion of the business of education, and that the most laborious, would be accomplished before this epoch of their lives. It might, however, be an obstacle to the charitable intentions of Mr. Girard, if a proficiency such as ought, under average circumstances, to be attained at this age, were demanded as a requisite of admission. All then that should be absolutely asked is, that the persons presenting themselves as candidates for the privileges of the institution, be able to read their own language fluently, to write legibly, and to furnish evidence of their memories having been exercised. The latter might be attained by prescribing the recitation of portions of English poetry and blank verse. Upon this basis then, the subsequent courses should be founded; all branches of education of higher order than these simple elements, should be provided for within the walls of the institution; and in case a part of the candidates appear to have made greater advance in their education at the prescribed age, or at the time of admission if then older, they would take their
places among the pupils previously admitted, in the rank due to their proficiency.

In the discipline and formation of the human mind, two departments of knowledge have manifested their usefulness in the experience of ages; these are the cultivation of languages, and the study of mathematics. They recommend themselves to our attention not only by their direct and immediate application to innumerable important purposes, but by the exercise that they require, of faculties which might otherwise remain unimproved and dormant, and be finally lost to those most liberally endowed by nature.

Among all languages, our own vernacular idiom is of course worthy of the most strict attention. The power of rapid, easy, and elegant expression of thought, in our native tongue, whether in speech or writing, is perhaps the most directly useful of any of the results of a liberal education. This is attainable only by a combination of a variety of knowledge. The grammatical rules and construction alone, however thoroughly taught, form but a small part of the requisite preparation; nor is the direct study of them the shortest road to their acquisition. An extensive and copious vocabulary of our rich and expressive language must be prepared and stored away for use, and finally the power of thought and reasoning, without which words are but empty sounds, conveying no idea to the hearer, must be formed and cultivated.

The founder of the institution has not precluded the study of the ancient languages, but has not made them a matter of absolute necessity. In this he has shown the clearest and deepest judgment. It has become a habit, fostered by pedantry, and guarded by inveterate prejudice, to mistake the means for the end; and to give to a mere knowledge of the classics that honour which is alone due to the learning of which the study of the ancient authors is but one among the many necessary steps. A profound scholar, as the term is often restricted, may, notwithstanding, be comparatively an ignorant man; and yet without some scholarship, or a substitute for it, obtained by far more laborious means, learning of any other description is either inaccessible, or remains useless in the mind of its possessor. We should therefore, and we conceive in strict compliance with the intentions of the founder, make a study of the Latin tongue the basis of the important department of language. More philosophical in its structure, and more easily reduced to definite rules than any modern language, its grammar furnishes the readiest access to our own. The practice of translating from it into another idiom, not only explains and develops the structure of the latter in a manner that no precept can do, but extends the knowledge of words and of things beyond any other study or mental exercise.
It has been our good fortune to mark, in many instances, the rapid development of intellect which takes place during the few first months that the mind is applied to the study of this language, and we have had the means of comparing it with that of minds of equal caliber restricted to other pursuits. The demonstration of its very superior value was clear beyond possibility of cavil; and the exercise, continued for a single year, appeared fully to double the powers of acquiring knowledge. We do not pretend to say that there are not other languages which might present equal, and some, the Greek for instance, superior advantages, if the improvement of mind were the sole object of the study. But the Latin has other and equally important uses. It is the immediate source of nearly half of our own written tongue, and without its aid elegance and copiousness of style are hardly attainable.* It is besides the root and key of all the languages of Southern Europe. Portuguese is little more than a rustic Latin; the Spanish deviates a little farther from its origin, but still retains nine tenths of its whole structure in words of Roman derivation; the Italian is as closely connected with it; and if the mere form differ more in the French, still that language is of easy acquisition to him who has a competent knowledge of Latin. It is no extravagant assertion to state, as has once before been done in this journal, that all these four languages may be acquired, so far as facility of reading them is concerned, by a tolerable Latin scholar, in less time than any one of them would take if studied before that language; and that the acquisition of a fair portion of Latinity and of any one of them, will not occupy more time than the latter would alone, to one who had not studied the ancient language.

In recommending Latin as the basis of the department of language, we would carefully guard against its being converted to the purposes of mere pedantry. Its quantities need no other attention than naturally follows the art of reading it to a person of cultivated ear; its prosody may be entirely neglected without any serious disadvantage; and the study of the antiquities of the nation that spoke it, needs to be no further pursued than is necessary for illustrating the passages of its more familiar authors. Our object is to make it subservient to purposes of direct utility. With its poets therefore we would have nothing to do. Beautiful though they be in style, and resplendent as models of that species of writing, they need not enter into a system whose main object is utility. With the poets we of course reject the whole

* We would cite the history given by Dr. Franklin of his own labours in forming the beautiful and classic style in which he expressed the thoughts and acquisitions of his later years. No one who has studied the ancient languages can fail to see in this candid statement the absolute proof of the facilities he has himself enjoyed, and by which a labour almost tenfold has been spared him.
of the fanciful and intricate mythology that forms the machinery
of their epics, and the object of invocation of the minor writers.

While we would with confidence leave the acquisition of a
knowledge of the structure of our own tongue to the apparently
indirect, but rapid and certain method, afforded by the study of
another, its cultivation in other directions is not to be omitted.
Its pronunciation with clear, distinct, and rapid articulation, is to
be obtained and constantly sought by the habit of reading aloud
daily, and frequent exercises in declamation. Its use in expres-
sion of thought will finally come into play, when ideas capable
of being so expressed have been stored up in the previous stu-
dies.

The natal language of the pious benefactor would be an object
of interest for his sake alone, had it no other recommendation.
But it is the tongue of one of the two great nations to whose
hands the fortunes of Europe seem to be now committed. It
is the language of the courts and camps of Europe, the medium
of much of its commerce, and the conventional idiom of the trav-
eller. With it and the English the whole civilized world is ac-
cessible. It must therefore occupy a prominent station in any
system of instruction which may be adopted. It is perhaps to be
regretted that it cannot in any way form a substitute for the Lat-
in, either in the discipline of mind, or in opening the means
of access to other languages. A great portion of our own hemi-
sphere is occupied by settlers of European origin, among whom
the Castilian is the prevailing dialect. With them our intercourse
both commercial and political is already great, and is daily in-
creasing. It needs no argument to show that this beautiful and
useful language must take a place and hold a high rank in a plan
of studies for the institution in question.

Of other modern languages, the German recommends itself to
notice as the medium of conversation with a large portion of our
own citizens, and particularly of those of the state of Pennsyl-
vania. It is however of far less prominent utility than the two
we have previously mentioned. We would not therefore insist
upon it as a study of indispensable necessity, but would provide
the means of instruction in it for those whom taste, or a remem-
brace of their forefathers, would lead to apply to it. The Italian
and Portuguese might also be in like manner provided for, but
we hardly imagine that they would excite the attention of any
of the pupils. The former indeed gives access to a splendid
literature, and to many works of great practical value; the po-
ey of the last ranks in no mean place in the temple of the
Muses; but this furnishes no argument in their favour in the pre-
sent case. Direct usefulness, we again repeat, must be the pro-
minent object. These languages have so little pretension in this
respect, that there is no need of introducing them; while the time
they would occupy may with great advantage be applied to other and more important purposes.

The science of mathematics has the double purpose to subserve, of improving the reasoning powers, and of being itself the basis of most useful practical applications. Studied as it frequently is, rather for the gratification of curiosity in its application to abstruse and often useless problems, its importance in a scheme of education is not always appreciated. Its humblest and most elementary division, namely arithmetic, has a value obvious to every capacity; but its branches of greater difficulty and more abstruse character do not at first sight appear to recommend themselves from their direct applicability to practical purposes. This however arises from the fact, that those most conversant with the pure mathematics, rarely condescend to mingle their knowledge with that required in the pursuits of every day life. Properly considered, mathematical studies must take the first place in every scheme of education intended to prepare the youth for immediate entrance into busy life. Algebra is no more than a more general and compendious arithmetic, and is susceptible of employment in all the calculations of commerce, of mechanics, and of the arts. The principles of the advantageous employment of money in all its varied modes of earning interest, in the shape of the funds; banking, and insurance stock, are reducible to strict mathematical laws, and all the calculations which have respect to them are simplified and facilitated by the use of algebraic formulae. In these, logarithms may be made of the most important value, reducing to the space of a few lines operations that by common arithmetic would occupy pages. By these methods the art of dealing in foreign and domestic exchanges, the reduction and comparison of the weights, measures, and currencies of different nations, may be facilitated and illustrated. Book-keeping by double entry is no more than a simple mathematical problem, attainable in a few hours by a mathematician of even humble attainments, while its study in the usual mode may occupy months or even years. Surveying, mensuration, and navigation, are direct applications of mathematical principles; and of these one, and often all, may be needed by every man at some period or other of his life. The basis of these branches of knowledge is to be found in geometry and trigonometry, which thus must be unavoidably included in our scheme. The simple problems of practical astronomy are founded on the same principles.

Under the two great divisions of language and mathematics, there would be included the subjects of direct and essential interest, as a preparation for the business of active life, and as the means of mental discipline. There are other branches of education, less laborious to the intellect, but almost as useful in themselves. Geography must constitute an object of particular interest,
and must be studied in a general point of view. The earth must be considered in its relations as a planet of the solar system, in its great natural divisions, and in the political relations which its parts bear to each other. A general view of the soil, climate, and productions of its several kingdoms and states, of their constitutions, manners, and customs, will be not only likely to attract attention, but will frequently find their useful applications in active business. The history of our race, and a more particular inquiry into the revolutions that have changed the condition, and led to the present state, of the nations with which we are more particularly connected, cannot be omitted; but in a more especial manner ought the physical, moral, and intellectual condition of our own country, the present statistics and susceptibilities for improvement of the states and territories of our republic, with a view of the federal constitution, and the principles on which our whole system of government is founded, to attract attention.

Mechanical facility in writing is too useful and important an acquisition to permit its being neglected; and although we have ranked it among the requisites of admission, it will require to be kept up both by precept and practice, until it be attained in perfection. Drawing should also be studied, both from its own value, and as affording an agreeable relaxation from severer studies. The youthful mind, indeed, cannot be forced down to a constant routine of severe application. Hours of amusement must be mingled with those of studious occupation; nor are the former without their real benefit. Like a bow always strung, the intellect loses its tone and elasticity by continual exertion. Exercise and amusement must therefore form as favourite a part of well regulated education as literary occupation. These are, in most instances, left to the discretion of the pupils. Such is particularly the case in the great schools of England, where the pupils, if they observe their prescribed bounds, are in all other respects at liberty during play hours. To this plan we conceive there are strong objections in many points of view. The total freedom from restraint has a bad influence on morals, and the absence of an eye entitled to respect, is apt to engender shyness and rusticity. The exercises, too, in which boys indulge from choice, may be conducive to health and strength, but are often inimical to grace and decorum. On the continent of Europe, the whole department of amusement and exercise is often as strictly regulated as that of study, and the students are not only closely superintended at all times, but even the manner and method of their plays is defined by authority. We would choose a middle system. There are certain exercises which require the instruction of qualified teachers, and at the same time conduce to ease and grace of manners. Such are dancing and fencing. For these, instructors ought to be provided, and hours distinctly set apart.
Swimming, at suitable seasons, might be included in the same system; and the gymnastic exercises, that have become a fashion of late, might also have their turn of prescribed performance. But there should be times at which the mode of exercise in the open air should be left to a free choice of the parties; yet even then it should be conducted under proper and vigilant superintendence, and upon grounds set apart for the purpose, in order that the liberty enjoyed should not degenerate into licentiousness, or be abused to improper uses. Resources for bad weather should even be provided, and indeed measures be taken to have every hour filled up with its appropriate occupation or exercise. Among resources of this sort, workshops, furnished with the tools and materials of the more familiar mechanic arts, might fill an important place: the right of resorting to them might be made use of as a reward, and occupation in them, when properly directed, rendered the means of conveying much useful instruction in various directions. Boys are natural architechts and shipbuilders, prone to imitate, upon a smaller scale, all the various structures and engines they observe in actual use. This tendency may, under proper direction, convert the mere imitative faculty into a power of combination and invention.

Above all ought the great principles of moral duty to be strictly and regularly inculcated; and although great care has been taken to exclude all possibility of sectarian influence, and the dogmatising influence of disputed creeds, moral obligations are without their most imposing sanction, if founded merely on human authority. They must, in order to be the efficient and controlling guides of life and conduct, be shown to be the revealed will of the Deity; and it must be inculcated with the earnestness of conviction, that their strict execution on the one hand, and their neglect on the other, will have their appropriate recompense in the rewards and punishments of a future world. If to enforce such obligations by such a sanction, be the specific province of the clerical order, still it may be effectually performed, and without danger of the introduction of polemics, by laymen. That this duty shall be committed to the latter, or not performed at all, is imperative by the will of Mr. Girard. While therefore we are far from advocating that puritanic severity which would convert the day of rest into one of painful restraint, we would propose that a portion of it be set apart to the illustration of moral obligation, by means of the precepts and promises of the scriptures.

The subjects of which we have spoken might suffice as a preparation for by far the greater part of the usual arts, trades, and occupations. No others would in truth be needed for entering into the counting-house, the shop of the retail merchant, the workshop of many of the mechanic arts, or for commencing the
practical study of seamanship. They would, if pursued under
the direction of able instructors, and with fair average talent and
industry, occupy a space of about four years. They bring the
student to that epoch, when the habit of our country requires
that the line of life should be chosen, and when in many cases
its duties and vocations should commence. Here then it may
be anticipated that many of the persons admitted would neces-
sarily stop, and proceed to enter upon the occupations to which
their future lives are to be devoted.

In stating the term of these essential studies at four years, we
have made our estimate upon an average of talent and industry.
Some there will be who cannot complete this course within such
a period. These should be left, at each annual return of the pe-
riod of admission, in the class they have previously been mem-
bers of, and should thus repeat the studies they have been una-
bale to compass. Indeed it ought, in exact opposition to the
usual system of our colleges, to be a rule, subject to no excep-
tion, that advance to a higher class is not a matter of right, but a
reward for proficiency in learning. To produce such an impres-
sion, and render it valuable in practice, annual examinations must
be held, and they should be considered not as mere trials of com-
parative progress, but as tests of the capability of entering upon
new studies, and of preparation for them.

There are many occupations that require preliminary labours
of higher character than is included in the foregoing estimate.
The farmer, the mechanist, the manufacturer, the engineer, the
architect, the shipbuilder, the commander of vessels, not to men-
tion a variety of other callings, would all be more useful to the
community, and gain more of profit and reputation to them-
selves, if provided with elementary knowledge of a higher de-
gree. This also enters into the scheme of the founder, and is
expressly provided for in the letter of his will. The epithet
he has chosen for his contemplated institution, indeed, shows
that it was intended to vie, in the extent and variety of the sub-
jects it should treat, with the colleges already established in our
country. He obviously could never have intended that the ob-
jects of his bequest should be debarred, by the limited nature of
their education, from the pursuit of at least two of the learned
professions, namely, law and medicine. In respect to the third,
it does not appear to have entered into his plan, nor is it neces-
sary that it should. Each of the great prevailing sects of our
country has made provision for this purpose, and many of our
colleges are conducted with strict reference to preparation for
theology. Limiting then the elementary studies to a four years'
course, we would propose the addition of a higher department,
in which the natural, physical, and intellectual sciences, should
form the most important objects, and where the higher branches of
mathematical learning might be studied by those who from taste or inclination should appear fitted for its pursuit. The right of admission to this department, would form a reward that might be applied as a most powerful stimulus to distinction in the more elementary studies. To those of inferior talent, it would be useless to open it, as diverting time and attention which might be more profitably employed by them in the exercise of mechanic arts, in the profession of the seaman, or in the duties of commercial clerks; to open it to those unwilling to profit by it, would be a perversion of the benevolence of the bequest.

The formation of such a department would also furnish the means of connecting with the establishment, and of bringing to the aid of its general purposes, abilities and acquirements of the highest order. We often see the greatest talent and most profound learning engaged in pursuits of but small emolument, although if devoted to instruction in the mere elements, they would give fortune to their possessors. A professor of lofty science will not for mere pecuniary considerations descend to the duties of schoolmaster, duties which, however useful, demand no more than acquirements of an inferior description, and thus necessarily place the person who exercises them lower in public estimation, than him who either teaches or pursues for other purposes, elegant literature or elevated science. To a well constituted mind, the respect of the community furnishes a reward not less valuable, and far more gratifying than mere pecuniary emolument. The latter may be essential to a comfortable support, and to the rearing of a family; the former will fulfill many of the purposes to which wealth is best applied, and more than supply its want. If then the course of the Girard institution be limited to subjects purely elementary, no salaries, however great, will probably tempt those who alone could give it dignity in the eye of the world, to undertake its management. It will necessarily fall into the hands either of persons of inferior talent and learning, or of younger men who will use it as a step to situations of higher dignity and importance, even if inferior in direct compensation.

The wealth of the institution, the perfection of which its discipline is capable, and the consequent comfort of its officers, would ensure, if stations sufficiently dignified in their character be created, the command of the highest abilities that exist in our own country, or even draw the first talents from Europe, in case our own country cannot supply them, in all the requisite departments. Its professors would become naturally the superintendents of the co-ordinate preparatory studies in the lower division, and the harmony and consistency of the scheme, together with its perfection, would thus not only be promoted, but ensured.

The elementary course would, as we have seen, occupy four
years, and bring pupils admitted at the age of ten, to the earliest epoch prescribed by the founder for their departure from the institution. As it could not occur that all or even the largest portion of those admitted would not exceed the lowest age at which admission is practicable, it is probable that many would have attained the age of sixteen before the elementary part of the course was completed. Only two years, therefore, would remain for the prosecution of the higher studies, by those who may be found fitted for them, and whose proposed course of life may render them useful or of absolute necessity. To acquire even the elements of all the various branches of science, this period would not be sufficient. But it is not to be expected that any one person would either desire to attain, or find in his future pursuits useful applications of them all. While, therefore, the means of full instruction in the intellectual, physical, natural, and mathematical sciences should be provided, it may be left to the selection of the pupil, under proper direction, to prevent want of sufficient occupation, to choose such of them as may be most congenial to his own mind, or appropriate to the course of life he purposes to follow.

All the various branches of literature and science, whether of the elementary or more elevated course, come not only within the spirit, but the express letter of Mr. Girard's will. It may, however, be objected to the plan we have sketched, that it would be useless, or even unjust to others, to give to those who are merely the objects of charity, an education which, if completed in conformity with the spirit of our intentions, would be superior, in some respects, to any that can be obtained in our country, either from public or private institutions. To this a reply is easy: such is the genius of our republican institutions, that it may often happen that those who become the objects of a public bounty are, so far as family and lineage can create distinction, the equals or superiors of those who enjoy the greatest affluence; while from the lowest conditions in society may rise those who are to direct our public affairs, and exercise the most important influence upon the destinies of our country. If, however, the distinction is to be drawn between the children of the opulent and those of the poor, Mr. Girard has by his will adopted three hundred orphans, and as many in addition as the careful improvement of his legacy will provide for; they are, in consequence, not to be considered as destitute of the rank derived from their paternal connexions, but as the legitimate heirs of the most opulent citizen our country has yet seen. All considerations then, demand that the education his bequest shall provide for them, be sound, practical, and extensive; that it prepare them for usefulness in future life; for the earning of their own support; and for increasing the reputation of their country: it should also
be extended, when proper talent and diligence are discovered, to the highest studies of practical character taught in any of our colleges, so that those who may desire to avail themselves of all the bounty of their adopted parent, may stand in no respect beneath the children of fathers the most opulent and the most influential.

In conformity with the views we have thus developed, the organization of the Girard institution should admit of a senior and junior department; the former comprising a course of four, the latter of two years in duration. The general superintendence should be vested in an officer who should himself fill one of the departments of instruction; and the detail of discipline be committed, under the general superintendence of the former, to another, who should devote to it his whole time and attention.

The studies of the senior department, including the elements of science, might be conveniently divided into the following branches: 1. Intellectual, Moral, and Political Philosophy; 2. Mathematics, and Physical Astronomy; 3. Physics, and Mechanics; 4. Chemistry applied to the Arts, Mineralogy, and Geology; 5. Natural History in all its branches. Five professors, then, would suffice, each delivering a double course, so that the pupils might remain two years under their instruction, in studies of regular ascent, those of the first year serving as an introduction to the second. It might so happen that the peculiar taste of the several persons who should be appointed, would lead to a different distribution of the subjects; or that more than one might be called to either of the five departments, in order to enable the institution to avail itself of talent in the neighbouring city, already partially occupied in other pursuits. With the professors of these departments, should rank as co-ordinate and equal, another of general literature, to whom the direction of the studies in that branch of knowledge in the junior department should be intrusted, and who should himself teach the rhetorical branches to its highest class. The remaining three classes of the junior department would each require the superintendence of two tutors, who should each direct the literary studies of a division of the class for three years from the time of their first admission, and should act, in the support of the discipline, under the direction of the proper officer. The other branches of education included in our scheme, should each have their appropriate professors, devoting their attention to one or more classes, according to the extent of their respective duties. Of the six professors, including the principal officer and the superintendent of discipline, should be formed the Senatus Academicus, constituting a court of last resort in all matters of discipline; and forming a council charged with the regulation of the times of study, recitation, and exercise, and with the distribution of subjects according to the abili-
ties of the pupils, and their respective importance in the scheme of education. Upon these principles, the officers necessary to conduct the education of three hundred pupils, would be as follows, viz.

1 Principal, also acting as a Professor.
1 Superintendent of Discipline.
5 Professors.
6 Tutors.
4 Teachers of Mathematics, (with Mercantile Arithmetic and Book-keeping.)
2 Teachers of Geography.
2 Teachers of History.
2 Teachers of English Elocution.
2 Teachers of Writing.
2 Teachers of Drawing.
1 Teacher of Architectural Drawing and Perspective.
2 Instructors in Gymnastics.
1 Chemical Operator.
2 Curators of Cabinets and Apparatus.
1 Keeper of Observatory and Astronomic Instruments.
1 Librarian.
1 Inspector of clothing, &c. of the older pupils.
4 Matrons, inspectors of the younger pupils.
1 Steward and Commissary of Purchases.

The detail of the studies of the two departments, arranged in the order of progress, may be best exhibited in a tabular form, and is as follows:

JUNIOR DEPARTMENT.

FOURTH CLASS.

English Orthography.
English Reading and Elocution.
Latin Grammar.
Select Sentences from Latin Prose writers.
Arithmetic.
General Description of the Earth.
American Geography.
American History.
Writing.

THIRD CLASS.

Extracts from Latin Prose writers.
French Grammar.
French Exercises.
Extracts from Classic French authors.
 Merchants' Accounts, Foreign Moneys, and Exchanges.
Algebra.
Geography of the Old Continent, Ancient and Modern.
Sacred History.
English Reading and Elocution.
Writing.
Elements of Drawing.

SECOND CLASS.

Extracts from Latin Prose writers.
Exercises in Reading, Writing, and Speaking French.
Spanish Grammar.
Spanish Exercises.
Extracts from Spanish authors.
Elements of Geometry.
Elements of Plane Trigonometry.
Applications of Geometry and Plane Trigonometry to Mensuration, Surveying, and Navigation.
Ancient History.
Physical Geography.
Descriptive Astronomy.
Composition of Narrative in English.
Landscape and Plan Drawing.

FIRST CLASS.

Cicero's Orations.
Rhetoric.
Principles and Practice of English Composition.
Exercises in Reading, Writing, and Speaking Spanish.
Elements of Spherical Trigonometry.
Applications of Spherical Trigonometry to Geography, Navigation, and Practical Astronomy.
Book-keeping.
Principles and Sanction of Moral Obligation.
Modern History.
Drawing in Civil and Naval Architecture.

SENIOR DEPARTMENT.

PROFESSORSHIP OF INTELLECTUAL, MORAL, AND POLITICAL SCIENCE.

First Year. { Principles of Analytic and Synthetic Reasoning.
         Political Economy.
         Metaphysics.

Second Year. { Moral and Intellectual Philosophy.
           Evidences of Revealed Religion.
PROFESSORSHIP OF MATHEMATICS AND PHYSICAL ASTRONOMY.

First Year. 
- Analytic Geometry.
- Descriptive Geometry.
- Differential Calculus.
- Integral Calculus.

Second Year. 
- Calculus of Variations.
- Physical Astronomy.

PROFESSORSHIP OF PHYSICS AND MECHANICS.

First Year. 
- Elements of Physics.
- Elements of Mechanics.
- Practical Mechanics.

Second Year. 
- Civil Engineering.
- Theory of Civil and Naval Architecture.

PROFESSORSHIP OF CHEMISTRY, &c.

First Year. 
- Elementary Chemistry.
- Chemistry applied to the Arts.
- Agricultural Chemistry.

Second Year. 
- Mineralogy.
- Geology.

PROFESSORSHIP OF NATURAL HISTORY.

First Year. 
- Botany of existing Species and Genera.
- Zoology.
- Botany of extinct Species and Genera.

Second Year. 
- Vegetable Physiology.
- Animal Physiology.

We have already stated that it would be impracticable for any one pupil, to acquire in the space of two years, a complete acquaintance with the whole of the scientific subjects comprised in the above scheme of studies for the senior department. Certain general facts and popular views of them all are however of value in almost every possible pursuit. It should therefore be the duty of the several professors, in addition to their strictly scientific instructions, to deliver public courses of a popular character to all the students of the senior department. During the two years occupied in these studies, time may be afforded to those who have manifested a taste for the pursuit, to improve themselves by practice in the various kinds of drawing already taught them, and to acquire the rudiments of the drawing of the human figure; to increase their fluency in the French and Spanish languages; to acquire the German and Italian tongues. It is even questionable whether in the form of a reward for proficiency in literature, means might not be provided for those who might desire it, to
become acquainted with the Roman poets, and with the Greek language. In thus having a part of the studies optional, one precaution which has already been alluded to will be essential, namely, that the authorities of the institution shall secure, in admitting the choice of the individuals, that their time shall be sufficiently occupied. The plan of building prescribed by Mr. Girard in his will, leads to the inference that it was his intention that the studies should be performed in public, and the pupils lodged by classes or sections in large dormitories. For the junior department, this method, from its admitting of easy and efficient superintendence, is probably the best. It ceases to be applicable to the senior department. In this the studies will be best prosecuted in solitude, and with the means and appliances of undisturbed reflection. For the students of this department it will consequently be necessary to provide separate sleeping rooms, which may also be used as studies.

To conduct the several studies of which we have spoken, with success, a great number of collateral aids will be needed. First in rank among these may be classed books of reference. These can only be furnished in the number and variety that will suffice to ensure proficiency in all the various departments, by a rich and extensive library. The collection of such a one is not a matter either of short time or limited expense. It ought therefore to be formed rather by moderate and constant annual appropriations, than by one large grant. The best mode of appropriation would be to place an equal part of the annual allowance at the disposal of each of the professors, authorizing him to procure books to that extent, to be deposited in the library within a short specified period. Those books which the professors may desire to consult in their respective studies, will obviously be best suited to promote the progress of their pupils, and a collection of the most useful practical character will be thus most easily formed.

In respect to the collections of philosophical and chemical apparatus, a specific original appropriation must be made for all necessary to illustrate the present state of science, with an annual sum sufficient to keep the whole in perfect order, and add whatever new discoveries may demand to render them intelligible and easy of acquisition. In some departments, those of practical astronomy and surveying for instance, many articles of the same character and description will be needed, if it be intended that the practice be taught as well as the theory. In mineralogy, geology, and natural history, the alphabets of the several nomenclatures will be indispensable at the outset, while the further extension may be left to the exertions of those pupils who may desire to apply themselves more closely to these specific pursuits. Allowances for expenses upon expeditions of ex-
amination and research, to the professors of these departments, and to such of the pupils as may most distinguish themselves, will furnish facilities for forming collections of the most complete character. It may also be fairly anticipated, that the pupils of the institution will in their future active pursuits feel anxious to discharge a part of the debt they will so justly owe, by placing those articles which every traveller may obtain without expense, and which are valueless in private hands, in the collections of the institution.

Models of the more familiar and elementary machines may be necessary from the very first, but the full means of illustrating the application of science to the arts, may be best obtained by directing the practice of drawing to proper objects, and by voluntary exercises in the workshops of the institution.

By the bequest of Mr. Girard, a trust of the most sacred character devolves upon the councils of the city of Philadelphia—a trust involving the highest responsibility, inasmuch as its influence is neither temporary in its character nor evanescent in its effects, but involves the destinies of posterity, the usefulness and happiness of thousands yet unborn. Vast in its amount beyond any endowment yet possessed by our most flourishing institutions, it may, according to the manner of its application, be made the instrument of greater good, or of greater mischief, than could well be produced by any engine yet in action in our country. Nor is it possible that it can be neutral in its effects and consequences. Should this institution be formed upon limited and narrow principles, or founded upon contracted views of the extent and variety of attainments that are demanded in the active pursuits of life; should the education it confers be superficial and unsound; should it fail to train to habits of persevering industry, or to inculcate morals of the purest description, it will pour upon our country persons who by the influence of their numbers and example may poison the sources of knowledge. Should it on the other hand be so constituted as to meet in all respects the benevolent views of the founder, it is hardly possible to anticipate how great may be the lasting benefits it will confer, not only upon the pupils it may train, but upon the character and prosperity of the whole Union. Much of its influence as an engine of evil on the one hand, or of unlimited good on the other, must depend upon its first organization. Success in such an undertaking is not to be sought by trial and experiment, by changes made when evil is perceived to obtain, and modifications to meet existing circumstances. All who have ever engaged in the instruction of youth, know how difficult it is to introduce even the most salutary changes. The improvements which to an eye situated without the walls of an academic institution appear of the most obvious character and most easy of introduction, are often frustrated
by determined opposition. Those which increase personal labour on the part of the student, or render more difficult his attainment of honour and distinction, if more likely to be of real benefit to him, are yet those which are the most difficult to introduce. If then the original scheme of education be insufficient, its future improvement can only be made by slow and imperceptible steps, unless it be thought expedient to obtain a probability of future good, at the expense of certain present evil. Our views have been directed to the very narrowest limits which we conceive the spirit of Mr. Girard’s will can admit. By the division into two departments; by the provision that elevation from one class to another shall be the reward of proficiency; and by proposing that the senior department be only provided for those who by proficiency at an early age shall manifest a capability of being benefited by it; we have provided for every possible case. Pupils will leave the institution on reaching an appropriate age, with every variety of acquirement, and those who are the most strenuous opponents of an education beyond objects of the most obvious necessity, will be gratified on the one hand. But to the diligent and intelligent a course will be opened of sufficient extent, to satisfy those who with better judgment would wish to lay deep the foundations of knowledge.

ART. VII.—A Narrative of a Nine Months' Residence in New Zealand, in 1827; together with a Journal of a Residence in Tristan d’Acunha, an Island situated between South America and the Cape of Good Hope. By Augustus Earle, Draughtsman to his Majesty’s Surveying-ship the Beagle: 8vo. London: 1832.

Mr. Earle is one of those persons who find happiness in perpetual locomotion; a class who appear unfitted for stationary occupation, their restless disposition making them as uneasy, when confined to one scene, as a chained lion or a harnessed zebra. Our countryman Ledyard, the Scotchman commonly called Walking Stewart, and the Italian adventurer Belzoni, were of this class; and to many of them the world has been much indebted for novel information concerning remote regions. Mr. Waterton, impelled by such a disposition, has explored Guiana, and the late Capt. Cochrane traversed, as a pedestrian, the whole extent of Siberia! But we must come to Mr. Earle. In 1815, he embarked from England for Sicily and Malta, accompanied Lord Exmouth’s expedition against Algiers, visited the ruins of Carthage and Ptolomea, returned to Malta and Sicily,
not omitting the ascent of Mount Etna, took a minute survey of Gibraltar, and returned home in 1817. In the spring of the following year, he set sail for this country, and spent nearly two years in rambling through the different states and Canada. During 1820, he journeyed in Brazil, Chili, and Peru, and since that period, besides the islands mentioned in the title, visited Australia, the Caroline islands, the Ladrone, the Philippines, Sinca-poor, Pulo-Penang, and a considerable part of Hindostan, and Mauritius! Such a varied scene must have furnished materials for several volumes; but that we are about to notice, is, it appears, the only one he has offered to the public; so let us take it and be thankful.

The first thing which forcibly struck Mr. Earle's attention in New Zealand, was the possession and management of fire-arms by the natives, he being, it should seem, uninformed of the alteration in their condition since the time when Cook visited them. Many of them came on board, and stripping themselves naked according to their custom, gave their visitors a dance of welcome, stamping so furiously, that Mr. Earle feared they would have broken the decks in. The vessel, however, on coming to an anchor in the harbour of E. O. Ke Anga, (so he writes it), was soon cleared of numbers of them by two chiefs, both of whom were known to the captain, and who, according to our author, "behaved in as polite and respectful a manner as the best educated gentleman could have done." Making some allowance for the influence of novelty on his mind, this may be true, as savages in many countries, when not subjected to the paroxysm of anger or revenge, can demean themselves not only properly but attractively. That he was really in a savage country was evident enough to him on the following day, for, in rambling about, he saw the horrifying spectacle of the remains of a human body, which had been butchered and roasted, left a prey to dogs and hogs! The occasion of this cannibal repast was simply this. A boy had been set to keep a potato ground clear of hogs, but, attracted by the sight of the brig, he had neglected his duty, and while the animals were committing trespass, was surprised by his master, who, without ceremony, despatched him with a blow on the head! Thus it appears that cannibalism is not restricted by these people to the bodies of enemies, and to times of scarcity, but may be practised without remorse on trivial provocations, so debased can human nature become! Should any of our readers be inclined to dispute the fact, they need only refer to the volume in the Library of Entertaining Knowledge, entitled the New Zealanders, and they will find it amply confirmed.

The natives continued to visit the vessel in great numbers, yet scarcely a single article was purloined, theft being, since their enlarged acquaintance with Europeans and Americans, consider-
ed disgraceful: such is Mr. Earle’s explanation. But it may be doubted whether the principle of honour—for it seems to be that rather than honesty which restrains them from stealing—was learnt from their intercourse with foreigners; as various facts might be alleged in proof of its being of native growth. The perfidy so usually complained of by civilized men in their transactions with savages, does not appear to belong particularly to the New Zealanders, except when they are instigated by revenge for some real or supposed grievance; then, indeed, it is deep and almost insatiable. There can be no doubt that theft has been practised on them by people calling themselves civilized, to an extent as great as they have practised it on the latter; abundant evidence of this is furnished by Nicholas: so that many of the horrid deeds they have committed, admit the palliation of being only retaliatory, not indeed always on the offending party, but on their nation; savages seldom discriminating in their resentments between friends and foes, provided they belong to the same people.

The following passage, comparing the New Zealanders with American Indians, can scarcely be read without interest.

“I had heard a great deal respecting the splendid race of men I was going to visit, and the few specimens I had occasionally met with at Sydney so much pleased me, that I was extremely anxious to see a number of them together, to judge whether, as a nation, they were finer in proportion than the English, or whether it was mere accident that brought some of their tallest and finest proportioned men before me. I examined these savages, as they crowded round our decks, with the critical eye of an artist. They were generally taller and larger men than ourselves; those of middle height were broad-chested and muscular, and their limbs as sinewy as though they had been occupied all their lives in laborious employments. Their colour is lighter than that of the American Indian, their features small and regular; their hair is in a profusion of beautiful curls, whereas that of the Indian is straight and lank. The disposition of the New Zealander appears to be full of fun and gaiety, while the Indian is dull, shy, and suspicious. I have known Indians in America from the north to the south—the miserable idiotic Botecooda of Brazil, the fierce warrior of Canada, and the gentle and civilized Peruvian; yet in their features and complexion they are all much alike. I observed their statures altered with their different latitudes. The Chilians and the Canadians being nearly the same, in figure tall, thin, and active, their climate being nearly the same, although at the two extremes of America; while those living between the equinoxes are short, fat, and lazy. I am persuaded that these South Sea Islanders, though so nearly of the same complexion, still are not of the same race, laziness being the characteristic of the American Indian from north to south, while the New Zealanders are laborious in the extreme, as their astonishing and minute carvings prove. The moment the Indian tasted intoxicating spirits his valour left him; he became an idiot, and a tool in the hands of the white man. Here they have the utmost aversion to every kind of wine or strong drink, and very often take us to task for indulging in such an extraordinary and debasing propensity, or, as they call it, of making ourselves mad; but both nations are equally fond of tobacco.”

The continued refusal of the New Zealanders to partake of intoxicating drinks—and the fact is confirmed by numerous authorities—is, we believe, inexplicable. The Sandwich and So-
ciety Islanders, who are evidently of the same race with them, all speaking the same language, with slight variations, have manifested so great a fondness for ardent spirits, that the missionaries have had laborious work in effecting sobriety. Leaving the subject for the investigation of physiologists and metaphysicians, we may remark, that considering the propensity of these people to war and bloodshed, their abstinence is a most happy circumstance; for, if their ferocity is now so great, what would it be if inflamed by so powerful a stimulant as whiskey? Mr. Earle is of opinion, that their ferocity and cannibalism are both mainly attributable to the dearth of quadrupeds in their country. Perhaps if they were well supplied with beef and mutton, their temptation to cannibalism might cease, but would they be less ferocious? This is a question more easily put than answered; but let them once gain the lust of spirit-drinking, and they would become, we doubt not, even more like demons than they now are.

Mr. Earle did not remain long on shipboard, but made various excursions into the country, and we shall let him use his own language respecting one of them, from a conviction that our readers will be more gratified by his detail than they would be by our abstract.

"At day-break we took leave of our hosts and proceeded on our journey; we had eight miles of thick forest to scramble through, and this part we found considerably worse than that we had traversed yesterday. The roots of trees covered the path in all directions, rendering it necessary to watch every step we took, in order to prevent being thrown down; the supple-jacks, suspended and twining from tree to tree, making in many places a complete net-work; and while we were toiling with the greatest difficulty through this miserable road, our natives were jogging on as comfortably as possible: use had so completely accustomed them to it, that they sprang over the roots, and dived under the supple-jacks and branches with perfect ease, while we were panting after them in vain. The whole way was mountainous. The climbing up, and then descending, was truly frightful. Not a gleam of sky was to be seen; all was a mass of gigantic trees, straight and lofty, their wide-spreading branches mingling over head, and producing throughout the forest an endless darkness and unbroken gloom. After three or four hours of laborious struggling, we emerged from the wood, and found ourselves upon an extensive plain, which as far as the eye could reach, appeared covered with fern. A small path lay before us, and this was our road. The New Zealanders always travel on foot, one after the other, or in Indian file. Their pathways are not more than a foot wide, which, to a European, is most painful; but as the natives invariably walk with the feet turned in, or pigeon-toed, they feel no inconvenience from the narrowness. When a traveller is once on the path, it is impossible for him to go astray. No other animal except man ever traverses this country, and his track cannot be mistaken, since none ever deviate from the beaten footpath, which was in consequence in some places, where the soil was light, worn so deep as to resemble a gutter more than a road. We proceeded for many miles in this unsocial manner—unsocial, for it precludes all conversation. Our natives occasionally gave us a song, or rather dirge, in which they all joined chorus. Having at length attained the summit of a hill, we beheld the bay of islands, stretching out in the distance, and at sunset we arrived at the Kiddy-Kiddy river, where there is a church-missionary settlement. We had travelled all day through a country in which every object we saw was of a
character that reminded us forcibly of the savage community we were with. Occasionally we met troops of naked men, trotting along under immense loads, and screaming their barbarous songs of recognition; sometimes we beheld an uncouthly carved figure, daubed over with red ochre, and fixed in the ground, to give notice that one side of the road was tabooed. An extraordinary contrast was now presented to our view, for we came suddenly in front of a complete little English village. Wreaths of white smoke were rising from the chimneys of neat weather-boarded houses. The glazed windows reflected the brilliant glow from the rays of the setting sun, while herds of fat cattle were winding down the hills, lowing as they leisurely bent their steps towards the farm-yard. It is impossible for me to describe what I felt on contemplating a scene so similar to those I had left behind me.”

As Mr. Earle had a letter of introduction to the settlement from a missionary in another place, he expected to meet a cordial reception; but, instead of this, he found a coldness which he did not anticipate from countrymen at the antipodes. No inquiries after news, no smile, no sympathetic feeling greeted his arrival; and at another station which he subsequently visited, equal disregard was manifested. From this concurrent inhospitality we infer that the missionaries had received some unfavourable information respecting him; and from the tone of levity in which he speaks of them and their benevolent endeavours, there is room to suspect that they had reason to regard him as unfriendly to their vocation. This appears the more probable from an additional circumstance which he mentions. He and his companion had taken up their abode at a place only two miles from a missionary station, when their houses were attacked, rifled, and burnt by a tribe of hostile savages; yet even then, they received no invitation from their countrymen! Great allowance may be made for the missionaries, who have often been traduced and ridiculed to the heathens whom they desired to convert; but we think they would have shown a more Christian spirit by alleviating the distress of their opponents, than they did by neglecting it. To return good for evil is the doctrine of inspiration, and if at all times and in all places applicable, how doubly so to countrymen in a remote region of the earth! What could be more likely to change them into steadfast friends? If, however, the missionaries neglected to assist Mr. Earle and his companion, not so did the natives. They made the frame of a cottage with slight sticks bound together with flax, and then thatched it so neatly with rushes that it was quite comfortable, especially when doors and windows had been added by themselves, for these were luxuries to which their friends were unequal.

We shall now extract a passage giving a view of savage life, more distinct as far as it extends, than can be given by casual visitors; residents only having the means of depicting it.

“I went to reside for a short time at a village about half a mile distant, where there was a pretty good house vacant. It was called Matowe, and belonged to a chief named Atoi, a relation of George’s, but a much younger man. His power
was not so great, and he was every way subject to the authority of the tribe under whose protection I had placed myself. One morning at day-break we were roused by the hasty approach of King George and all his warriors towards Matawe. All were fully equipped for war, and each countenance looked fierce and wild. Our late misfortunes having rendered us more than usually anxious, this hostile appearance gave us considerable alarm. We left our house to inquire the reason thereof, and saw George and his followers enter the village, pull down several fences, fire a few muskets in the air, dance a most hideous dance of defiance, and then depart; but not one word of explanation could we obtain from him. In the course of the morning, however, the women acquainted us with the cause of this mysterious proceeding, which determined me to remove my things back again to George's village of Kororadika as soon as possible.

The affair was simply this. Atoi had two wives. During the time of our visit to his village he was absent, and had intrusted these women to the care of his brother; but he, instead of being faithful to the trust reposed in him, had actually seduced one of them. This circumstance came to the knowledge of George, and he, feeling for the honour of his absent friend, immediately proceeded to the village, and thus gave the parties warning that he was fully aware of the nature of their proceedings. He had also despatched a messenger to Atoi, to inform him of his disgrace, and to request his immediate return. In the course of the day it was expected he would arrive, and bring with him a strong party of friends, all burning with revenge, and eager to punish his brother for his unnatural perfidy. It was thought, that unless George interfered, much bloodshed might ensue; and it may readily be imagined how anxious we were that this dreaded meeting should be over; yet I for one, had determined to be a witness of it. Therefore, when word was brought to me that Atoi was crossing the bay, I hastened down to the beach. There I found all parties assembled from both villages. George and his followers, who were to act as mediators, sat immediately in front of the place of landing; behind them were Atoi's brother and all his partisans; and in the rear, were all the women and children, with about a dozen white faces scattered amongst them. The scene was picturesque and exceedingly interesting. It was near the close of a lovely summer's day; the sun, fast sinking towards the horizon, threw a warm and mellow glow over the wide expanse of the far-spreading bay, whose smooth waters were only disturbed by the approaching canoe cutting its foamy way. It was crowded with naked warriors, urging their rapid course towards the shore; and we heard the loud and furious song of the chief, animating his friends to exertion; we saw his frantic gestures, as he stood in the centre of his canoe, brandishing his weapons. As they came near the place of landing, George ran into the stream, and as the canoe touched the shore, attacked Atoi, but in a playful manner, splashing water over him. Thus irritated, Atoi jumped on land, and, with a double barrelled musket in his hand, ran towards his brother, and doubtless would have killed him on the spot, had he not been prevented. I now saw the advantage of George and his party being present. He and three of his subjects seized upon Atoi, and tried to wrest the weapon from his hands, which if they had been able to effect, a mortal combat could not take place, such being the custom here. Atoi was a very powerful man of about thirty, and those who attacked him had a most difficult task; twice he broke from them, and I then watched the countenance of his brother, which was perfectly cool and collected, though the firelock was in readiness, and the finger on the trigger which might despatch him instantly. All parties sat perfectly quiet during the desperate struggle; one of the barrels of Atoi's piece went off, and the contents flew amongst us, without, however, doing any material injury, and finally the musket was wrested out of his hands. He then sat still for about twenty minutes to recover his breath, when he seized his club and rushed upon his brother, for mortal weapons were now prohibited. The brother started up armed in the same manner; some heavy blows passed between them, when having thrown aside their clubs, they grappled each other firmly, and a dreadful struggle ensued. As they were both completely naked, their hair was the only thing to take hold by; but being long, thick and strong, it afforded a firm grasp, and they committed desperate havoc
on each other's persons. At this period of the fight, their poor old mother, who was quite blind, came forward to try and separate the combatants; the sister and younger brothers now followed her example, and finally, the fair and frail cause of all this commotion. The brothers, having completely exhausted their strength, were easily separated, and as their friends had carefully removed all weapons out of their reach, they of course were deprived of the means of injuring each other. The members of Atoi's family, together with a few friends, now sat down in a circle, to converse and consult on the affair. Atoi's wife totally denied the charge, and protested her innocence; and many circumstances were brought forward to corroborate her statements. The husband at length was satisfied, and all parties were reconciled.

Many things, both in the habits and character of the natives, delighted our author, while others were horribly disgusting. He one morning received information that a female slave had been put to death, and that they were preparing for a cannibal feast. In order to ascertain the truth of the report, it was needful to use caution, as the New Zealanders, knowing the abhorrence in which such things are viewed by Europeans, keep them as secret as possible. Accordingly, Mr. Earle and his friend, letting none of them know their intentions, contrived to surprise them as their horrid banquet was preparing, and saw the four quarters of a human body, and a head which they recognised as that of a girl who had been claimed the preceding evening by Atoi as a runaway slave of his. The man engaged in the butchery was proceeding with the utmost composure, while they were transfixed with surprise and indignation. Consulting together as to what they should do, they determined to wait upon Atoi, and charge him with his brutality. They did so, and though at first he shuffled, he afterwards confessed that he had murdered her, "I told her," said he, "I only intended to give her a flogging; but I fired, and shot her through the heart." Mr. Earle says that this monster, according to the notions of the civilized, was, notwithstanding, mild in deportment, and handsome in countenance. They returned to the spot they had left, and while there, formed a resolution to disappoint the savages of their prey; so, with four other white men, they collected the flesh and bones of the victim and interred them, at the same time destroying the oven. Had this been done by the natives of any other tribe, they would all have been in danger of sharing the fate of the unfortunate girl; but such is the respect they now show to white men, that this deed passed unavenged. Mr. Earle, however, afterwards learned, that they disinterred her remains to gratify their brutal appetites! Their old friend, George, waited on them the next day, and remonstrated with them on their conduct, telling them that they had no right to interfere with a national custom. "What punishment," he inquired, "have you in England for thieves and runaways?" They replied, "After trial, flogging or hanging." On this Atoi exclaimed, "Then the only difference in our laws is—you flog and hang, we shoot and eat!" He him-
self, however, had, he said, out of respect to the whites, discontinued cannibalism. The other chiefs not having followed his example, the condition of the slaves subjected to these savages is wretched in the extreme, as, on the slightest provocation, they are liable to be murdered and roasted!

If George imitated the whites in abstaining from human flesh, so did other chiefs in various matters. Some had acquired the habit of taking leave of their friends without tears or wailing; some wore the European dress; and some, though unconverted to Christianity, kept the Sabbath, during which, attracted by curiosity, they sometimes attended the celebration of public worship. On one occasion, Mr. Earle was amused by their remarks on the sermon. They disputed no part of the history of Christ as detailed to them, but remarked, “As all these wonderful circumstances happened only in the country of the white men; the Great Spirit expected only the white people to believe them.” With respect to Hell, it could, they maintained, be intended only for the whites, as none of their people were half wicked enough to be sent there; and as to the doctrine that all men were in danger of being cast into it, they laughed heartily at it, saying they would have nothing to do with a God who delighted in such cruelties. They expressed their hope that each would have a blanket for having listened so patiently!

While Mr. Earle was in expectation of the return of the brig which was to restore him to civilized society, a rumour was spread that Shunghie was about to invade King George’s territory, the conquest of which had long been one of his favourite projects, and which he was desirous of accomplishing, even if he should die in consequence. They were all alarmed, and forthwith prepared for the event. George despatched messengers to his friends and dependents to come to his aid, and the next day, had the satisfaction of seeing eight canoes, filled with warriors, arrive.

“I determined,” says Mr. Earle, “to pay them a visit, to witness the ceremonies of the night bivouack, which proved a most picturesque scene, and wild and beautiful in the extreme. Their watch fires glanced upon the dark skins of these finely formed men, and on their bright weapons. Some groups were dancing, others were lying round a fire, chanting wild songs descriptive of former wars; whilst the graver elders sat in a circle, and discussed the present state of affairs. All were delighted to see me, and each group offered to share their fire and provisions with the white visitor, as they termed me. The next morning these auxiliary forces were seen descending the hills to our village, and in order to return the compliment, we all went in our best array to receive them. There were upwards of two hundred naked, athletic savages, each armed with his firelock, and marching with the utmost regularity. The chiefs took the lead. The alarm such a sight might have created, was dissipated by the certainty that they came as our protectors. I even imagined their countenances were not so ferocious as usual; but as they approached near to our party, the usual sham fight began, accompanied by the war dance, and although I expected it, and indeed came for the purpose of witnessing it, it was conducted with so much fury on both sides, that at length I became quite horrified, and for some time could not divest myself of the feeling that our visitors were playing false, so closely did
this mock combat resemble a real one. The dreadful noises, the hideous faces, the screeching of the women, and the menacing gestures of each party, were so calculated to inspire terror, that stouter hearts than mine might have felt fear. When the tumult subsided, the elder chiefs squatted down, and had the long talk usual on these occasions."

Amongst the chiefs was one whom Mr. Earle recognised as a former guest of his at Sydney, and as he approached to speak to him the chief jumped up, hugged him, rubbed noses, and in the embrace bedaubed him with the red ochre with which he was covered. This embrace, however, was not so bad as that of the snuffy old woman whom Dr. Hooker met with in Iceland. The chief's father, when informed that Mr. Earle was the man who had treated his son so hospitably, was affected to tears; one proof amongst many that savages can feel gratitude. At the conclusion of the discussion, a sham fight took place amongst the young men, when numbers were thrown down in heaps in every direction. Then followed a wrestling match, conducted with the skill and regularity of an English boxing match, and without the slightest ill humour, though some severe blows and falls were given. Mr. Earle was reminded of Homer's heroes, whose sports were similar. A week having elapsed without the appearance of Shunghie's tribe, and provisions getting scarce, the warriors returned home; and an English ship of war just then coming in, all fears of an attack were at an end.

To this vessel George resolved to pay a visit, decking himself for the occasion in abundance of finery, but, on receiving a cold reception himself, while the chiefs who accompanied him were refused admission, one of them remarked, that the white warriors were afraid of them, notwithstanding their great guns and superiority of numbers. Mr. Earle says, that danger of an attack from the New Zealanders is now altogether imaginary, the whale ships having, by their intercourse, so far civilized them, that they would no more commit an outrage without provocation than any other people. Yet the missionaries, he adds, have done all in their power to injure the reputation of the whalers with the natives. This is probably true; still the motives of the missionaries should be examined before they are condemned. Now we learn from various authorities, that the crews of these vessels have indulged in the most licentious intercourse with the native females, exhibiting in their conduct such a specimen of immorality as no Christian teacher can countenance. Is it then surprising that the missionaries should have endeavoured to impress the natives with abhorrence of their conduct? The refusal of the missionaries to show hospitality to their countrymen, we cannot, however, approve, as we have before said; and here we shall let Mr. Earle speak for himself at length.

"For some time previous to the arrival of Christmas, the captains of two whalers and myself had been deliberating where we should spend this social
day; and it was finally settled that we should cross the bay to Tipoona, a beautiful and romantic spot, the residence of an intelligent chief called Warri Pork, and an Englishman named Hanson. Near this was a church-missionary establishment; and at this Englishman's house we determined we would spend the day; and as every one contributed his share towards this picnic feast, the joint stock made altogether a respectable appearance.

"We proceeded to Tipoona in two whale boats: it was a most delightful trip, the scenery being strikingly beautiful. The village of Ranghi Hue, belonging to Warri Pork, is situated on the summit of an immense and abrupt hill: the huts belonging to the savages appeared, in many places, as though they were overhanging the sea, the height being crowned with a mighty par (fortress.) At the bottom of this hill, and in a beautiful valley, the cottages of the missionaries are situated—complete pictures of English comfort, content, and prosperity. They are close to a sandy beach; a beautiful green slope lies in their rear, and a clear and never failing stream of water runs by the side of their enclosures. As the boats approached this lovely spot, I was in an ecstacy of delight. Such a happy mixture of savage and civilized life I had never seen before; and when I observed the white smoke curling out of the chimneys of my countrymen, I anticipated the joyful surprise, the hearty welcome, the smiling faces, and old Christmas compliments that were going to take place, and the great pleasure it would give our secluded countrymen, to meet us in these distant regions at this happy season, and talk of our relatives and friends in England. My romantic notions were soon crushed; our landing gave no pleasure to these secluded Englishmen; they gave us no welcome; but, as our boats approached the shore, they walked away to their own dwellings, closed their gates and doors after them, and gazed at us through their windows; and during three days that we passed in a hut quite near them, they never exchanged one word with any of the party. Thus foiled in our hopes of spending a social day with our compatriots, we spent the remainder of the day surrounded by generous savages, who were delighted with our company, and who did every thing in their power to make us comfortable. In the course of the afternoon two of the missionaries came up to preach; but the savages were so angry with them for not showing more kindness to their own countrymen, that none would listen to them.

"I have visited many of the Roman Catholic missionary establishments; their priests adopt quite a different line of conduct; they are cheerful and kind to the savage pagan, and polite and attentive to their European brethren; they have gained the esteem of those they have been sent to convert; they have introduced their own language amongst them, which enables them to have intercourse with strangers; and, however we may differ in some tenets of religious belief, we must acknowledge the success of their mission. They have brought nearly the whole of the Indian population in South America into the bosom of their church; and their converts form the greater part of the people. I have attended mass in an Indian village; a native priest performed the ceremony, and the whole congregation, except myself, were of his caste and complexion; and it is worthy of remark, that in Peru and some of the most populous provinces, a pagan is scarcely to be found."

Shortly after the visit above described, they heard that Tetoro, a powerful chief, had taken offence at King George, and threatened destruction not only to him and his tribe, but to the English residents also. This was appalling news, there being no vessel in the bay to protect them; so they cheered each other as well as they could, with the hope of salvation arising from the partiality of all the tribes for Europeans. After some days of unpleasant suspense, and no enemy appearing, they resolved to visit the camp of their friends. They did so, and found a camp of eight hundred warriors, who gave them a tumultuous greeting; and as
they approached the village, girls met them laden with provisions, while the men erected a tent for their accommodation. After their repast, the chiefs showed them their fortifications, and made several alterations at their suggestion, and then got up a sham fight to gratify them. The horrible noises made on the occasion were such, that the war-whoop of the American Indians, which Mr. Earle had once heard, was trifling in comparison; and his wonder was excited that they did not actually kill each other, so resolute were they in appearance. They were not, on this occasion, called into actual combat, as matters were amicably adjusted between the rival chiefs.

The brig which was to convey them away at length came in sight; but here a fresh difficulty arose, for, owing to a mistake, the captain had brought with him the chief of a tribe at deadly enmity with King George. No sooner was the stranger observed on board, than he and his men were outrageous, from a conviction, natural enough, that this chief had formed an alliance with the English, who, from interested motives, had brought him as a spy. Nothing but his death, it seemed, would pacify them, for on being remonstrated with, George replied—"Any other man than this I would have pardoned; but it was only last year he killed and helped to eat my own uncle, whose death still remains unreavenged: I cannot allow him to leave my country alive; if I did, I should be despised for ever." Mr. Earle at length succeeded in convincing George that his being brought there was entirely accidental, on which he agreed that the stranger should not be molested, provided he did not come on shore. "If I see him on shore he dies," he repeated several times. After a lapse of several days, Mr. Earle considering the quarrel at an end, took this chief with him on shore, a measure which he soon had reason to regret, for George speedily prepared to put his threat into execution. The whites, seeing this, barricaded the house, a circumstance which filled the savages with rage and indignation; still, such was their respect for their European friends, that they abstained from pulling it down or setting it on fire. George reminded them that his uncle's blood called for revenge, and that the man must be despatched, even if his good English friends should be sacrificed in their attempt to defend him. Matters had now reached a crisis; fifty or sixty exasperated savages surrounding their house, and there being no alternative but to give up the man to their fury, or to defend him at the risk of their lives, the latter they determined on; but devised an expedient, at the same time, which they thought their situation justified. They sent a formal message to George, purporting that if he were determined to slay his enemy, they would not hinder him, but that if he did so, they would remove their effects on board ship, leave the bay, and seek the protection of some other chief; the conse-
quence of all which would be, that no other British vessel would ever again visit their settlement. This message produced a violent altercation amongst the chiefs, during which the effects of the settlers were removed to the boats, as if to be put on board the brig, when some of them came forward and said, that if they would reland their goods, the man should be suffered to depart quietly, but that if they persisted in leaving them, he should be murdered before their eyes. Accordingly they brought back the goods, and reconducted the poor fellow, who had been in a terrible consternation, to the brig.

"During this transaction," says Mr. Earle, "I witnessed the natural kindness of heart, and disinterested tenderness of the female sex: no matter how distressing the circumstance, or appalling the danger, they are, in all countries, the last to forsake man. While the enraged chiefs were yelling outside our house, and all our exertions could scarcely prevent them from making a forcible entry, all the women were sitting with and trying to comfort the unhappy cause of this calamity. They had cooked for him a delicate dinner, brought him fruit, and were using every means by which they could keep up his spirits and buoy up his hopes; confidently assuring him the white men would not yield him to his ferocious foes. Notwithstanding all their exertions, he was miserable till informed by me of his safety; and I received the warmest thanks, and even blessings from his fair friends, as if I had conferred upon each a personal favour."

This quotation will probably remind many of our readers of Ledyard’s celebrated paragraph in praise of the sex, the truth of which might be confirmed by the testimony of many travelers in different countries. How appropriately may we apostrophize woman in the words of that poetical genius, whose death so recently cast a shade over the literary world:

"When pain and anguish wring the brow,
A ministering angel thou!"

The affair being amicably settled, only one thing connected with it remained to be done, viz. to obtain from George an apology for his behaviour in outraging their feelings. They accordingly sent him a message, that if he did not give them satisfaction, they would not again receive him into their house. The consequence of this was, that he and his brother came to them and delivered up their muskets; and this act of submission being considered a sufficient acknowledgment of their error, the muskets were returned to them, to their delight and surprise. Soon afterwards, a procession of girls, carrying baskets filled with fruits and flowers, approached the door, chanting a song in praise of the English, the presents being sent by George in token of friendship. Thus terminated this troublesome and dangerous business.

Mr. Earle now prepared to start on his last pedestrian expedition; but events suddenly took place, which threw every thing into confusion, and placed them in imminent peril. A young man, the son of a chief, having agreed with the master of a ves-
sel for some hogs, proceeded to drive them away, and, at the same time, drove with them several belonging to other people. The owners laid claim to them, but he insolently refusing to return them, one of them, getting behind a tree, shot him dead. His companions instantly began to take revenge, and in the contest seven more were killed. George, on learning the affair, being the nearest relative of the young man, took up the quarrel, though reluctantly; but he hoped, he said, to prevent the further effusion of blood. Accordingly, he and his tribe, with some auxiliaries, plundered the offenders of all their property, but spared their lives. Here the matter might have ended, but as the united forces were returning home with the spoil, a violent dispute arose among themselves, which might, however, have been adjusted, but for an unlucky accident. A boy playing with a loaded musket, it went off and killed two persons, one of whom belonged to a tribe particularly incensed against George; and savages seldom waiting, when under provocation, to listen to explanations, one of George’s dependents was instantly despatched in retaliation. Every one now flew to arms. George received a shot which broke both his legs, and soon after, another in the throat, which terminated his existence. Night approaching, an end was put to the fray. On the following morning the spectacle was dismal indeed, and sobs and groans assailed the ears; nor did the lamentation cease for several days. Such is the picture which savage life too often presents. Would that civilized life were not too much like it!

Dangerous as the state of the country was, owing to this catastrophe, Mr. Earle, accompanied by two slaves as guides and porters, set off for the coast, which he reached in safety, and where he embarked for Sydney. On board the vessel were several New Zealanders, whose surprise and delight, at every new object they saw, was almost unbounded. Windmills they supposed to be gods, as indeed they did many other things. Altogether they were exceedingly gratified with their visit, and returned to their own country, after a two months’ abode in New South Wales, loaded with presents and full of gratitude.

New Zealand is always, we believe, represented as two islands, separated by Cook’s Strait. There should, however, according to Mr. Earle, be another strait, what is represented as the southern island, named Tavai Poenamoo, being, in fact, two islands; a discovery which was made by a Mr. Stewart, master of a colonial vessel from Port Jackson, who sailed through the strait, and named it after himself. Geographers would have been obliged to our author, had he given the latitude and dimensions of this strait, as in the absence of this information they can only resort to conjecture. East of Solander’s Island, there is the representation of a peninsula, which, we have little doubt, should be con-
verted into an island by Stewart's Strait. It is remarkable that the omission of this strait is almost the only important error made by Captain Cook in his map of the country, at least so far as is yet known.

Shortly after the return of that great navigator from his first voyage round the world, a conversation respecting the New Zealanders took place between Dalrymple the hydrographer and Dr. Franklin, who was then in England. The doctor suggested the opening of a subscription in order to furnish a vessel with a cargo of commodities adapted to their wants, under a belief that commercial intercourse with England would tend to their civilization; and he afterwards drew up a paper recommending the measure. This was published, but the scheme was never carried into effect. What, however, the active benevolence of our countryman failed to accomplish, has since, owing mainly to the settlement of an English colony in Australia, been amply realized, numerous ships touching at different parts to exchange manufactured articles for hogs and timber, the principal articles of export. That much success has hitherto attended the intercourse, as far as the civilization of the New Zealanders is concerned, we cannot affirm; yet of all the nations of savages, they seem to be the best qualified by nature for so happy a result. Most savages being indolent in the extreme, labour is as intolerable to them as is the winter's cold to the natives of the torrid zone; but the New Zealanders are so industrious, that even the chiefs will work like slaves, while their ingenuity is so great, that, considering the materials and tools they have, their utensils are admirable. Mr. Earle remarks, that in tattooing their bodies, they make circles and figures with the regularity of mechanics accustomed to the use of the compasses and other instruments. The performances in that art, of one man whom he saw, were so superior, that they were viewed by his countrymen with the interest and admiration excited in civilized communities by the most exquisite productions of the sculptor or the painter. He appeared to be quite a genius, and, though born in a low rank, had raised himself by his talents to the possession of considerable property, and to the respect of the chiefs;—a good symptom, as valour is too often amongst savages the only quality regarded with honour. The religion of these people is neither idolatry nor polytheism, like that of other Polynesians, but consists in the belief of a supreme divinity, whom they name Atua, and to whom they attribute both good and evil; a belief, however, connected with many superstitions, though not of so gross and revolting a nature as those of most Pagan nations. There are men amongst them held in much respect, who traverse the country as peace-makers, using their influence to reconcile differences and prevent bloodshed; a fact which redeems them from some of the horror
excited by their cannibalism. When to these particulars we add, that the New Zealanders seldom treat their wives with the barbarity so common amongst savages, but divide the toil of agriculture and domestic life with them, instead of imposing it all on them; that they have a strong sense of honour; that they imitate their European visitors in many customs; and that some amongst them have already diminished their natural ferocity; it must be conceded that they are a people offering fine materials for civilization. And when we consider their skill and cunning in war, the pursuit of which is their ruling passion; their aptitude in learning new things; their quickness of apprehension; their talent in ratiocination; we shall be compelled to agree with one of them, who remarked to an English friend—"New Zealand man no fool;" their intellectual capacity being evidently good, and so superior to that of the Australians, as to have been observed by every traveller who has had an opportunity of comparing the two people. Mr. Earle is puzzled to account for the disparity; but, taking analogy as our guide, we should explain it thus:—some families of the same country are distinguished by mental qualifications surpassing those of others in similar station; and that which is true of families may be true of nations. This appears to us a more philosophical explanation than that resorted to by Dr. Johnson in his Rasselas, and which he defended in conversation: when comparing Asiatics with Europeans, he resolved the superiority of the latter into the will of God. Man being a free agent within the limits of his powers, the exercise of those powers will improve him and his posterity, while their inaction will debase them. Is not this true of his corporal powers? Then why not of his mental? In Dr. M'Culloch's Researches on the Aboriginal History of America—a work of patient investigation and much learning, but which appears never to have obtained the attention which it merits—are some remarks on the two races which people Polynesia; a comparison of which with the dissertation on the same subject in Crawford's Indian Archipelago, will go far to convince the most sceptical that between the Australians and the New Zealanders there is a radical difference, which it may require ages to remove. Mr. Crawford indeed doubts whether the Australians will ever become civilized—a doubt now happily removed to a small extent; but he expresses no similar doubt respecting the New Zealanders. That they are endowed by nature with capacities fitting them for a high rank amongst civilized nations, is obvious; yet when we reflect that the Guanches of the Canaries, the Bzothics of Newfoundland, and several tribes of Indians within the limits of the United States, are now extinct, a question arises whether these people may not also be exterminated from the face of the earth. Time only can determine it; but when we consider that
the whites have not yet possessed themselves of their country; that Christian missionaries are settled amongst them, not to incite them to bloody wars, but to teach them the arts of peace; not to treat them barbarously, but to show them kindness; and that persons acting in a similar spirit have effected a great moral change in the other islands of the Pacific; we indulge the hope that a better fate awaits these interesting people than was the lot of the nations above mentioned. Although the New Zealanders have not embraced Christianity, such has been the influence of European association, that the practice of infanticide is greatly diminished, agriculture is improved by the introduction of new tools and products, and theft is discountenanced. Ought we then to despair of the future? Ought we not rather to anticipate the day when the New Zealanders will rank with civilized and Christian nations, admired and beloved? What a mighty change has the last half century effected! In Cowper's Task, published in 1785, a doubt is expressed by the author, whether the isles of the Pacific would ever again be revisited by British ships. What then would have been his surprise, had he been informed on prophetic authority, that not only would commercial intercourse become frequent by vessels from his own country, but that as many as eleven from America would be in one port at the same time! That both countries would send missionaries and mechanics to civilize the natives, and that their labours would be, in many cases, crowned by an astonishing success! How would he have exulted in the anticipation! And how may we exult in its realization!

It is unlikely that Mr. Earle's volume will be republished in this country, as it contains little of novelty, (which little will be found in our article,) and not sufficient interest to render its sale extensive. The volume to which we have before referred, forming part of the Library of Entertaining Knowledge, gives a far more minute and interesting account of the New Zealanders than this, or, we believe, any other, as it comprises a condensed and philosophical view of these people, gleaned from the various preceding navigators and travellers; we recommend it to general perusal. From the remainder of Mr. Earle's book, respecting Tristan d'Acunha, we now purpose making a few extracts.

In 1824, he embarked at Rio on board a sloop bound for the Cape of Good Hope; but the master finding it convenient to anchor off Tristan d'Acunha, Mr. Earle landed, hoping to take some sketches of an island which no artist had previously visited. He was prevented by stress of weather from returning to the sloop at the time he intended, and had the misfortune to see her depart without him; yet he attaches no blame to any one for his being left behind. He found a small village consisting of a few British seamen, two of whom had wives and children, and who
all gave him a hearty welcome; the sight of a stranger being, doubtless, delightful to them. Amongst them he remained six months, escape before being impossible, and acted in the capacity of teacher and chaplain. The chief man, styled governor, was a Scotchman named Glass, who had been sent from the Cape as part of a garrison destined to remain on the island, and who, when the garrison abandoned it, obtained leave to remain there with his Creole wife: he was a man of good sense, and benevolent feeling. The rest were Englishmen. They used to meet at the governor's house every evening, relating their adventures and singing songs, so that their day's toil, passed pleasantly enough.

"Looking out from my abode," says Mr. Earle, "no spot in the world can be more desolate, particularly on a blowing night. The roar of the sea is almost deafening; and the wind rushing furiously down the perpendicular sides of the mountains, which are nearly five hundred feet high, and are masses of craggy rocks, has the most extraordinary and almost supernatural effect. No sooner does night set in, than the air is full of nocturnal birds, whose screams are particularly mournful; and then comes the painful reflection that I am so many thousands of miles from every human haunt, and separated from all my friends and family, who are in total ignorance of where I am or what has become of me. But I force myself to struggle against dismal thoughts, unwilling that my comrades, who do every thing in their power to console me, should suspect how much I suffer; so I take my seat by the fire, shut out the night, pile on a cheerful log, and tell my tale in turn. I must confess, that amongst my companions, I never saw a sad or discontented looking face; and though we have no wine, grog, or any other strong drink, there is no lack of jovial mirth in any of the company. Fortunately for me, when I came on shore, I brought with me some of my drawing apparatus, which now, in my forlorn state, has been the source of much amusement and improvement; making the time not hang so heavily on hand as it otherwise would do."

The following passage will give some idea of the sort of island they inhabited, as well as of the life they led.

"Yesterday being a fine morning, accompanied by two of the men, I determined to ascend the mountain. As several parties had before gone up, they had formed a kind of path; at least we endeavoured to find the same way; but it requires a great deal of nerve to attempt it. The sides of the mountain are nearly perpendicular; but after ascending about two hundred feet, it is there entirely covered with wood, which renders the footing much more safe; but in order to get to the wood, the road is so dangerous that it made me almost tremble to think of it; slippery grey rocks, and many of them unfortunately loose, so that when we took hold, they separated from the mass, and fell with a horrid rumbling noise. Here and there were a few patches of grass, the only thing we could depend upon to assist us in climbing, which must be done with extreme caution; for the least slip, or false step, would dash one to atoms on the rock below. By keeping our eyes constantly looking upwards, and continuing to haul ourselves up by catching firm hold of this grass, after an hour's painful toil we gained the summit, where we found ourselves on an extended plain of several miles expance, which terminates in the peak, composed of dark grey lava, bare and frightful to behold. We proceeded towards it, the plain gradually rising; but the walking was most fatiguing, over strong rank grass and fern, several feet high, with holes concealed under the roots in such a way, that no possible caution could prevent our occasionally falling down into one or other of them, and entirely disappearing, which caused a boisterous laugh amongst the
A death-like stillness prevailed in these high regions, and to my ear, our voices had a strange, unnatural echo, and I fancied our forms appeared gigantic, whilst the air was piercing cold. The prospect was altogether very sublime, and filled the mind with awe. On the one side, the boundless horizon, heaped up with clouds of silvery brightness, contrasted with some of darker hue, enveloping us in their vapour, and passing rapidly away, gave us only casual glances of the landscape; and, on the other hand, the sterile and cindery peak, with its venerable head, partly capped with clouds, partly revealing great patches of red cinders, or lava intermingled with the black rock, produced a most extraordinary and dismal effect. It seemed as though it were still actually burning, to heighten the sublimity of the scene.

The object of my comrades for taking this dangerous and fatiguing journey, was neither to procure the feathers of the albatross, nor to admire the sublime scenery. Goats, of which there are thousands on these plains, were the ostensible cause of their coming; and a very fine dog was with us for the purpose of running them down. We soon surprised a flock, which made, as they invariably do, for the peak; but our dog soon separated one, which we caught, killed, and left on the plain, while the dog ran after others. A very large, black he-goat was selected, which gave him battle, and defended himself for some time courageously against us all; but we finally conquered him, and added his body to our other prize. My two companions were now quite delighted with their success; and though they had to carry these heavy carcasses a considerable way over the plains, not a murmur was heard from either. When they had got them to the edge of the precipice, we took out their insides and stuffed them with fern, then tumbled them down, and they reached the bottom without much difficulty. Occasionally they rested a moment on some projection, but the weight finally cleared the bushes and rocks, and the bodies were found by us on reaching the level. After spending a most fatiguing and exciting day, we got safely down at night; the men perfectly satisfied with their goats and albatross feathers, and I equally so with the number of my sketches.

Many of our readers may be familiar with the name of the albatross, from having read Coleridge's Ancient Mariner; yet we doubt whether one in twenty could describe it accurately, so difficult is it to do justice to animals in the character of a naturalist, without a close inspection of them. Nor does Mr. Earle enable us to do this; we only learn from him that the bird is the largest of the aquatic tribe; that when young it is entirely white, being covered with a beautiful woolly down; that as it attains its full size, the back and the tops of the wings become grey; that its only means of defence consists in making a noise by clapping its beak, and by disgorging the contents of its stomach; and that when on land it is easily taken, the length of its wings disabling it from ascending, except from the peak of a steep place. Another animal which he describes is the sea elephant, concerning which he shall speak for himself.

"I saw to-day, for the first time, what the settlers call a pod of sea elephants. At this particular season these animals lay strewed about the beach, and, unless you disturb them, the sight of an animal will not frighten them away. I was determined to get a good portrait of some of them, and accordingly took my sketch-book and pencil, and seated myself very near to one of them, and began my operations, feeling sure I had now got a most patient sitter; for they will lie for weeks together without stirring; but I had to keep throwing small peb-
bles at him in order to make him open his eyes and prevent his going to sleep. The flies appear to torment these unwieldy monsters cruelly, their eyes and nostrils being stuffed full of them. I got a good sketch of the group. They appeared to stare at me occasionally with some little astonishment, stretching up their immense heads and looking around; but finding all still, (I suppose they considered me a mere rock), they composed themselves to sleep again. They are the most shapeless creatures about the body. I could not help comparing them to an overgrown maggot; and their motion is similar to that insect. The face bears some rude resemblance to the human countenance. The eye is large, black, and expressive. Excepting two very small flippers or paws at the shoulder, the whole body tapers down to a fish’s tail. They are of a delicate mouse colour; the fur is very fine, but too oily for any other purpose than to make moccasins for the islanders.”

It will readily be imagined that Mr. Earle’s imprisonment in the small island of Tristan d’Acunha became irksome to him; the more so, probably, from his frequent disappointments of release. Vessel after vessel came in sight, yet still he lingered there, as unable to escape as a bird whose wings have been clipped. His sensations will be best expressed in his own language.

“At ten o’clock A. M., saw a sail which appeared to be standing towards the land: all employed making signal fires. She fell to leeward of the island, and there lay to, evidently anxious to speak with us; but being to leeward, our boats durst not venture off; so, after lying to for about four hours, she filled and stood off on her course. This is the second mortification of the same kind I have experienced. To-day the vessel came so near, that we could distinguish her decks crowded with people, and we imagined her to be a Botany Bay ship, and if so, she was most likely bound for the Cape, the very place I wished to arrive at. If any thing could add to my anxiety, at being shut up a prisoner in Tristan d’Acunha, it is thus to see chances thrown in my way of being released, and not being able to avail myself of them. None but those who have experienced similar disappointments can judge of my sufferings. Nothing that ever occurred to me before, so completely depressed my spirits; and I feel now the sickening sensation of the hope deferred. From one week’s end to another, I station myself upon the rocks, straining my eyes with looking along the horizon in search of a sail, often fancying the form of one where nothing is, and when, at length, one actually presents itself, and the cheering sound of—a sail! a sail! is heard, it puts all hands into commotion, as all these island settlers are anxious to communicate with every vessel that passes. We see she notices our signal fires; she lays to for us; but an insurmountable barrier is still between us; all attempts to launch the boat are vain; she passes on her trackless way; again the horizon becomes vacant, and again I retire to my lodging with increased melancholy and disappointment!”

This paragraph reminds us so strongly of one in Cowper’s Task, that we cannot refrain from transcribing it, as illustrative of the power of genius; for if the excellence of poetry consists in its adherence to nature, then is this passage, as well as the same author’s well known piece respecting Alexander Selkirk, worthy to be compared with most of the scenes purely imaginary, to be found in the works of poets who stand in the highest rank.

“Methinks I see thee straying on the beach, And asking of the surge that bathes thy foot, If ever it has washed our distant shore. Thus fancy paints thee, and though apt to err, Perhaps errs little when she paints thee thus.

VOL. XIII.—No. 25. 24
She tells me too, that, duly every morn
Thou climb'st the mountain top, with eager eye
Exploring far and wide the watery waste,
For sight of ship from England. Every speck
Seen in the dim horizon turns thee pale
With conflict of contending hopes and fears.
But comes, at last, the dull and dusky eve,
And sends thee to thy cabin, well prepared
To dream all night of what the day denied."

If Mr. Earle experienced occasional depression, he also had his joyful moments; for he records in one place that he never enjoyed before "so calm and even a flow of spirits;" a state attributable, he thinks, to his constant exercise and temperance. His clothes being worn out, he requested Glass to try his skill in tailoring; and for that purpose, furnished him with a tartan cloak, hoping he could make a full suit out of it. This he agreed to do; but after some days the Scotchman's nationality burst forth. What! cut up the only tartan that had ever been in the island! He told Mr. Earle that he really could not do it. So he made a pair of trowsers of such materials as he had, the fore part being sail-cloth, the hinder goat-skin with the hair outside. Thus equipped, he awaited his deliverance, which soon after took place. The account of it concludes his narrative, and must conclude our article.

"This morning, at eight o'clock, observed a ship to leeward of the island, working up towards our settlement. All hands were instantly employed, getting the boat ready to launch; for they never tire in their exertions in my behalf, and all take the greatest interest for my safe return to my own country. After the vessel had made two tacks to windward, we launched, and had a narrow escape through a heavy surf; but we succeeded in boarding her about twelve o'clock. The reader who has accompanied me through the detail of my various disasters, will imagine, better than I can describe, what were my sensations of joy and gratitude on finding myself once more actually on board an English vessel, surrounded by my countrymen. Though my personal appearance must have been truly deplorable, no sooner was my sad story made known, than every hand was held forth to give me cordial welcome; every one opened his chest to accommodate me with clothes of every description, and I was soon completely new rigged.

"I was almost overcome with the various sensations that came crowding on my mind; humble thanksgiving to the Almighty; sincere gratitude to Glass and his companions, for their unremitting kindness, notwithstanding all the trouble I had given them; and now feeling that I was about to part with them for ever, without its being in my power to show my gratitude except in words; added to all this were the attentions and generous treatment I was then receiving from entire strangers.

"A most extraordinary circumstance must wind up this eventful story, which, if recorded in romance, would be thought unnatural. Conversing the following day with the captain, and telling him of my extreme anxiety respecting the welfare of my friends, of whom I had not heard for so long a period, and the anxiety I should still have to undergo, as one year more must be spent in uncertainty before I could possibly receive letters from England, I found him to have been late lieutenant on board his majesty's ship Adventure, commanded by my brother, Captain W. H. Smyth, that he had sailed with him for several years, during the time he was making his well known survey of the coasts and shores
of the Mediterranean, undertaken by command of the Lords of the Admiralty. He informed me, that previous to the ship's having been paid off at Woolwich, a breakfast had been given on board by my brother, at which my mother, sisters—in short, all those for whom I was most deeply interested—had been present; and that he had seen them all in good health and spirits, only a few weeks before he left England!


"HAMPDEN," says Lord Clarendon, "was rather of reputation in his own country, than of public discourse or fame in the kingdom, before the business of ship-money: but then he grew the argument of all tongues, every man inquiring who and what he was, that durst, at his own charge, support the liberty and property of the kingdom, and rescue his country, as he thought, from being made a prey to the court." The single incident to which the historian refers, heightened in interest by the circumstances under which it occurred, and in importance by the great political events which followed it, has of itself marked an individual from among his contemporaries as an exemplar throughout all time; when perhaps a train of successes and glories, achieved and won in the ordinary course of affairs, would have hardly carried his name to the succeeding generation. The publication of these volumes is sufficient evidence that the celebrity which this champion of liberty once enjoyed, has not diminished by the lapse of time; but that the name of Hampden, immortalized as it is, has even been hallowed by age, and has become identified with the history of the principles of freedom. Men will ever admire most those who, upon the greatest happiness principle, have contributed the largest amount of practical good to the greatest number of persons; and thus it is that contemporary applause so often fritters into nothingness when tried by the touchstone of time and experience. Thousands appear who attract a transient admiration, as meteors of a bright, but brief existence, as

"The snow that falls upon the river,
A moment white, then lost for ever;"

but the world's history furnishes a few Hampdens, whose active, inbred virtue has secured to them permanent glory by a single effort.

The history of Hampden's short but eventful career, is the history of his country during that period—of times most preg-
nant with great and fearful results to the liberties of Englishmen and of their descendants; and in proportion to its importance, are the difficulty and arduousness of presenting a true, faithful, and impartial picture of the scenes and actors in that political drama. We could not, indeed, indicate a single task better calculated to exercise the discrimination of an English writer, and at the same time one more tentative of the qualities of his heart, than that of the constitutional history of his country during the difficulties and final rupture between the two first monarchs of the Stuart race and their parliaments; for, in addition to the interesting and multitudinous events which then so hurriedly transpired, it is the era from which the two great political parties that now exist in England date their rise, and to which they look for the original justification of their principles—an era constituting the temporal pivot of constitutional doctrine, according to the adjustment of which the primal integrity of both is made, in a great measure, to depend. He must be alive to every fact, and where the chronicler has placed any in an obscure light, bring it forward into a clearer aspect; to do which, his heart must be as true as his mind should be unclouded, determined to do justice, regardless of the sneer of partisan friend, or the ribaldry of political foe; knowing that the contest between liberty and royal prerogative assumed during this period its all-engrossing character, and that Britons of whatever political sect or party, acknowledging its influence upon their opinions and its canonical power over their political duties, will ever turn with a lively interest to the contemplation of its proceedings and of its issue.

For ourselves, we regard this period not for the factitious importance which party interests have attached to it, but for the great political truths which the conflict between monarchical pretensions and popular right, then elicited; and viewed in this aspect, this portion of the history of England is of as deep concernment to us as to its own citizens. Whatever of civil freedom we may enjoy, at least its fundamentals, is chiefly derived from the principles which have been developed in its constitution: though while we admit thus much in the spirit of candour, we will claim for our own institutions the merit of a more extensive practice under them. There is, moreover, a peculiar circumstance, which tends to heighten the interest for the American reader. The prominent actors in those scenes were nearly allied—nay identical, in principle, with those who laid the foundation of political freedom in New England. The Puritans then first took the stand of civil right, and coalesced with the other advocates of liberty in opposing the abusive power of the monarch. They had heretofore suffered meekly and in silence. To avoid persecution they had intrusted their lives, fortunes, and families to the ocean, in quest of repose and liberty of consc-
enee in foreign lands. But this was the time for action; and by throwing their influence and their talents in the scale of a strong party, which advocated a restriction of kingly pretensions, they might at least stay the hand of oppression. Their conduct at this crisis is therefore of no little moment to the inquirer into our own history.

But he who enters upon the study of the troubles of England at this time, will soon discover that he must place more reliance upon his own judgment than upon the statements with which he may meet. Contradictory accounts will present themselves at every step; while the system of party interpretation, which construes every matter its own way, will serve to mislead and oftentimes to bewilder him by its ingenuity and plausibility. By means of a partial accumulation of testimony, facts are made to assume any character which it suits the purpose of the writer to give them. Even Clarendon, whose first volume, as Bishop Burnet observes, "gives a faithful representation of the beginning of the troubles," has written from a party bias, which leads him, in the subsequent part of his work, to commit injustice against individuals, and to misrepresent transactions. The true end of history is lamentably lost sight of for the temporary purpose of political effect—the end thus summarily stated by an old writer:—"This," says Degory Wheare, "is the most healthful and profitable attendant of the knowledge of history, that you may contemplate the instruction of a variety of examples in one illustrious monument, and from thence take such things as are useful to thee or to thy country, and that thou mayst wisely consider that which has an ill beginning will have an ill end, and so avoid it."*

The moral of the origin of the civil war of 1642 is, we opine, difficult to be ascertained in its historians. Lord Nugent, in the preface to the volumes before us, sensible of the utter remissness of most of those who have preceded him, puts himself before the reader in terms somewhat apologetic. Conceiving that certain imputations lately published upon the character of Hampden, imposed upon him the duty of bearing testimony, after inquiry, to its fairness and purity, he does so, saying,

"Not certainly with a desire of taking a part in a large and difficult constitutional controversy, into which, he who enters must have great reliance on his own learning, skill, and authority, before he can, in these times, be inclined to follow the example of so many modern writers, who, with more or less knowledge of the subject, have undertaken to dogmatize upon it. It involves many mixed questions of right and policy, and many nicely balanced considerations of justification and censure—all very deeply important to one who would form his own judgment with accuracy, or lead that of others with fairness. Such a one will find, probably, on each side in that great conflict, some acts done which were questionable in themselves, and which provoked a similar course on the adverse part—acts, many of which, particularly in the early part of the dispute, will ap-

* Praelectiones Hyemales.
ppear to have stood in the relation, mutually and alternately, of cause and inevitable effect to each other; and he will perhaps end, by feeling in his own heart, how it is, that even in these latter times, so many passions continue to be inflamed, and so many judgments misled, in a view of transactions which have long ceased, and as we may trust for ever, to have any practical influence on English affairs. I enter upon the statement of such facts as come within the range of the matter I have to deal with, well aware, that, as in the more violent disputes of individuals, so in those of parties in the state, though the main blame may be justly charged on one, it is rarely to be hoped that, throughout every particular, the conduct of either shall, on strict review, present one clear undeviating example of discretion, temper, or justice. But I hold myself warranted in professing, that, after the closest inquiry I could make into acts and probable motives, I find those of Hampden unstained by any trace of meanness, uninfluenced by any ambitious or vindictive impulse, and his course throughout, calm, lofty, and undeviating, among the indirect practices of many who surrounded him, and the violent counsels of many more, though himself under the greatest and most varied provocations of any." pp. xvii, xvi.

The task which Lord Nugent thus assumes, he has discharged with commendable impartiality, though he has been led, in one instance at least, by too great an anxiety to shield the fame of Hampden, to force a construction, (in the case of Strafford), hardly warranted by the evidence, and not at all demanded for the reputation of his subject. Our author has heretofore distinguished himself by his strenuous efforts in favour of Catholic emancipation; and displays now, in his Life of Hampden, a high regard for the liberties of mankind, not less honourable to him in this case than in the other. We do not like him the less that his veneration for the constitution of the government under which he lives, is so great, especially as his amor patriæ does not the less incline him to protect popular privileges. Seldom, indeed, do we find such liberal views proceeding from the magnates of monarchical countries, as he puts forth. But sufficient has been said of the author. It is Hampden and his times which must engage our particular attention.

The fame of this true patriot rests upon the acts of the last six years of life. Of his earlier days, little is known, except that he led the life of a country gentleman, possessing a vast estate, and having a general reputation for a knowledge of the local affairs of his county. At a later period, the journals of parliament show that his course there was one of assiduity and labour in the business of the House. He was a working-member rather than a partisan or leader. But his last history becomes on this account the more interesting, being that of a man, not pressing himself into attention from "vanity, restlessness, or ambition, but forced by oppression from a privacy which he loved, and then first appearing with all those great qualities ripened about him, of which he had never given a crude or ostentatious promise." This, however, is so intimately blended with the history of public affairs, that neither can be given with any fulness without embracing both; and, as in the one, so in the other, a know-
ledge of the previous history of the country is almost absolutely necessary in order to a full understanding. The family of Hampden is traced in an unbroken line from the Saxon times, but none of them appear to have been otherwise distinguished than for their wealth and local influence. "Sir John Hampden of the Hill," attended upon the English Queen at the interview of the sovereigns in the Champ du Drap d'Or; and his daughter, Sybel Hampden, was nurse to Edward VI., and the ancestress of William Penn. John Hampden, whose life is now before us, was born in London, in 1594. His father died three years afterwards, leaving him heir to an immense landed property. From Oxford he went to the Inner Temple, where he was admitted a student of law in 1613. He made a considerable progress in the study of the common law, and doubtless furnished himself with a useful body of materials for his subsequent course in parliament, when his rights and those of his countrymen were sought to be abrogated by the forms and precedents of legal usage, no less than of constitutional privilege. Married, however, shortly after, to a lady to whom he was tenderly attached, he removed to his estate in the country, where, possessing a cheerful disposition, he entered freely into the amusements of his age, only, however, allowing himself these indulgences, "as exercises of recreation and relief, during the intervals of those literary habits, to which his taste always powerfully inclined him," and for which he was somewhat distinguished.

Although thus retired, Hampden could not have been insensible to the extraordinary condition in which the sovereign and people then stood in relation to each other. Throughout the previous history of England, her internal dissensions had been mostly confined to the opposite pretensions of her princes and of her nobles. And between these two estates it had long been a strife for power, upon which the subject looked with very little interest of his own, though his liberties had undoubtedly been advanced in the conflict. Magna Charta and others had limited the power of the monarch, and defined the nature of his rule; while, on the other hand, the civil war between the white and red roses had separated the aristocracy, and by its violence, nearly swept away the oldest and most powerful among them; leaving them an easy conquest for the crafty policy of Henry VII. The people thus naturally rose into importance; though the power of the monarch received from the same cause a new and favourable impulse, and proceeded from the time of Henry, strengthening its prerogatives in a steady course. The arbitrary acts of the last of the Tudors, received, however, some check from the people, who then first asserted their privileges in the House of Commons. In order to ensure a full deliberation of public matters by their representatives, they were declared ex-
empt from arrest on civil process while in session—the first declaration of parliamentary privilege which was ever made. Nor was it the only one; in the same reign, that of Elizabeth, the commons contended for the right of determining the seats of their own members. The queen, by her skilful address, gave no occasion for the exertion of those dormant energies, which she had penetration enough to see existed in the popular branch of the government: but it was reserved for her feeble successor, in the time of Hampden, first to feel their strength.

James came to the throne with the most extravagant notions of the Divine Right, which he had already publicly maintained in his work on the True Law of Free Monarchies. He had, too, little disposition to propitiate the pretensions of the commons. Obstinate in opinion, without energy in action, he gave occasion for the most dangerous breaches between himself and the parliament. He possessed some learning, but it only rendered him, as it always does those of weak minds, dogmatical. He wore, too, his religious opinions as he wore his doublet, throwing them off whenever it suited his convenience. He was educated in the faith of the Scotch church, but almost his first public manifestation of religion was to spurn the Presbyterian clergy of England. He secretly favoured the Catholics, but openly authorized the most violent persecutions against them. And as for the episcopacy, he used it only as an instrument to confirm his own power, and abridge the rights of his people. In fact, he seems in every respect to have been the antipodes of Elizabeth, who, as Bolingbroke says, "was wise enough to see clearly into the nature of that government at the head of which she was placed, and to know that the supreme head of such a government owes a supreme service to the whole." She was wise enough to know, that, to be powerful, she must usurp on her people, deceive them, or gain them. The two first she saw were hard, dangerous, and dishonourable. The last she saw was easy, safe, and glorious. Her head and her heart concurred to determine her choice. But James involved himself immediately in disputes with his parliament. Even his proclamation for convoking his first parliament, was a manifesto against its liberty. He commanded that the writs of election should be returned into chancery, and at the same time charged that "choice be made of men of sufficiency and discretion, without desire to please parents and friends." The matter of returning the writs in chancery was contested by the commons, who finally gained a victory over him. The doctrine of the king's absolute power, now boldly promulgated by the clergy and others, under the king's sanction, and which was declared to be a species of paramount sovereignty, incident to the primary office of saving the state from harm, tended to excite the apprehensions of the commons to a great degree. This
parliament was finally dissolved by proclamation in 1610, memorable principally for the unwise conduct of James, by which he excited its hostility. In the interim before the assembling of a new one, Lord Coke withdrew himself from the court party, and threw the weight and influence of his character and learning on the side of the commons. Profligacy reigned around the court, and as if to heighten the disgrace already brought upon the nation, peerages were sold. Resources failing, the king, upon the recommendation of Bacon, called a second parliament. Undertakers, as they were called, were employed to manage the returns so as to secure a majority for the court—a fact which Mr. Hume discredits as a mere rumour, but with how much truth we shall presently show. They, however, failed, and the king found that he had a parliament more refractory than the first. He endeavoured to intimidate them into a supply, but it was of no avail, and they were dissolved without passing a single bill—a circumstance unprecedented in English history. A third parliament was summoned in 1620–1, in which Hampden first took his seat. James opened it with a speech—a curious rodomontade of flattery and pretension, of condescension and menace; in which, as we find it recorded in Nalson, he said:

"In multiloquio non deest peccatum, saith the wisest man that ever was, and this experience I have found in my own person: for it is true there have been many sessions of parliament before this, wherein I have made many, many discourses to the gentlemen of the Lower House, and in them delivered a true mirror of my heart: but as no man's actions, be they never so good, can be free from censure in regard of the excellency to perfection, so, it may be, it pleased God, seeing some vanity in me, to send back my words as wine spit into mine own face, so as I may say I have piped unto you, but you have not danced, I have often mourned, but you have not lamented. But now I have put on this resolution for the few days I have to live in this world, wherein I know not how far I have offended God, and if it please you especially of the Lower House to apply this rule unto yourselves, you may find the more fruit."

Such is the exordium of a king who had the vanity to believe himself a great sovereign, but who had none of the qualities which should belong to one. He proceeded then to point out their duties, as being called together by their king, out of his own free will, and for the purpose of advising him in those matters alone in which he might seek their counsel; sensible, however, of his flagrant conduct, he further apologizes in the following strain, which affords the proof, in James's own words, of the fact of the employment of a set of persons, to secure, in the parliament of 1614, a majority for the court.

"I know this parliament," said he, "hath been of great expectation, and so was that at my first coming; you I knew, but not the laws and customs of this land. I was led by the old counsellors I found, which the old queen left, and it may be, there was a mistaking and a misunderstanding between us which bred an abruption. And at the last parliament there came up a strange kind of
Hampden and his Times. [March,

beast, called Undertakers, a name, which in my nature I abhor, which caused a dissolution."*

Hampden, as we have said, first took his seat in the Lower House, in this parliament. It was for the borough of Grampound, a place of considerable wealth and importance. His friends, however, were solicitous that he should enter into the peerage speculation, and buy a title. His mother writes: "If ever my son will seek for this honor, tell him nowe to come; for here is multitudes of lords a makinge. I am ambitious of my sonn's honor, which I wish were nowe conferred upon him, that he might not come after so many new creations." Hampden was not deceived by this paraphernalia of rank, but was content to do good for his country in the place where he could be most efficient. He soon gained the respect of the House. His course was fair, honourable, and serviceable; he was placed upon the committee on the bill of informers, and appointed to a conference with the Lords on the part of the Commons, upon the same matter; he joined in the remonstrance against the marriage of the Prince Charles with the Infanta; he favoured the Protestant cause; and in general concurred in all the measures for the correction of abuse. King James still persisted, however, in his dangerous projects of strengthening his prerogative; Coke was dismissed from his office of chief-justice; the star-chamber ruled absolute; Selden was rebuked for some expressions in his History of Tithes, adverse to the divine right, and was made to kiss the rod which humbled him; Arabella Stewart was arraigned and thrown into prison in the most despotic manner.

The friends of liberty saw that it now behooved them to unite in self-defence, and in controlling the power of a bad ruler; and accordingly a parliamentary party was for the first time formed. Minor differences were lost in the great design; a spirit of political union animated all; and a system of association was adopted, "not founded upon the surrender of principles, but upon the compromise of extreme opinions, which affords to the people the only effectual defence against the influence of a government." Hampden attached himself to this party, in which appear some of the brightest names in English History. Selden, eminent for his erudition and legal knowledge, and not less distinguished for his coolness and prudence, was one of the first. Lord Coke, too, not less shrewd and learned in the laws of his country, united himself with the party from more questionable motives. With these was Pym, the great compatriot of Hampden in more perilous times. He was unsurpassed, and only

* This is from the corrected version of Nalson, (Introd. p. vii. et seq.) who discards that of Rushworth as not just towards the king. How much more amiable and kingly James looks in this dress, the reader may judge for himself.
equalled, perhaps, by Selden, in an acquaintance with the practice of the parliament—an experience which he devoted wholly to the preservation of the power of that part of the government, and to the freedom of the people. The plate in which Lord Nugent has presented us with his features, represents him, as we should conceive him to have been—stern and determined in the cause which he undertook, and of penetration enough to see readily whenever the ramparts of liberty were in danger. Clarendon, who rarely does justice to his early associates, admits, that "though in private designing, he was much governed by Mr. Hampden and Mr. Saint John, yet he seemed to all men to have the greatest influence upon the House of Commons of any man; and in truth, I think he was at that time, (the impeachment of the Earl of Strafford), and for some months after, the most popular man, and the most able to do hurt, that hath lived in any time." In proportion to the influence which he exerted, have the enemies of Pym desecrated his ashes; but their calumnies have been fully and successfully disproved. Of the same party was Saint John, resolute and indefatigable, and a sturdy opponent of the court. To these may be added, Wentworth, a man of the most brilliant qualifications, but who did not possess firmness and political honesty sufficient to resist at a later period the allurements of power. His fate is an instructive lesson to those who barter principle for office, and who seek to sustain themselves by a violation of the plainest political rights. We may cite also Sir John Eliot, a pure and zealous supporter of public liberty, for which he eventually gave up his life.

The party of Hampden, thus strong in the talent and firmness of its members, and incensed at the venal and corrupt policy of James, proceeded undauntedly to a systematic reformation of abuse. One was impeached, and sentenced to fine and imprisonment, for a base fraud in the manufacture of gold and silver thread, for which the king had granted a patent. Proceedings were com-

† The unrelenting animosity with which the memory of Pym has been pursued, is very evident in the unblushing alteration which was made in Lord Clarendon's text, and by which, for upwards of a century, a base report was given the sanction of his name, when it was plainly his object to discredit it. The reader will please compare the two passages, as they appear in the edition given by the royalist editors, and in the late edition published from the original manuscript. The historian is speaking of the opposition of the House of Commons to the transportation of four thousand soldiers to Flanders for the service of the King of Spain. p. 411.


Some said boldly, and one or two have since affirmed as upon their own knowledge, that Mr. Pym received five thousand pounds from that French minister, to hinder that supply to Spain.

Some said boldly, and an obscure person or two have since affirmed it, as upon their knowledge, that Mr. Pym received five thousand pounds from that French minister, to hinder that supply to Spain.
menced against others, for corruption in office, and even against the Bishop of London for bribery. But the most important impeachment was that of the greatest philosopher of England—of the author of the Novum Organon. Bacon, who then held the office of Chancellor, was accused of receiving bribes from suitors. These were in the shape of gratuities to hasten their decisions—a sale, as he himself declared, "of justice but not of injustice." Rushworth states his case even more favourably, and seems to palliate the charge to an extent that completely falsifies the antithetical character which Pope has given him. "This learned peer," says Rushworth, "eminent over the Christian world for his many writings extant in print, was known to be no admirer of money, yet he had the unhappiness to be defiled therewith; he treasured up nothing either for himself or his family, for he both lived and died in debt; he was over indulgent to his servants, and connived at their takings, and their ways betrayed him to that error; they were profuse and expensive, and had at command whatever he was master of. The gifts taken were, for the most part, for interlocutory orders; his decrees were generally made with so much equity, that though gifts rendered him suspected for injustice, yet never any decree made by him was reversed as unjust, as it has been observed by some knowing in our laws."* Certainly we may believe, that the case of this great man admitted of some apology, and that a genius so transcendent would not degrade itself so low as some have exultingly declared; especially as the evidence is so imperfect, and as Bacon was forbidden by the king to defend himself.

Further disagreements continued to embarrass the communication between the king and the parliament. The latter undertook to remonstrate against the projected marriage of Charles, as favouring the growth of Catholicism. James took offence. In his reply he even denied their liberty of speech, declaring that their privileges were derived from the grace and permission of his ancestors and of himself, and that they rested rather on toleration than inheritance. "Then," in the words of Lord Nugent, "passed unanimously, that renowned protestation, called by Selden the second Magna Charta," in which the privileges of parliament were firmly and temperately declared. The king dissolved the house suddenly; struck the protest off the journals with his own hand; and to complete his resentment, committed nine of the opposition leaders to prison. Buckingham, who was now at the head of his council, succeeded in persuading him to allow the "baby Charles" to go to Madrid. Indeed, when Charles proposed the expedition to his father, the king "remonstrated, stormed, and refused—when urged by his favourite

* Rush. vol. i. p. 31.
‘Stenny,’ he wept, swore he was undone, and consented”—an act by which the duke secured himself firmly in the prince’s favour. The result, however, instead of a marriage, was a war, as Bishop Williams had foreboded to him.

“Sir,” said the Lord Keeper, “if my Lord Marquis (Buckingham) will give honour to Conde Duke Olivarez, and remember he is the favourite of Spain, or if Olivarez will show honourable civility to my Lord Marquis, remembering he is the favourite of England, the wooing may be prosperous. But if my Lord Marquis should forget where he is, and not stoop to Olivarez, or if Olivarez, forgetting what guest he hath received with the prince, bear himself haughtily and like a Castilian to my Lord Marquis, the provocation may be dangerous to cross your majesty’s good intention, and I pray God that either one or both do not run into that error.”

Such is the policy, such the management of king-craft. Hampden did not sit in the last parliament of James, which was convened in February 1624, and which was distinguished for a more friendly disposition between it and the king—though Middlesex was impeached before the lords of bribery and convicted—a precedent which established the constitutional right of the commons to impeach the ministers of the crown.

Charles succeeded his father in March 1625. His accession was hailed with great demonstrations of joy; but the tempestuous scenes of the last reign afforded little hope that any subsequent monarch could expect repose without yielding something to that spirit of liberty which, though not completely roused, had been so far awakened as to evince no disposition to be appeased, except by the sacrifice of some of those inordinate pretensions which had been advanced by the haughty James; while on the other hand, there unhappily seemed as little inclination on the part of Charles to abate the royal claims. The public mind, too, was in some measure formed for the issue; for, viewing,” as Clarendon observes, “the temper, disposition, and habit of that time, of the court and of the country, we may discern the minds of men prepared, of some to do, and of others to suffer, all that hath since happened.” Charles himself was far more qualified for the kingly function than his father, but the miserable counsels of his courtiers, on which he was disposed to rely, thwarted whatever good intentions he may have had, and ultimately, in conjunction with his own wilfulness, brought upon him condign punishment. In his government we accordingly find him arrogant and despotic—faithless and perverse. He ever disregarded the experience of the past till it was too late, ever persevered in his own designs as long as there was hope, and by his wanton and tyrannical conduct, soon effectually alienated from him that respect and love with which he was first regarded by his people. We cannot agree with Lord Nugent in ascribing to Charles so deep a veneration for religion, or such an abhorrence of court profligacy, as he allows; for, besides that a nature so unamiable
towards his people, could not be influenced by the lofty obligations of religious truth, or be disposed to frown at the effeminacy of court manners, there are circumstances of a positive character which lead to a directly contrary conclusion. The love of the king for his wife may, indeed, have tempered his own conduct, and doubtless did; but those around him were left unrestrained, except so far as they had not his example. Our author observes, however, with no less justice than candour, in regard to the character given to Charles by different historians, that, "by the one class he has been canonized as a martyr, and recommended as a model and mirror for sovereigns, and by the other, with as little truth, concluded to have been an unprincipled and heartless tyrant, without virtue and without an excuse." The strong feeling which was excited by his execution, and which the publication of the Icon tended still further to heighten, has found many sympathetic throbs, which have repulsed alike reason and justice; while the virulence of party malice has hurried others into a like extreme. Let us hear Lord Nugent.

"His education had been of a mixed and dangerous sort. From the days of his preceptor Murray's rigid discipline, to those of the demoralizing influence of Villiers, he had ever been in the hands of successive factions; each busy to mould to its own purposes a prince whose views of the intent and duties of his office do not appear to have extended further than to the obligations of maintaining, in full integrity for himself and his successors, a power for the exercise of which he heartily believed that he was answerable only to heaven. Favourably to Charles's memory, his errors have been often entirely imputed to what in themselves are virtues; love for his wife, and tenacity of purpose in matters of public duty. But the former seems never to have influenced him in state matters, further than by exciting and confirming him in courses, to which, independently of his counsels, he was ever too much inclined; nor the latter to have placed him above occasional recourse to unworthy compromises. His fondness for the queen did not prevent him from making occasional concessions to a people whom she disliked, and to whom she would have fain persuaded him to concede nothing; nor did his tenacity of purpose check him from breaking engagements which every moral bond would have made inviolable."

Hampden was elected to Charles's first parliament, which met in 1625, for Wendover, a borough which had lately recovered this privilege from the crown. Wendover and others had lost the privilege of returning members to parliament by an early disuse, when many boroughs preferred to be unrepresented rather than to incur the expense of maintaining members. It was now a scheme of the country party to strengthen themselves by procuring its restoration to several of them. Though Hampden was not in parliament when this was projected, yet he was one of the first to see its importance, and to contribute to its success. It required much caution to keep the object which the opposition had in view from the knowledge or suspicion of the court party. The first cases presented were those of boroughs not connected with the members of the country party. The petitions were referred to a grand committee of privileges, of which Serjeant
Glanville was chairman, and such men as Selden, St. John, Pym, Coke, &c., members. In their report they adopted a rule by which the right should be tried, and which was broad enough to admit such as had fallen into disuse. Marlow, Amersham, and Wendover were managed by Hampden, through Hakewill, a member of the parliament, and his adviser in legal matters. The report was confirmed, the writ issued accordingly, "and therefore were elected and returned to serve," says Glanville, "in parliament, for Amersham, Mr. Hakewill, and Mr. John Crew; for Wendover, Mr. John Hampden (who beareth the charge) and Sir Alexander Denton; for Marlow, Mr. H. Burplace and Mr. Cotton." The manner in which this was effected seems alone fully to justify the remark of Clarendon concerning Hampden, that he was "of the most discerning spirit, and of the greatest address and insinuation to bring anything to pass which he desired, of any man of that time, and who laid the design deepest." By the late reform bill, Wendover has, we believe, been entirely disfranchised, and the other two have been limited to return but one member each.

From the commencement of his reign to the close, Charles found that his parliaments were made of sterner stuff than he wished or expected. The misgovernment of James had, as we have already observed, at least partially opened the eyes of the people; and now, Charles's first parliament, when he demanded supplies to make preparations for the Spanish war, pointed to a redress of those grievances which they had suffered under his father, as a necessary condition for the subsidies. The king, however, was willing to receive, but not to grant a boon. At this resolution of the commons he stormed; and, determined despite of them to raise money, he levied, by means of his privy council, illegal loans; in consequence of which the House made a more absolute resolution. They impeached the Duke of Buckingham at the bar of the House of Lords, but while proceeding to their charge, were suddenly dissolved. The king took this course in order to save his favourite from the gathering tempest; though he might have known, that as it had already proved dangerous by experience, it would eventuate as fatally for him. Indeed the dissolution of the parliament had never brought the crown in greater favour with the people; but, on the contrary, only ensured a return of the same members or of others of similar views. The measure, moreover, temporarily embarrassed and ultimately humbled the monarch, when, like James, he had not the temper to bestow with grace, what his pusillanimity would not suffer him to withhold; or else added danger to embarrassment, when, like Charles, he obstinately refused all concessions. Charles followed up his present act of dissolution, by further levying false loans to carry on the war so improvi-
dently begun, and generally upon persons connected with the leaders of the opposition. He further disgusted his people by sending his ships to join the French in besieging the Protestant town of Rochelle, instead of investing Genoa, then the bank of Spain. Disasters of war now crowding thickly upon the king, he was forced to call a new parliament, having, however, previously rendered Coke, Wentworth, and other leading members of the popular party, ineligible to a seat, by appointing them sheriffs. Hampden was again returned for Wendover.

But the house recurring to its arraignment of Buckingham, was again suddenly dissolved. Sir Dudley Digges, Eliot, and Wentworth, were thrown into prison for some speeches which they had uttered against the favourite. To remedy the inconvenience arising from a dissolution, Charles resorted to his old expedient of loans; and among those whom he selected for the illegal levy, was Hampden. But from the first to the last act of his life, Hampden was consistent; and throughout, inflexibly patriotic. He resolutely refused to make the loan, declaring, "that he could be content to lend, as well as others, but feared to draw upon himself that curse in Magna Charta which should be read twice a year against those who infringe it." Although possessing the largest landed estate owned by any commoner of England, he was thrown into prison by order of the privy council; and still refusing, when brought up again, he was sent in custody into Hampshire. Charles now very unexpectedly became involved in a war with France. In order to support it, the duties of tonnage and poundage were raised by the council's order. As if to aggravate this proceeding, soldiers were billeted on such as had expressed opinions unfavourable to the court; and the poorer class, who found the oppression too great to be endured without murmuring, were impressed. But again, the result of the war was disastrous. Buckingham entirely failed in his expedition against the Isle of Rhé. The king was now compelled to retrace his steps; warrants were accordingly issued to release those persons, amounting in number to seventy-seven, among whom was Hampden, who had been imprisoned for resisting the last loan. He summoned a new parliament, many members of which were those whom he had wantonly imprisoned. They proceeded in a spirit of moderation.

"They resumed the old questions of grievances, aggravated by the late transactions, and, after much discussion in the House and in committees, their complaints were embodied by Sir Edward Coke and Selden, in the renowned petition of right. Sir Robert Heath, the attorney general, having, on the first discussion, treated some of their precedents for the ancient liberties of England slightly, Coke replied, restating them, and declaring in the full confidence of his powers and his cause, that, "it was not under Mr. Attorney's cap to answer any one of these arguments." By many artifices and abundant assurances, such as before he had never condescended to, did Charles now endeavour to divert them from the completion of this great work. Nor were the Houses themselves agreed
at first. The lords had sent down propositions to justify imprisonments during pleasure, by warrant of the council, under pretence of state necessity. To soften this to the commons, the new lord keeper assured them that his majesty held the statute of Magna Charta, and the six others passed for the liberty of the subject, to be all in force; that he would maintain all his subjects in the just freedom of their persons and safety of their estates; that he would govern them according to the laws and statutes of the realm; and that they would find as much security in his majesty's royal word, as in the strength of any law they could make. The commons, however, persisting, Mr. Secretary Cook, the feeblest old man that ever was employed as an instrument of violent designs, brought down a message, desiring to know whether the House would rest on the royal word as declared to them by the lord keeper. Pym's answer was conceived with great presence of mind, and consummate address and moderation. "We have his majesty's coronation oath to maintain the laws of England. What need we then to take his word?" The commons, however, being pressed to return a reply through their speaker, answered, that "as there had been a public violation of the laws and the subjects' liberties, they would have a public remedy." The king then declared by letter to the House of Lords, that "without the overthrow of sovereignty, he could not suffer the power of general commitment to be questioned;" and the lords were for adding to the bill a saving clause, in general terms, for the sovereign power. Again, however, the commons, declining to discuss the value of those promises (which they could not have questioned without insult to the person of the king,) pressed the measure steadily forward. To recede or to pause, would have been to surrender the only barrier that remained in defence of public liberty."—Lord Nugent. Vol. I. pp. 115—117.

The lords, accordingly, upon conference, agreed to the petition of right, June 2, 1628, to which the king also, though at first refusing, finally gave his assent. The sincerity of the commons was instantly shown by the passage of a bill of five subsidies—the largest grant which had ever been given. They were not, however, to be diverted from their other projects of redress. They returned to the impeachment of Buckingham, and to a remonstrance against the increased duties of tonnage and poundage. They were hastily prorogued by the king, who in his speech declared, that he had not given away his profit of tonnage and poundage in the petition of right, "yet," said he, "to show the clearness of my intentions, that I neither repent nor mean to recede from any thing I have promised you, I do here declare, that those things which have been done, whereby men had some cause to suspect the liberty of the subjects to be entrenched upon (which indeed was the first and true ground of the petition) shall not hereafter be drawn into example for your prejudice; and in time to come, in the word of a king, you shall not have like cause to complain." The bad faith of Charles was, we think, made most manifest in this transaction; for in the very face of this promise to abide by the petition, he shamelessly renewed his arbitrary exactions; and even caused fifteen thousand copies of the petition to be struck off, in which his first and unfavourable answer was substituted for his final assent. Thus the most

"Commons Journal for June 26, 1628, where the whole speech is entered by his majesty's special command."
solemn guaranty which his people could expect from him—his royal word—was completely broken, and their hopes of royal grace almost for ever destroyed.

Corruption is but the next step after the violation of faith; and Charles, who had now debased himself by a miserable treachery, set about corrupting the integrity of such members of the country party as could be allured by the promise of office and distinction. Wentworth, Saville, and Noy, were the principal of those who thus bartered away their principles, and who became the ready minions of the king. In Wentworth, Charles found a supporter of the greatest talents, of a warm zeal, and of a commanding influence; for the exertion of which, in his favour, he richly rewarded him with dignities, offices, and emoluments. The fate of Saville was quite as different as his abilities were inferior. The professed rival of Wentworth, he soon fell into neglect, while the honours of his adversary increased; and was at last deprived of the office which had been conferred upon him. Noy was made attorney general. He was shrewd and crafty; possessing not so much learning as industry; indefatigable in whatever he undertook, and as will be hereafter seen, serviceable in the purposes of the king. These individuals became as virulent against their former friends as they had been against Charles; and in turn, they, and Wentworth especially, were regarded with the bitterest feelings by the opposition. On one occasion, when coming out of the House of Lords, Wentworth having said familiarly to some of his late friends, "Well, you see I have left you." "Yes," replied Pym, with a proud look, "yes, my lord, but we will never leave you while that head is on your shoulders!" a prediction which was fulfilled to the letter.

The commons met pursuant to the prorogation. In the meantime the king had ordered a bill to be prepared, granting the duties of tonnage and poundage absolutely to the crown. The House resented the attempt, and resolved to examine all the grievances in liberty, property, and religion. "They voted," says White-locke, "the seizing of Mr. Rolles, his goods, to be a breach of privilege."* The scene which ensued upon the introduction of this resolution was most tumultuous; and is thus described by Lord Nugent.

"The speaker, Finch, refused to put the question, and after a fiery protest from Selden, of his own motion adjourned the House. At its next meeting, a few days after, when the matter was resumed, he pleaded that the king had commanded him, in the event of such a question being again proposed, again to leave the chair, and thus evade the duty of putting it to the vote. But, upon his rising to do so, a tumult ensued, the like of which has seldom been seen in any assembly engaged in maintaining its privileges. The spirit of the country party rose to the level of the emergency which called it forth. "It was," says

* Memorials, p. 12.
Sir Symonds D'Ewes, 'the most gloomy, sad, and dismal day for England that has happened for five hundred years. Sir John Eliot, the mover of the resolution, in the confusion, unable to prevail on the trembling speaker to put his question, dashed the paper which contained it on the floor of the house. In a short, vehement harangue, he claimed that it should be read. Finch was forcibly detained in the chair, while his own kinsman, Peter Hayman, reviled him, 'as the disgrace and blot of a noble family, and one whom all posterity would remember with scorn and disdain.' The question now read by Hollis and Valentine, was echoed back with shouts. The Usher of the Black Rod demanded admittance in the king's name in vain; the door was locked and the key on the table. But when the captain of the guard arrived, with orders from the king to force his entrance and bring away the mace, he found the door wide open. The resolution, and a general protestation against illegal imposts and innovations in religion, had passed by acclamation, and unanimously. The house then adjourned for eight days; and, on its next meeting, the 10th of May, the king went to the lords, and without calling the commons to the bar, after a threatening speech, caused the parliament to be dissolved by proclamation.” Vol. I. pp. 142—144.

The late imprisonment of Hampden showed the disposition in which he was regarded by the court, while it tended to increase the estimation in which he was held by his own party. He now applied himself with diligence and zeal to the performance of his public duties, discharging numerous and responsible offices, as well in committee as on the floor of the House. In order to prepare himself fully for the approaching crisis, he applied himself assiduously to the science of privilege and precedent; and a volume of parliamentary cases still remains, a great part of which is filled with extracts from his notes. The subject of church reform, especially, engaged his unremitted attention.

From this time, the breach between Charles and his parliament seemed irreparable. The king still clung, obstinately and foolishly, to the shadow of a prerogative right to take the money of his subjects by his own orders of council. The reformers, on the other hand, were too firmly established in the justice of their cause, too strongly supported by the wishes of the people, and themselves too far committed, to recede from the ground which they had taken. Charles knew all this; but when will kings learn wisdom? He was determined upon his wayward course. No sooner was the parliament dissolved, than he threw into prison some of the country party most obnoxious to him.

Among these was Sir John Eliot, the intimate friend of Hampden, a generous and brave man, and no less distinguished for his public than for his private virtues. Thrown into a foul dungeon, his health gradually gave way. His physicians warned the privy council of the progress of his disorder, which could only be stayed by removing him where he might breathe a purer air. His liberty was offered him on condition of his “acknowledging his fault and craving pardon.” This he nobly refused, and in one short month thereafter was no more. So foul is this blot upon the character of Charles, so pointed a moral does it convey in regard to his own fate, and so indefensible and outrageous in all
those concerned in the act, that its defenders have striven to divert attention from its heinousness by calumniating the memory of Eliot, "an attack for which," says Lord Nugent, "there appears no justification." Indeed, it is not probable that one "whose affections," Hampden declared, "he accounted a noble purchase," would be guilty of the act imputed to him, marked as it is with the blackest baseness.

The correspondence which was carried on between Hampden and his friend during his cruel imprisonment, though of a private, is of a very interesting character, and places these great men in a very favorable light. Eliot employed his solitary hours in the defence of his views of civil government, in a work entitled, "The Monarchy of Man;" in the progress of which he invited and received the criticisms of Hampden. He had also intrusted to Hampden's care, the education of his two sons, who were a source of trouble and solicitude both to Hampden and himself. The delicate manner in which the former conveyed his sentiments to his immured friend, is strikingly illustrative of his nice feeling. In one of his criticisms, remarking upon the style of Eliot, he says:

"This I discern, that 'tis as complete an image of the pattern as can be drawn by lines; a lively character of a large mind; the subject, method, and expressions, excellent and homogenial, and, to say truth, sweet heart, somewhat exceeding my commendations. My words cannot render them to the life; yet, (to show my ingenuity rather than wit), would not a less model have given a full representation of that subject? not by diminution, but by contraction of parts. I desire to learn; I dare not say. The variations upon each particular seem many; all, I confess, excellent. The fountain was full; the channel narrow; that may be the cause; or that the author imitated Virgil, who made more verses by many than he intended to write."

It was Hampden's delight to turn his mind to literary matters. Ingenuous and liberal, he found pleasure in perusing the works of the sages of antiquity, and those of the great minds of his own period. Although mighty and energetic in action, he knew well that the recreations of literature were as becoming the great, as they were necessary to the ornate mind. Previous to the dissolution of the last parliament, he had retired into the country to study more leisurely the lessons which past history afforded. He made Davila's account of the civil wars of France his favourite book; "as if forecasting from afar the course of the storm which hung over his own country, he already saw the sad parallel it was likely to afford to the story of that work." From his retirement he could observe more dispassionately the operations of the two great parties. The view, however, was melancholy for the friend of his country. New imposts were laid by the king, heavy fines inflicted on those who declined the honour of venal knighthood, patents of monopoly granted on the most common and necessary articles, the old forest laws revived
contrary to statute, and numerous other as unblushing violations of the Petition of Right, and of the known laws of the realm.

Wentworth and the superstitious Laud now reigned triumphant in the councils of Charles. They counselled the king to call no parliament for the future—emphatically and truly the baleful counsel which brought ruin upon his head and those of his advisers. Personal liberty, as well as parliamentary privilege, were now disregarded, violated, contemned. The merchants were oppressed by illegal regulations, the country subjects, by fines. As a body, the Puritans received the heaviest visitation, and some of the punishments inflicted upon them are a disgrace to humanity. The indiscreet expression of Leighton, calling the queen a "Canaanitish woman and idolatress," and Prynne's book, entitled "Histriomastix, or God's wrath against stage players," which by a shameful perversion, was made to reflect upon her majesty, who, a few days after its publication, had acted a part in a court masque, were deemed sufficient cause for fine and imprisonment, the pillory, and the loss of ears. "Prynne," says Neal, "was sentenced to have his book burnt by the hands of the common hangman, to be put from the bar, and to be for ever incapable of his profession; to be turned out of the society of Lincoln's Inn, to be degraded at Oxford, to stand in the pillory at Westminster and Cheapside, to lose both his ears, one in each place, to pay a fine of five thousand pounds, and to suffer perpetual imprisonment"—a sentence which was cruelly executed. The fortitude and enthusiasm, however, of these religionists, increased with their persecutions; and they received the almost united sympathies of the people.

The condition of England was now at a fearful point. To rule without parliaments was despotism. The king's zeal against them was excited to the highest pitch; he declared them to be of the nature of cats: "they even," said he, "grow curst with age; so that, if you will have good of them, put them off handsomely when they come to any age; for young ones are ever more tractable." His foreign policy resulted as ingloriously as his domestic rule was tyrannical. The dispute with the Dutch, in regard to the sovereignty of the sea, had called forth the talents of Selden in his Mare Clausum; but Charles was in no condition to support the pretensions so learnedly maintained. The services of Noy now came into requisition; and as if verifying the Anagram of his name, William Noy, I moyl in law, he set about a search into the ancient records, in order to discover or devise some scheme to aid his despotic master. Finding that in earlier times the sea ports and maritime counties had been occasionally called upon to contribute ships for the public service, he

* Hist. Puritans, II. 3.
recommended a similar course to the king. A writ was accordingly issued to the city of London, requiring a supply of ships, fully manned and equipped, under pretence of guarding the kingdom from the pirates who were then infesting its seas. This was the levy of ship-money.

The first requisition was limited to the maritime towns, and was justified upon the precedent of that made by Elizabeth on the approach of the Armada. Independently, therefore, of the rendition of that right to the Commons by the Petition of Right, even neglected precedent did not seem to contemplate an extension of the levy to the inland counties. Finch, the Chief Justice, a miserable tool of Charles, suggested this improvement upon the scheme of the attorney general. Charles was not less ready to adopt, than these supple schemers to project, any plan which might replenish a treasury, beggared by his own misrule. In 1636, this impost was made upon all cities, counties, and corporate towns throughout the kingdom, and the sheriffs were directed, in case of refusal, to proceed by distress. In order to give colour to the proceeding, Finch advised the king to require an anticipatory opinion from the twelve judges. "There is a mode," says Lord Nugent, "in which kings may so propose their questions to lawyers, as clearly to show what is the answer that will best meet the royal purpose." It was now demanded, "whether, when the general safety was concerned, and the whole state in danger, he might not, by writ under the great seal, legally compel his subjects to furnish as large a number of ships for its defence, and for as long a period, as he might think necessary; and whether, in such a case, he were not the sole judge of the danger, as well as of the means of preventing it?" It was answered in the affirmative, and signed by all. The court party were highly pleased; Wentworth chuckled, and declared it was the greatest service that the profession had done the crown in his time. But this appeal to the judges did not deter some bold spirits from trying this matter more solemnly before them. Hampden and Lord Say took a decided stand. Buckinghamshire, the residence of Hampden, is the most nearly equidistant from the four seas which surround England, of any place in it; and, of course, the most exempt from this tax. The determination of Hampden excited many of his neighbours to the same resolution; "but," says Lord Nugent:—

"No sooner was the name of Hampden seen among this number, than, as if by one common desire that the conflict should be decided in the person of a single champion, the eyes of the court and of the people were alike turned on him. He stood the high and forward mark against whom the concentrated wrath of all the penalties was to be directed. The condition of his fortune, and the small amount of the sum in which he was assessed, sufficiently established his case as the best for determining the principle of a demand, important to the court, not only as a fruitful source of revenue, but as supplying a precedent en-
tirely decisive against the popular cause. Upon a rate, therefore, of thirty-one shillings and six pence, he resolutely proceeded to rest for himself, for his country, and for posterity, this great and signal act of resistance to arbitrary taxation. The return of the sheriff of Bucks contains the names of those, who, with Hampden, had tendered their refusal to the constables and assessors, together with an account of the sums charged upon each person. Among the names of the protestors, it is to be observed that the constables and assessors have the courage to return their own; and, at the head of the list, stands that of John Hampden, as a passport for the rest to an honourable memory, so long as the love of liberty shall retain a place in the hearts of the British nation."—pp. 222, 223, and 229.

A writ was accordingly awarded against Hampden, requiring him to show cause why the assessment should not be paid. He had already consulted Whitelocke, St. John, and others, concerning the mode of trying the question at law. He now demanded oyer or sight of the original writ, and of the subsequent proceedings. To these he put in a general demurrer; and upon the point of law the attorney general joined issue. St. John and Robert Holbourne argued the case for Hampden; and Noy, Sir Joseph Banks, and Sir Edward Littleton for the crown. The speeches of the counsel occupy one hundred and seventeen pages (folio) in Rushworth, and of course we are prevented from giving even a synopsis of this interesting argument. Hampden's counsel contended, that when the ordinary revenues should prove insufficient for the purposes of government, the constitution had provided another means, that of parliamentary grants. Not relying upon the various acts of an earlier date, which had from time to time been passed in order to secure the subject from the arbitrary demands of the king, they reposéd on the statute, called the confirmatio chartarum 25 Ed. I., which forever abrogates taxation without the consent of parliament—a statute, too, which was enacted under circumstances very similar to those in which the right was now claimed; on the statute de tallagio non concedendo, which takes away the right more absolutely; and, lastly, on the act of Charles himself—the Petition of Right, which confirmed the ancient statutes, and established that no manner of tax should be levied except by act of parliament. In answer to the precedents upon which the crown relied, they urged that none of them applied to the case of an inland county. They spoke, too, of the principles of a free government, and of the danger of allowing such violent acts of power to be made by the crown; in the course of which, however, they were frequently checked and reprimanded by the court. In reply to these broad and irrefutable grounds which were taken by the counsel of Hampden, the obscure records of Moyling Noy were produced, some of which, indeed, showed that commissions had sometimes been addressed even to inland counties. But they were all in very early times. To the later statutes no answer could be given. The crown lawyers rested upon the argument of the absolute
prerogative of the king. "All magistracy," said Banks, "it is of nature, and obedience and subjection it is of nature; the king can do no wrong; the acts of parliament contain no express words to take away so high a prerogative; and the king's prerogative, even in lesser matters, is always saved, wherever express words do not restrain it."

The whole country anxiously waited the result of this protracted trial. The judges took time to make up their opinions; and finally gave judgment, seven for the crown and five for Hampden—the smallest possible majority for the former. A general burst of indignation and disgust followed this decision; and Hampden grew, indeed, "the argument of all tongues." "The eyes of all men," says Clarendon, "were fixed upon him as their pater patriae, and the pilot who must steer the vessel through the tempests and rocks that threatened it." As yet Hampden has appeared rather as a cautious observer of the progress of affairs, than as an active partisan. Although marked by a sound and critical judgment, possessed of much and varied information, and respected highly for his virtue and his independence, he had not acquired that notoriety which men of much less ability and more shining qualifications, temporarily obtain in deliberative assemblies. But the time and occasion had now arrived when these properties of mind and heart were to be most thought of and most required. He himself was not unmindful of this in his retirement, and he had accordingly bent all the energies of his soul to prepare himself so as to be acquitted honourably of his duties to his country. The retirement of Coligny described in his favourite Davila, afforded an apt parallel to his own situation; and like him, truly, he was to come forth the champion of religious as well as civil liberty. It was about this time that he lost his wife, and this, perhaps, freeing his attention, may have determined him more in his purpose.

One refuge, however, seemed to remain. An asylum from the measures of tyranny seemed to be open in the wilds of America. The Star-Chamber and High Commission Courts, two of the vilest institutions that had been ever used for the purposes of persecution, had already driven great numbers of the Puritans to New England. "The sun," said they, "shines as comfortably in other places, and the sun of righteousness much brighter; it is better to go and dwell in Goshen, find it where we can, than tarry in the midst of such Egyptian bondage as is among us; the sinful corruptions of the church are now grown so general, that there is no place free from the contagion; therefore go out of her my people, and be not partakers of her sins."* Saybrook, at the mouth of the Connecticut, so called from its first proprietors,

* Neal, Hist. Purit. II. 4.
Lord Say and Lord Brooke, who had from their boyhood lived together as brothers, and whose ties of affection had been cemented by a constant agreement in public life, was now selected as the place where they might found a patriarchal community. In the midst of their preparations, and when some were on the point of departure, the king issued an order in council, restraining all masters and owners of ships from carrying any passengers to America, without special license. This order, by a strange fatality, sealed the fate of Charles; for at that time eight ships were lying in the Thames, ready to sail with emigrants, in one of which Hampden and his cousin Oliver Cromwell had actually embarked. Now they remained, the one to begin, and by his virtue and courage to inspire, the other to consummate the act of resistance to despotic authority.

"There is a special providence in the fall of a sparrow." Had Charles, content with the triumph which he had gained—so far as the success of unjust measures can be accounted such—now turned his attention to healing the disquietudes which he had excited, and had he suffered those to leave the country who could not bear his oppressions, he might at least have secured his crown, though he could not have long deferred the change which was already working in the royal prerogative. But he gave no relaxation; his privy councilors, Wentworth and Laud, received their cue for proposing more harassing measures. The conduct of Hampden at this trying crisis was admirable.

"With qualities of heart and mind well matched to do service and honour to each other, the modesty, discretion, and composure, with which (always bearing onward in his steady course,) he mastered in himself every allurement of personal vanity, are parts of his character more admirable even than the courage which all contemporary testimony agrees in so eminently ascribing to him. It has been well observed, that the highest praise which has been bestowed on Hampden is to be found in the acknowledgment of one of his most jealous enemies. Lord Clarendon, who had known him both as a colleague and as a competitor, and, in each position, had learned to respect his deportment, admits that he behaved himself with a temper and modesty such as marvellously to win the hearts of men, and to deprive his adversaries of all occasion, which they diligently sought, of impeaching the conduct, while they blamed the motive, of his opposition." Vol. I. p. 247.

But trouble and war were brewing in another quarter. The followers of Knox in Scotland could ill brook the ecclesiastical regulations which Charles, following in the steps of his father, had attempted to impose upon them. Disaffection at length became serious. The canticles of episcopal worship were spurned from the pulpits of Scottish reformation. The cry of an old woman was the signal for a general rising. Then, a whole people, not from an undue incitement of flaming demagogues, but from a deepened sense of wrong, rushed to sign their names to the national covenant. Such ever is the operation of religious feeling, when it meets with violence. The Christian proselyte is
not more zealous in the defence of his creed, than the Pagan 
idolater who bows at the shrine of Crishna. Our religious faith 
is that upon which we no less pride our judgments than we fasten our hopes.

After a feeble demonstration of military power, Charles, as it is well known, made a truce with the Covenanters, which he did not intend to keep, and which was observed with as little faith on the other side. Each party continued to make preparations for war. The Scottish parliament despatched commissioners to the king. It was a moment when the friends of freedom were called upon to strike. Hampden, Pym, Lord Say, and others of the country party, put themselves in communication with the Covenanters, through their commissioners. "If it were treasonable," says Lord Nugent, "in the English Puritans to conspire with the malecontents of another country, in order to try the last chance for the liberties of their own, from this time began their treasons."

Misrule had now reached its height. For twelve years Charles had governed without a parliament. He was now more than ever in want of money, notwithstanding the levy of ship-money was industriously continued. He resolved upon convening a new parliament. Hampden was returned for the county of Bucks. About this time he married his second wife; but his arduous and unremitting devotion to his public duties, gave him little time for the enjoyment of domestic ease. What Hampden left, in his ardour for public freedom, may be gathered from the following passage of our author.

"From this time," says Lord Nugent, "till his death, except at some few hasty intervals, when business of public concern called him from the parliament, from the council, or from the camp, he never again returned to that home to which the remembrances of his youth, his studies, his pleasures, and the blameless happiness of tranquil hours, had so strongly attached him. His mansion still remains. It stands away from both the principal roads which pass through Buckinghamshire, at the back of that chalky range of the chilterns which bounds, on one side, the vale of Aylesbury. The scenery which immediately surrounds it, from its seclusion little known, is of singular beauty: opening upon a ridge which commands a very extensive view over several counties, and diversified by dells, clothed with a natural growth of box, juniper, and beech. What has once been the abode of such a man can never but be interesting from the associations which belong to it. But even forgetting these, no one, surely, who has a heart or taste for the charm of high breezy hills, and green glades enclosed within the shadowy stillness of ancient woods, and avenues leading to a house on whose walls the remains of the different styles of architecture, from the early Norman to the Tudor, are still partly traced through the deforming innovations of the eighteenth century—no one, surely, can visit the residence of Hampden, and not do justice to the love which its master bore it, and to that stronger feeling which could lead him from such a retirement, to the toils and perils to which, thenceforth, he entirely devoted himself.—pp. 286-288.

The new parliament was steadily bent upon redress of the public grievances; but it pursued its plans moderately and dispa-
Though from its short duration it did not accomplish a great deal, it nevertheless systematized those resources which every parliament possesses for its defence against the encroachments of the monarch. The king applied for supplies, with the insulting condition that he would give up future claims to ship-money, provided they voted him twelve subsidies. There were two classes of objectors: one against the supply as a compromise, the other against the amount. In order to unite those who demanded redress before supply and those who objected to the sum, in one vote, Hampden warily moved, that the question be put broadly, "whether the house would agree to the proposal contained in the king's message." Hyde, on the other side, moved the question, "whether a supply should be granted?" Confusion and clamour instantly arose; when the elder Sir Harry Vane, then Secretary of State, declared that a supply, unless voted as required by the king, would not be accepted. The house adjourned for the morrow—but on the morrow they were, as might have been expected, dissolved.

We will not lead our readers into the details of the Scotch war. The result is doubtless familiar to them. Humbled, and without resources, disgraced by his own precipitate acts, though resolute in his course of tyranny, Charles at length summoned a new parliament. Both the friends of liberty and of the court began a vigorous canvass. Hampden and Pym rode through every part of the country, appealing to the public spirit of the electors, and encouraging them in the cause of freedom. Everywhere they were welcomed with marked attention. The advances of the court were received with less favour. It had evinced such an utter disregard for truth, and such a disposition for violent measures, that it obtained neither reliance nor support. The returns were greatly in favour of the country party. Hampden's was a double return—for Wendover and the county of Buckingham. He made choice of the latter.

This ever memorable parliament—known as the Long parliament, was opened by Charles in person on the 3d November, 1640. The course of things had well presaged that a bold effort would be made to restore the constitution to its original condition. To judge correctly of its acts, the entire preceding history of the king's conduct, as well as that of the commons, should be known and considered. He who views them disconnected from the measures of Charles, will not, we believe, readily justify them. But he who considers them in their natural order, as a consequence of his conduct, will not be disposed too readily to cavil or to condemn.

There may arise a crisis in the affairs of states, where the governed of right ought to correct misgovernment by summary, and if necessary, unprecedented measures;—this is where there
has been an obvious and flagrant departure on the part of the ruler, from the plain path of his duty and of his constitutional power, to the detriment of their interests, their rights, and their liberties. This law is as capable of precision, in its application, in its operation, and in its proper effect, as any other rule of right. The *lex novarum rerum*, indeed, does not differ from other laws in that it is less just or equitable, but that by retrospective operation it remedies any defect, real or supposed, of which there may have been bad use made. It is not less established in justice than necessity; and accordingly it is limited to the proper consummation of its object. The excesses of the French Revolution are not to be attributed to the just operation of this law; they were the result rather of the lax and anarchical doctrines which had taken deep root in almost every branch of society. If we carry this principle along with us in the examination of the acts of the Long parliament, we may be able to arrive at a more consistent judgment concerning them, than is frequently attained.

Was this justly a revolutionary assembly? The conduct of Charles, ever since he had ascended the throne, had been almost uniformly subversive of the rights already formally ceded to the subject, or acknowledged to belong to him. He had at first attempted to intimidate the Commons into a passive acquiescence in his projects, by seeking to curtail their liberty of speech, by an arbitrary and cruel imprisonment of those members who were not to be awed into silence. When this failed, he resorted to every species of *charlatanerie* to bilk his subjects of their privileges; at one time making the fairest promises and offering the most solemn protestations; at another time, deluding them by a surrender, in bad faith, of his prerogative pretensions, as in the petition of right; and finally, by corrupting their firmest advocates, wherever the lures of office and emolument could take effect. The most dangerous and despotic of the royal measures, was Charles's rash determination to rule without a parliament, and in its stead to revive the old prerogatives of the king, which had either failed by prescription or been destroyed by statute and charter grants; and when this was not sufficient to increase his exactions, by means altogether unknown in the history of the government, as in the extension of the impost of ship-money to the inland counties. If he summoned a parliament, he did not fail to deprive them of the opportunity of redressing their grievances by a sudden and angry dissolution. Under such circumstances, who would not have considered the country in danger, the constitution assailed, and individual liberty abridged?

"The sudden dissolution," says Warburton, "alone of the foregoing parliament, was enough to convince them (the long parliament) that nothing but very powerful remedies could save the
1833. [ Hampden and his Times. 213

constitution, especially when they considered the circumstances with which that dissolution was attended; for we find one of the secretaries of state, signing warrants for searching the studies and papers of some of the members. The very powerful remedies of Warburton could have been only such as would have preserved the integrity and constitutional privileges of parliament.

The proceeding against Wentworth, who had now been elevated to the peerage, as Earl of Strafford, was the earliest act of the new parliament, and that for which it has been, by a certain class of politicians, very severely condemned. Strafford, since he had been brought into royal favour, had been the great adviser of the king in all his violent measures. Acquainted with the characters of the more distinguished of the opposition; himself, for a while, a co-operator in their plans, and a participant in their sufferings; and fully understanding the nature of their strength: possessing, moreover, overpowering talents of his own, an untiring zeal in whatever he undertook, and a moral courage adequate to any emergency, he was the most dangerous counsellor in his designs, whom Charles could have selected. His influence, accordingly, was extended in a ratio commensurate to his usefulness to the court. Honours and offices were showered upon him in abundance. In addition to the title of peer of the realm, he became Lord Lieutenant of Ireland, and president of the Council of the North. His conduct had been as sycophantic, and his exertions as unremitted, as the king could have wished. In his capacity of privy counsellor, his darling advice was to wield the government without parliaments, for he well knew that they were as towers of strength to the people. He knew that without them the people were temporarily powerless. We might, then, look no further for the justification of the act which deprived him of the power of doing further injury; but as the criminal agent of a bad prince, we find his condemnation in this act alone. His conduct, however, had been flagrant in other respects. His presidency in the north, had been one clear course of tyranny. In Ireland, he disregarded all law, and usurped an authority beyond what the crown had ever at any time possessed; he threatened its parliament; he secured monopolies for his own private benefit, and established martial law. His illegal proceedings against Mountnorris and Ely, Clarendon declares "were powerful acts, and manifested a nature excessively imperious, if not inclined to tyranny."

Such was Charles, and such was his Minister. Could less than the effectual removal of Strafford have saved the commonwealth? Had he been preserved, what guaranty would there

have been, that at some future period he would not have been brought back by the king to pander to his desires of unlimited power? On the other hand, what was so likely to palsy the efforts of Charles in his course of despotism, and to secure the parliament in the exercise of its privileges, as the destruction of the man who had directed the one and successfully defeated the other? His death was called for, by the pressure of the times, by the danger which was to be apprehended from his continuance in power, by the sore evils which he had already inflicted on the state. Palpable as his misconduct had been, it was hardly to be presumed that a man of such consummate address and decided ability, would put himself in direct collision with the laws. And accordingly his punishment was demanded rather for equitable than legal considerations.

The first proceedings against Strafford were hasty and ill-advised. The affair was hurried along with the same precipitancy with which it was begun; and as in all cases of rapid legislation, error was committed. Pym opened the business of the session with a warm and animated speech, in which he depicted the misery which had been brought upon the country; "we must inquire," said he, "from what fountain these waters of bitterness flowed; what persons they were who had so far insinuated themselves into the king's royal affections, as to be able to pervert his excellent judgment, to abuse his name, and wickedly apply his authority to countenance and support their own corrupt designs."* He then pointed out Strafford as one who had most contributed to produce this unhappy result—"who had," he said, "raised ample monuments of his tyrannical nature." It was immediately resolved that he should be impeached of high treason, and Pym was despatched to the House of Lords for that purpose, on the same day. But the committee appointed to manage the impeachment, of which Hampden was one, were made sensible of their error in the course of the trial. The various acts which Strafford had committed, though sufficient to convict him of illegal conduct, did not amount clearly to treason under the statutes. The testimony of the Vanes, that he had told the king—"you have an army in Ireland with which you may reduce this kingdom," seemed to furnish the highest evidence in support of this charge. The intent, however, to subvert the fundamental laws of the kingdom, could be considered treason only by a forced construction. This proceeding was accordingly abandoned; and a bill brought forward for the attainder of Strafford—which should have at first been done.

Hampden, however, differed from his friends as to the propriety of this change; and of course whatever of odium may be

considered in the minds of any to have attached to those who voted for the bill, none belongs to him. Lord Nugent has in his commendable, but we think, false zeal for the subject of his memoir, denied the defensibility of this final act. "On the whole," he thinks, "it must be admitted, that the proceeding by bill, is not capable of any complete vindication." Now, we conceive, that we are not to seek for this complete vindication in the ordinary laws of the land. The juncture called for the exercise of the great law of preserving the state at all hazards; it demanded a resort to the most effectual means to save the constitution and preserve the rights of the people. We doubt whether Hampden's opposition to the bill proceeded from any thing further than a desire of consistency. He had taken an active part in the impeachment, and had been one of the managers. But more, his name does appear among those who were placarded as Straffordians—a sufficient evidence that he made no direct opposition to the bill. Lord Nugent struggles hard to get clear of the dilemma; and in fact is obliged to confess, that "Hampden probably considered the bill which took away Strafford's life as a revolutionary act, undertaken for the defence of the commonwealth. That he in conscience believed it to be an act of substantial injustice to the person arraigned, no man has any right to conclude." Why, then, the occasion for the flourish, that "throughout the progress of the attainder, the memory of Hampden is not stained by any appearance of his having been concerned in it."

It is more difficult to justify the course of Charles in regard to his minister. He made no effort to save him; but on the contrary, in the very letter which he wrote to the Lords, pleading for Strafford, he added that cruel, or as Burnet styles it, "that mean postscript;" *If he must die, it were charity to reprieve him till Saturday.* A perfidy so black has met with the detestation both of his friends and foes. Indeed, in the Icon, he himself is made to say: "nor hath any thing more fortified me against all those violent importunities, which have since sought to gain a like consent from me, to acts, wherein my conscience is unsatisfied, than the sharp touches I have had for what passed me, in my Lord of Strafford's business."*

That Strafford possessed noble qualities will not be denied. They have thrown an interest around his fate, and have excited a sympathy for him, which have operated favourably for his character. We should not, however, forget, that he was a bad, though a brave man; or that he endangered the liberties of his country, while he eloquently plead for his own. He was but a solitary sacrifice, when a hecatomb of victims might have fallen by his daring designs, had he lived, and while thousands already had been impoverished.

* Icon Bas. § 2.
Business in the parliament accumulated to an astonishing extent. Petitions poured in from all quarters complaining of grievances and praying relief. Pym divided the committees on grievances into three classes—on privilege, on religion, and on the liberty of the subject. A fourth committee was appointed out of these, to frame upon their reports a general remonstrance on the condition of the country. The Thorough-System was now to be tried by the opposition—by other and not less able hands. Among those who stood forward to maintain the rights of the people, was Oliver Cromwell, the kinsman of Hampden. Though not favoured with a prepossessing countenance, or with a winning and graceful address, he possessed a mind of great discernment and of unbending firmness. Hampden alone seemed at first to form a correct estimate of his character and of his talents. Interrogated by Lord Digby: "Pray, Mr. Hampden, who is that man? for I see he is on our side by his speaking so warmly to day:" He answered, in words that proved to be a faithful prediction: "That sloven whom you see before you hath no ornament in his speech: but that sloven, if we ever come to a breach with the king, (which God forbid!) in such a case, I say, that sloven will be the greatest man in England." Cromwell began his political career an honest man. He came to the aid of his country in a dark hour, when the hearts of those who loved liberty and abhorred kingly despotism quailed at the prospect. But when the hour of peril passed away, when the wreck of tyranny was seen in a shattered constitution, his aspirations became personal, selfish, and criminal. He loved his country, led her on to glory, and advanced her greatness; but he was not less a contemner of her laws, an usurper on her government, a tyrant over her people. He "passed the Rubicon of man's awakened rights;" had he paused when he saw his country free; had he turned away from the glittering insignia of power—he might indeed have robbed America of the unique glory which she receives in her Washington, but he would have enriched the world with an example of bright and immortal virtue.

With the names of Hampden and Pym we usually find associated that of the younger Sir Harry Vane. Though at that time a young man, he was an able and efficient coadjutor of these older counsellors. He was educated in the Geneva principles, and through his whole life was an enthusiastic and consistent advocate of republican governments. He had, according to Clarendon, "an unusual aspect, which made men think there was somewhat in him extraordinary; and his whole life," continues the historian, "made good that imagination." In early life he came to America, and at the age of twenty-three was elected governor of Massachusetts. His conduct and wild doctrines, however, did not suit the colony. Accomplished, ardent, and
determined, he again appeared in England a supporter of the popular cause. At a later period he was not less an enemy to the usurpation and tyranny of Cromwell, than he had been to the despotic course of Charles. He was, finally, beheaded, under Charles II., on a charge of compassing the king's death. Lord Say, Kimbolton, Fiennes, and St. John, may be cited as acting in conjunction with Hampden, and for a while, Hyde. Hampden, however, was the master spirit. He seldom skirmished in debate. Never personal, and rarely inflamed, he was content to humour the passions of his opponents, and to moderate the expressions of his friends; and in this manner, at the close of the discussion, to lead the House to the conclusion he desired. Out of parliament, his influence and popularity were almost unbounded; "his power and interest," in the language of his opponent, Hyde, "at this time, was greater to do good or hurt than any man's in the kingdom, or than any man of his rank hath had in any time; for his reputation of honesty was universal, and his affections seemed so publicly guided, that no corrupt or private ends could bias them." What cause would not be respected which had the zealous support of a man whose virtues and abilities were thus commended by a political opponent?

Pari passu with the impeachment of Strafford and others for their official misconduct, the parliament proceeded with other measures of the last importance to its independence, and even to its existence, both of which had been seriously endangered by the course of the king. The most important was the act by which triennial parliaments were secured—an act which was a pioneer for another, by which parliament was declared indissoluble except by its own consent. An attempt also was made to deprive the bishops of their votes. Of this scheme, Hampden at first was not a prominent supporter; when, however, the bill was rejected by the lords, he zealously co-operated with the root-and-branch party. The levying of ship-money was declared illegal; the Star Chamber and High Commission, with their adjuncts, were utterly abolished; and the prerogative claimed by the king, of laying imposts on merchandise, entirely taken away. Historical speculation and party spirit have busied themselves a great deal concerning an overture that was made about this time to the leaders of the country party, to receive office under the king. Its chief object seems to have been to save the life of Strafford; but the Earl of Bedford dying, under whose auspices the arrangement was to take place, the negotiation failed. Pym was to be made Chancellor of the Exchequer, Hampden, tutor to the Prince of Wales, and Hollis, Secretary of State. The result, doubtless, would have been quite different from that which occurred, to Charles and to the whole nation, had the arrange-
ment been concluded; it would have effected what Hampden himself declared at a later period to be the wish of the party, that of placing "the king with his children and all that he had" in their hands.

From this time forward Charles appears to have changed his designs, and to have acted under a different persuasion as to the means requisite to sustain his doubtful prerogatives. Deprived of the aid which he had derived from the craftiness of Strafford and Laud, and defeated in his schemes of artful policy, he determined, in the spirit of a foiled and disappointed despot, to resort to violence and coercion. The army plot first led the Commons to suspect his real designs; this they effectually deranged. He then commenced a double intrigue with the leaders of the two armies in the north that had not been disbanded. His personal presence there accordingly became necessary; and he actually undertook the journey against the remonstrances of the Commons. In order to have a check upon the schemes which he meditated, they despatched commissioners to Scotland, nominally to confer with the Scots concerning the ratification of the treaty, and the debt due from them to the northern counties of England. Hampden was at the head of this committee, selected as well for his prudence and courage, as for the circumstance of his having been in intimate communication with the Scots, and of his knowledge of their responsibilities to the English parliament. The king returned to London, completely out-manoeuvred.

"He found the state in the greatest disorder, and men's minds in the utmost alarm. During the whole adjournment, the standing committee, with Pym in the chair, had been collecting the materials for a solemn appeal to the country. Parliament had met on the 20th of October. The country was beset with danger and distraction, external and domestic. The Scottish intrigues, the Irish insurrection, France taking a part in each, Holland and Denmark in secret negotiation with the king to furnish him with military means against his subjects, the Exchequer of England in pledge for an unprecedented amount of debt, and the public credit nearly exhausted. To finish the sum of calamity and dismay, the plague was again breaking out in several parts of Middlesex, and even of Westminster itself." Vol. II. p. 108.

No chance remained of preserving the balance of the constitution; and there were but two alternatives which the people of England could adopt; either to give up all to the king or to the parliament. All hope of a reconciliation between these two estates was at an end; they were employed in undisguised hostility against each other. On the first of December, the Grand Remonstrance of the Commons was presented to the king. In it they remembered all the illegal acts of Charles from the time of his accession to the throne, and demanded redress.

"On the different clauses," says Lord Nugent, "a great and violent debate had arisen. On the 22d of November, the House had continued sitting till three in the morning; having met at ten on the preceding day, and having begun the debate on the remonstrance at three in the afternoon. Some of the members,
struck with alarm, and many, says Clarendon, worn out with fatigue, had retired from the house. At length, the resolutions were carried, after two divisions, by a majority of only 159 to 148, and of 124 to 101. And now a desperate stand was attempted to be made by Hyde. It was to the effect of a protest, to be entered by the minority against the decision of the House. The conflict of passions and voices was tremendous, and bloodshed, says Sir Philip Warwick, would probably have ensued; ‘we had caught at each other’s locks, and sheathed our swords in each other’s bowels, had not the sagacity and great calmness of Mr. Hampden, by a short speech, prevented it, and led us to defer our angry debate until the next morning.’ He rose amidst the uproar, and with that commanding influence which, though rarely exerted, he possessed above all men in the house, he composed for a moment the rage of the contending parties, sufficiently to gain their consent to an adjournment; by which, at once, he saved them from a less appeasable conflict, and effectually baffled Hyde’s project, which could only have succeeded by some compromise, forced on in the confusion, for striking the former proceedings from the journals. Cromwell declared next day to Lord Falkland, that, had the Remonstrance not been carried, ‘he would instantly have sold all that he had, and gone to America; and that he knew there were many other honest men of the same resolution.’ The opposition, thus vanquished, was not renewed, and the Remonstrance passed peaceably through its next and final stage.” pp. 119, 120.

The trying moment had now arrived, when the friends of unlimited monarchy, and those of popular right, were to take their final positions. Many who had acted with the latter through the preceding struggle, and who had contributed to bring about this state of affairs, recoiled from the responsibility about to rest upon them, and threw their influence on the side of Charles. Hyde, Culpeper, and Falkland were the principal of those who deserted the standard of the people; and who, by their seasonable change, invigorated the drooping spirits of the partisans of the king. On the other side, Hampden remained, the consistent and unwavering opponent of the course of the king, and upon whom the character of the opposition in a great measure depended. So prominent a mark for the designs of Charles, was not likely to escape being aimed at. In conjunction, however, with an attempt of this kind, which the king rashly made, he determined to crush the whole opposition. He sent down his attorney general, Herbert, to the bar of the house of lords, to accuse Lord Kimbolton of that house, and Hampden, Pym, Hollis, Hazlerigge, and Strode of the commons, of high treason, desiring that the accused persons should be placed in custody. A serjeant-at-arms appeared at the table for this purpose. The commons stood upon their privilege, and commanded the officer to retire. On the next day, Lord Falkland stated, that he was desired by the king to inform the house, that the serjeant had done nothing but what he had been commanded to do. Hampden, upon this, rose in his place, and declared what were the tests by which he wished his conduct to be tried. He defined the terms loyalty, obedience, and resistance, and dwelt upon these several duties as exhibited in a good and in a bad subject. Hazlerigge followed, and the house adjourned.
Upon reassembling in the afternoon, intelligence was communicated by one of the members, that Charles, escorted by a strong guard of armed men, was advancing upon Westminster Hall. Pym had already received private information of this design. In order to avoid bloodshed, the five members were ordered to withdraw. In the meanwhile, the king reached the hall; and arranging his attendants on both sides, he entered the house of commons. He glanced his eye to the vacant seat of Pym, and advanced to the chair. The house rose at his approach, and the speaker dropped on his knee, all observing a rigid silence. The king at length spoke, and received from the speaker in reply, the celebrated words: "may it please your majesty, I have neither eyes to see, nor tongue to speak, in this place, but as the house is pleased to direct me, whose servant I am here; and I humbly beg your majesty's pardon, that I cannot give any other answer than this to what your majesty is pleased to demand of me." There was no alternative but to retire, which he did, amid loud cries of "privilege, privilege." The cry was communicated to the people without, and met him as he pursued his way through the streets of the city.

The five members took refuge in a private house, from whence they maintained a close communication with the committee of privileges, which had been appointed on the day after the violent proceeding of the king. In a few days afterwards, the five members, with Kimbolton, returned by water, with the committee, to attend the first meeting of the house. The Thames and its banks presented a spectacle of life and popular sympathy. "The sheriffs," says Lord Nugent, "embarked with a part of the city guard, attended by armed boats and barges manned by sailors, and carrying ordnance with matches lighted; and the rest of the train bands marched by land, to secure the avenues to the house." The procession was doubtless to the full as much for triumph as for security. The members who had, a week before, with difficulty escaped a doubtful, perhaps a bloody, conflict with the followers of the king, were now borne along upon their return, under the gaudy flashing of arms and standards, to the sounds of martial music, and of "guns and sakers," and with the acclamations of the people of both cities. Nothing could have been more grateful to them, or more demonstrative of the utter detestation with which the attempt of Charles was considered by the people of the metropolis.

A prouder triumph, however, remained for Hampden. On the following day four thousand freeholders from Buckinghamshire, rode up, each with a copy of the protestation in his hat, to testify their regard for the person of their representative, and for the cause which he had espoused. They petitioned the House of Commons to receive their services, as they had "resolved in
their just defence to live and die." They petitioned the king that Hampden and the rest might enjoy the just privileges of parliament. The Commons declined their services at that time, and tendered them a vote of thanks; Charles answered that he would waive his former proceedings, and go on in a more unquestionable way.

For this last decisive act of Charles there is no palliation—no excuse. It can be considered only as another link in that concatenation of violent and illegal acts, which commenced with the army plot, and which had for their object to place him above all law and beyond the reach of parliament. He never had any proof of the charge which he made against the five members, other than their opposition to his arbitrary conduct; and his audacious attempt to seize them by force, while in their seats as representatives of the people, was unprecedented, contrary to his own declaration of preserving the Commons in their privileges, and decisive of his intention to disregard their legal rights in every degree.

Parliament now passed a vote to put the kingdom in a posture of defence. The train bands were ordered to be in readiness to march. A committee of public safety was appointed, of which Hampden continued a member until his death. Charles, on the other hand, was not less active. Armed bodies of men were raised in different parts. The queen went over to Holland to procure supplies, and to negotiate for a loan of money. Charles himself marched with a company of gentlemen to York, and actually took the field. The die was now cast;—civil war, with all its horrors, was again to deluge England with her best blood.

Lord Nugent introduces his account of these wars with the following eloquent passage, which is a fair specimen of his style.

"Some men have made it matter of complaint, while traversing the plains and passes of Greece, that they have found that land, which has been made immortal by the warrior's sword, by the poet's song, by the gown of the orator, the statesman, and the philosopher, confined within such petty limits as those between the Egean Sea and the mountain boundary of her states. But this is an ill considered feeling. What can more sustain the glory of that famous history than the reflection, how narrow the space in which the spirit of freedom made good, for ages, her cause against the world? No trifling cause of admiration, that the powerful lessons of liberty have sprung up into ripeness, and been reaped and stored up, even by other nations, from a germ like that of the Grecian Republics, or the Commonwealth of England. He who contemplates without emotion, the victorious progress of mighty empires, may yet feel some enthusiasm when, standing in a rocky pass, dark with pine and plane trees, or on a small sandy plain, broken only by a few rude and shapeless hillocks, he is told—there Grecian freedom bled, to die, but not to be subdued—this is Thermopylae; here she triumphed—you are among the graves of Marathon. Then, though but the ploughman be seen on Chalgrove now—though the names of Birmingham, and Coventry, and Gloucester, be no more known but by the peaceful contests of busy trade, with all its powers and all its enterprise—though a few hours of journey suffice to carry us from the opening to the concluding scene—from Oxford where Charles held his court, to where last he grappled with his subjects..."
at Naseby—we may acknowledge, in even these names of familiar sound, the feelings which must ever attach themselves to places made memorable by bold endeavour or great achievement, by the acts, or by the fall, of men who have contributed to the fame of their native land.

"Once aroused to the fearful necessity of taking arms, and of using them, the principal leaders of the Puritans were rapid, resolute, and unweatied, in all the various business of the approaching war. They had matured their secret and sturdy plan, and now worked with an energy which at first was wanting among the greater part of the adherents to the royalist cause. They had added to their rigid morals a noble and simple vigour; 'They had put on,' says Sidney, 'the athletic habit of liberty for the contest; they had made the laws of God the study of their lives; they found them often in conflict with those of their rulers; they made their choice, and solemnly appealed to the issue of battle, as men who thoroughly believed themselves especially designed

'To some great work, His glory,  
And people's safety.'

And many, who before had looked with doubt and fear, upon the very name of liberty, now made proclamation of it with their lips, inscribed it, and 'God with us,' upon their banners, to challenge lawless prerogative; and, having drawn their swords in its behalf, sheathed them not until they had made what long had been a by-word and a grievous jest, their leading cry to victory." Vol. II. pp. 171—174.

We have conducted the reader through the great constitutional struggle in which Hampden bore a distinguished part, to the breaking out of the war, in which he lost his life. The remaining part of his history is briefly told. Not less zealous in the field than he had been in council, he devoted his unremitted exertions, his comfort, his property, to the cause of the parliament. He led his own green coats to the charge, and frequently to victory. He urged on the dilatory Essex, and projected measures which, had they been pursued, would have terminated the contest at an early period. At the same time that he was employed in field operations, he performed the duty of a member of the Close Committee; which gave occasion for the lampoon of Denham—

"'Have I so often passed between  
Windsor and Westminster unseen,  
And did myself divide,  
To keep His Excellence in awe,  
And give the Parliament the law?  
For they knew none beside.'"

On the 18th of June 1643, being the second year of the war, Hampden received his death wound on Chalgrove field. We shall here close our extracts from Lord Nugent's volumes.

"'His head bending down, and his hands resting on his horse's neck, he was seen riding off the field before the action was done—'a thing,' says Lord Clarendon, 'he never used to do, and from which it was concluded he was hurt.' It is a tradition that he was seen first moving in the direction of his father-in-law's (Simeon's) house at Pyston. There he had in youth married the first wife of his love, and thither he would have gone to die. But Rupert's cavalry were covering the plain between. Turning his horse therefore, he rode back across the grounds of Hazely in his way to Thame. At the brook, which divides the
parishes, he paused awhile; but, it being impossible for him in his wounded state to remount, if he had alighted to turn his horse over, he suddenly summoned his strength, clapped spurs, and cleared the leap. In great pain, and almost fainting, he reached Thame, and was conducted to the house of one Ezekiel Browne, where, his wounds being dressed, the surgeons would for a while have given him hopes of life. But he felt that his hurt was mortal, and indulging no weak expectations of recovery, he occupied the few days that remained to him in despatching letters of counsel to the parliament." Vol. II. pp. 435, 436.

He lingered for nearly six days and expired, breathing a fervent prayer for his country—"O Lord, save my bleeding country. Have these realms in thy especial keeping. Confound and level in the dust those who would rob the people of their liberty and lawful prerogative. Let the king see his error, and turn the hearts of his wicked counsellors from the malice and wickedness of their designs. O Lord save my country—O Lord be merciful to * * *." The news of his death carried consternation and sorrow to the friends of the parliament throughout the country. Charles, and those of the opponents of Hampden who knew his irreproachable character, were silent; but the dependents of the court party assailed his motives and conduct with rancorous animosity. The character which Lord Clarendon has drawn of him is no more than just in any of its parts. "He was," says he, "very temperate in his diet, and a supreme governor over all his passions and affections, and thereby had a great power over other men's. He was of an industry and a vigilance not to be tired out or wearied by the most laborious; and of parts not to be imposed upon by the most subtle or sharp; and of a personal courage equal to his best parts; so that he was an enemy not to be wished wherever he might have been made a friend; and as much to be apprehended where he was so, as any man could deserve to be. And therefore his death was no less congratulated on the one party, than it was condoled in the other. In a word, what was said of Cinna might well be applied to him; 'he had a head to contrive, and a tongue to persuade, and a hand to execute, any mischief.'" The sense applied to the word mischief, of reducing the king's arbitrary power by force, makes, as Warburton observes, all the parts of this fine drawn character consistent; for every line shows that the historian believed him to be a man of honour and virtue, acting on wrong principles.

His life is the best commentary on his principles. It does not exhibit Roman or Spartan virtue merely. It does not present us with an example of heroism, reckless of self, despising danger, and courting immortality in an unthinking sacrifice of life. The period, indeed, in which Hampden lived, was

one of thoughtful action—it demanded that the impulses of the heart should be sanctioned and guided by the dictates of stern reason. The virtue which sanctifies his name was a consistent, reasonable, and unselfish devotion to the interests of his country—his whole country;—a devotion which increased in intensity as the people’s wrongs multiplied. At first we find him a diligent inquirer after the constitutional privileges of parliament and the prerogatives of the king; then applying himself no less industriously to the means by which both, in their just degree, might be sustained. When he himself was marked out as the object against whom the illegal measures of the king were levelled, he adopted a peaceable course, by which they might be legally tried; and when a corrupt court left him no remedy, he proposed to fly from his country, rather than by his presence to contribute to its discontents. This sad alternative destroyed, he determined upon a firm resistance to the king in parliament, to remove his evil counsellors. Finally, when Charles, lost to all sense of honour and dignity, attempted by brutal force to subdue the sense of liberty among his people, he took up arms to oppose him; “drew his sword and threw away the scabbard,” still for king and parliament.

Had he lived, no one can doubt that the result of the conflict would have been quite different both to Charles and to England than that in which it terminated. Hampden would have deserved the highest praise—that praise which was the noblest the Roman could bestow:—

Fabiumque decus, Fabiumque salutem
Certatim, et magna memorabant voce parentem.”

ART. IX.—NULLIFICATION.

1.—Message from the President of the United States, transmitting copies of the Proclamation and Proceedings in relation to South Carolina. January 16, 1833.

2.—Documents ordered by the Convention of the people of South Carolina, to be transmitted to the President of the United States, and to the Governor of each State. Published officially. Columbia: 1832.

Government is so directly connected with the happiness and prosperity of man, and so closely blended with all his pursuits, enjoyments, and sorrows, that no other subject possesses to him

* Sil. Ital. VII. 734.
the same intense interest, or more powerfully arrests his attention. In speculating on it, we speculate upon human nature, upon what it can endure, and is capable of producing; for political philosophy is no more than the experience of mankind, as derived from the various forms in which they have been associated and governed. Every theory, therefore, which is not founded upon that experience, and which does not look to it as the only possible mode of arriving at truth, may delude an infatuated people into a condition of abject misery, but can never be susceptible of a practical operation, or aid even in the smallest extent in the promotion of human prosperity or happiness. Mere theory may, in some branches of knowledge, be useful, as exciting the mind to inquiry and exertion, and in others be harmless; but in politics it is productive of nothing but evil—for the object with whose safety it tampers, is man himself—and never can be experimentally tried without unsettling his condition, and involving him in misery. Whilst we therefore indulge our admiration at the fanciful and often bewildering productions of the imagination, in reference to the works of creation, or are excited with pleasure by the playful and airy results of fancy, in other paths where genius may delight to sport and revel, knowing that no serious evil can result from them, and that the same power of the intellect which created the delusion can destroy it, we cannot, nor is it right that we should, conceal our abhorrence for that propensity, too often to be found, to convert a portion of the earth into a field for experiment upon human nature, to disorganize society through mere ambition or wantonness, and persuade a credulous people to abandon a path which experience has proved to be safe—to torture them with the operation of principles originating from no other source than a brilliant imagination. A principal cause of the tenacity with which arbitrary governments maintain their existence in the world, is the fondness of those who are kept by them in a state of subjection, to follow, the moment they are released from their thraldom, each new scheme of ideal liberty. In the fanciful hope of improving their condition by adopting the delusive speculations of theory instead of the practical wisdom of experience, they prepare the way for more abject bondage, by the depth of anarchy into which they plunge. Citizens possessed of property, and those of peaceful habits, shrinking with horror from the sanguinary conflicts, the turmoils and confusion of an unsettled political condition, and the thoughtless crowd bewildered by the glare of military splendour and renown, yield to the dominion of a despotic ruler, and cling to the chains by which they are bound, with equal earnestness, though from different motives. Nothing is more conclusively proved by history, than that a visionary, theoretic political system, finds a na-
nullification. [March,  

atural termination of the experiment of its practicability, in despotism; born of the excitement of the imagination, its grave is the agony of the heart.

It is not our intention to enter into a general survey of the dangerous and empirical theories which have so often and so fatally misled mankind, but to confine our attention to an examination of the most prominent evils which are too apt to beset the most interesting and valuable of all political systems, a Federal Republic.

For the preservation of social order, and the security of national independence, it is essential that extensive powers should be invested in the government; and that government is unquestionably the best, which admits of the distribution and control of them, so as to secure their faithful execution, with the least danger of violating the rights of the people, and furnishes the most prompt and efficient remedies for any injuries to which the people may be subjected. No form of government is so admirably adapted to these purposes, as a Federal Republic; for being divided into distinct communities, each vested with the jurisdiction over the domestic affairs of the people within its borders, and a general government, invested with the power of preventing collisions among the different members, securing to them a harmonious intercourse, and preserving to them a relation with foreign countries, based on the firm foundation of national independence, and honourable and profitable intercourse, it combines all the excellencies, without any of the defects, of the other forms of polity. It is more secure against sedition than a Consolidated Republic, for its different sections are so many barriers on which the billows of party passion are impeded and broken; and it is more competent to resist usurpation, for the various and extensive distribution of its powers renders it impracticable for one man to accumulate them all in his person. It is capable of being made stronger, and is better adapted to the preservation of social order than a limited monarchy; since it is apparently more congenial to the condition of man, and more likely to obtain his affectionate support. To distribute the powers, and place the checks against their abuse in distinct communities, by which, laws best adapted to the condition of all, will be enacted, and the power to redress grievances placed within the reach of all, is obviously better than to deposite part of those powers in one man, subjected to no other control than the fear of losing his crown or his head; another portion as the inheritance of a few hundred men, an order of nobility, with perhaps different interests from the rest of society; and the remainder in the representatives of the people, who, when once elected, are too apt to look to the wealth of the aristocracy, or the smiles of the
Nullification.

monarch, instead of the great objects for which government is established, the welfare of the community.

The freedom and prosperity which have invariably accompanied the federal system, wherever it has existed, render an inquiry into the causes of its destruction of deep interest and importance, particularly to the American people, whose safety is so essentially connected with it. A general reference to history will be sufficient to satisfy the intelligent mind, of the cause of the destruction of that admirable polity; and we think that it will be difficult to trace its dissolution to any other source, than the rupture of the federal bonds, not occasioned by the application of external force, but by the fatal poison of discord, produced by the refusal of one or more of the states to abide by decisions made in conformity with the compact. A powerful or turbulent state rejecting the will of the majority, would easily subvert a confederacy, when no foreign force, or civil commotion short of the action of a state, could impair its strength, or materially disturb its tranquillity. Federal republics have excited the admiration of mankind, and one after another have fallen victims to the same cause—the spirit of insubordination, operating on its members, leaving mankind to mourn over their ruin, and deplore the fatal folly which produced it; but it is not until recently, and that too in our own happy republic, that the means of their overthrow have been reduced to the system of a science, and received an appellation, which it is to be hoped, for the benefit of mankind, will never hereafter be uttered without horror. Nullification is not the invention of the statesmen of South Carolina, for it is the seed of death which every republic has carried with it in its career of glory, prosperity, and freedom, and which finally has induced disgrace and ruin. Greece possessed the most admirable materials for the formation of a powerful nation, as well as for a free and prosperous existence for many ages; but the spirit of civil discord constantly involved it in domestic broils; and so valiantly distinguished were the Lacedemonians and Athenians for their nullification of every confederate principle, that secured the rights of the other states, or controlled their power, that its fields were continually stained with human blood. They failed to preserve their appropriate rank among nations, from the turbulent efforts of one state to rule the rest.

Fully to comprehend the doctrine of nullification as it exists in this country, it is necessary to present a brief view of the character and origin of the American federal system. It is a great mistake to suppose that the present Constitution was a theoretic invention of the wise and illustrious men who formed it, or that it was founded to any extent on principles, which the experience of the people had not previously ascertained to be consonant to their condition, and suited for the preservation of their
freedom and prosperity. As a whole, indeed, it is different from any polity which had ever previously existed, and has a perfection surpassing the fondest anticipations of political philosophers, and practical statesmen, in any part of the world. A reference to the condition of American society and history, will enable us to trace throughout this wonderful creation of human wisdom, lineaments dear and familiar to the people. The basis of our free institutions is, that the American society is composed of one people, divided into distinct communities, bound by a perpetual bond of union, and nationally governed by one Federal head. The compass of the powers which have been from time to time invested in their public authorities, is important as affecting their safety and independence, but it cannot materially vary the view of the general character of their institutions. They emigrated from the same nation, derived their title to the soil from the same authority, and brought with them the same fundamental principles of the English Common Law. Possessed of the same origin, language, love of freedom, habits, and general political principles, they were emphatically one family. That reasoning may well be considered as opposed to the best attributes of human nature, which would contend that the fraternal feeling that united them, was disintegrated by the separation of their places of residence, or by their having distinct territorial possessions.

Prior to the war of independence, the mother country constituted the Federal Head, (if that arbitrary source of power be entitled to so respectful an appellation,) which directed their national affairs, and in every matter connected with their general welfare, they acted in their united character. We have a most impressive and instructive illustration of the true nature of the political associations of our countrymen, as well as of the distinctive character and origin of their institutions, in the condition and conduct of the colonies, during the revolution in England, and of the commonwealth that grew out of it. The revolutionary influence pervaded the colonies. Deprived of the protection and control of the mother country, they were thrown upon their own resources, and left for a time to model a national government in conformity with their principles and feelings. New York being inhabited by the Dutch, then at war with England, the infant southern colonies were separated from their brethren in New England. In the year 1643, the latter, by a convention assembled at Boston, and actuated by the same American principles and feelings, which have been cherished to the present time, entered into a firm confederated government, which they agreed should be perpetual, but which did not continue for more than about forty years, the royal power having gained the ascendency and abrogated their colonial charters. This Union, which may be considered as the germ of the
American political system, made them formidable to the Dutch and Indian enemies surrounding their borders, inspired respect in their more remote neighbours, the French, preserved their harmony, and gave a tone to society, by which its prosperous enterprise was protected and advanced. It may be useful to dwell for a moment on this interesting confederacy, for we find in its origin and constitution, fully recognised, the doctrine of the Unity of the American family, and the federal tendency of their institutions. The Commissioners by whom the government was framed, declare, "that as they all came into these parts of America, with one and the same end and aim, to advance the kingdom of our Lord Jesus Christ, and enjoy the liberties of the Gospel in purity and peace, they conceived it their bounden duty to enter into a present confederation among themselves, for mutual help and strength in all future concernments; that as in nation and religion, so in other respects they be and continue One, and henceforth be called by the name of the United Colonies of New England."

The general plan of the confederacy presents many of the prominent features of that system which was afterwards adopted in the Articles of Confederation, and subsequently improved and more admirably adapted to the preservation of freedom in the present Constitution. But notwithstanding its many excellencies, and the imposing form by which it commanded respect, the federal authority was too feeble to wield their resources for their protection, or to prevent the encroachments of a powerful state on the rights of the weak, when interest or prejudice interfered with the operation of laws essential to the safety or prosperity of the confederacy; and accordingly we find that nullification, on several occasions, brought it to the verge of destruction. A prominent example will illustrate the danger produced by the stubborn refusal of a state to abide by the regulations of the compact, and to assume to herself the right of judging of the extent of its powers. The Dutch colony at Manhattan, carrying on a profitable trade with the confederates, had induced them not to participate in the hostilities which existed between the parent countries; but on its being discovered that the Dutch were secretly urging the Indians to unite in a general attack on the confederates, their government, with the exception of one commissioner, resolved immediately on war as their only hope of safety. The general court (assembly) of Massachusetts, at that moment of peril, assumed to itself the right of judging of the powers of the confederacy, and on the propriety of the war, and declared that no "determination of the commissioners (the federal congress), though they all agreed, should bind it to join in an offensive war, which shall appear to it, to be unjust."

The commissioners were, by the articles of confederation, au-
Nullification.

Authorized "to choose a president from among themselves for the preservation of order, and were vested with plenary powers for making war and peace, laws and rules of a civil nature and of general concern. Especially to regulate the conduct of the inhabitants towards the Indians, towards fugitives, for the general defence of the country, and for the encouragement and support of religion."

Notwithstanding a power of making war, and providing for the public security, so clearly given, and the necessity for prompt and decisive action to save the country from savage depredations, the conscience or the trade of Massachusetts annulled the federal law, and brought the states to the brink of ruin. The commissioners "insisted that they had ample powers from all the other colonies, to determine, in all affairs of peace and war; and that this was consistent with the grammatical and true sense of the articles of confederation; that it was totally inconsistent, not only with the articles of union, but with the welfare of the colonies, that they should be at so much expense and trouble to meet and deliberate on the general interests of the confederates, if their determination were to be annulled by one court (assembly) and another." Massachusetts being the most powerful colony, and the other colonies being too feeble to act without her, they had no other alternative than to appeal to Cromwell for assistance, and to have the compact faithfully complied with. His prompt aid not only saved the confederacy from the impending ruin produced by a refractory member, but his interposition and recommendation to her were not disregarded. Massachusetts prohibited all commerce with the Dutch, authorized his officers to raise five hundred volunteers for his use, and transmitted an address, informing him that it had been exercised with serious thoughts of its duty at that juncture, which were, "that it was most agreeable to the gospel of peace, and safest for these plantations, to forbear the use of the sword; that if it had been misled it humbly craved his pardon."

Such was the end of an act of nullification, which, had it not been suppressed, and the evil threatened to flow from it averted, by external power and authority, would not only have terminated the existence of a confederacy, essential to the preservation of the colonies, but would probably have made them the victims of a merciless and exterminating warfare. The example admonishes us that no text of a constitution is so clear as not to be controverted, and no law so plainly expedient as not to be resisted by those whose interests are affected by it, and that the cloak of religion and patriotism has not unfrequently concealed hypocrisy and sedition.

In 1753, a congress of delegates from several of the colonies was convened at Albany, by order of the commissioners of the
plantations, for the purpose of making arrangements preparatory to the French war, which seemed to be inevitable; and the delegates taking advantage of the occasion, prepared a constitution of government for all the colonies. By this system it was proposed to invest the power in a grand council, to consist of representatives elected by all the colonial legislatures, and a president general to be appointed by the crown. The power to be invested in the executive officer, was unsatisfactory to the people, and the danger to the mother country arising from an organized and united government of the colonies, rendered the plan unpopular in England.

It was not until the aggressions of Great Britain broke through the restraint under which they laboured, that the feelings of Union, with which they ever had been actuated, had full scope. In the congress which assembled to devise the means of their common safety, the American people exhibited to the world, by the temporary government which they adopted, a faithful representation of the principles and feelings of the unity and federal republicanism which had long been concealed or suppressed by their colonial condition, but which had been working their way silently, amidst the most adverse circumstances, until that propitious time for the display of their native and permanent grandeur.

The colonial governments had been established by charters from the crown, and reasons, justifiable in the royal opinion, were never wanting to revoke them at pleasure. They appear to have been treated with less regard than our private corporations. Whenever the king condescended to annul them in a ceremonious manner, writs of quo warranto, issued from the English courts, brought the agents of the devoted colony to the bar of the court or the foot of the throne, and either disfranchised them, or effected a compliance with the royal will. The colonial congress, assembled by a revolutionary authority (for the colonial charters could confer no power inconsistent with allegiance to England) terminated this servile dependence, and the Declaration of Independence, successfully maintained, invested it with a legal authority recognised by the laws of nations. The colonial charters and government were annulled, and at first, by the recommendation and authority of congress, temporary institutions for the conduct of their affairs were established: preparatory to the Declaration of Independence, state governments were organized, in compliance with a resolution of congress, which, after declaring that "it is necessary that the exercise of every kind of authority under the crown should be totally suppressed," proceeds to declare, "that it be recommended to the respective assemblies and conventions of the united colonies, where no government sufficient for the exigencies of their affairs
Nullification.

hath been already established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general."

The articles of confederation, which were finally ratified in 1781, were but ill calculated to ensure either the domestic tranquillity of the country, or its respectability in the eyes of foreign nations; but they contained a pledge of perpetual union, and by a useful experiment of the total insufficiency of a mere confederacy, accomplished what perhaps otherwise could not have been effected, the establishment of a government better adapted, by its firm and admirable construction, to the preservation of the freedom, unity, and independence of the people. The difficulties under which the country laboured during the brief existence of this confederacy, in consequence of the feebleness of the federal authority and the turbulence of the advocates of state sovereignty, are a powerful commentary on the danger arising from those licentious doctrines that cling around and tend to dissever the states, through an affected fear of a federal government, which derives its origin and has no other support than what it gathers immediately from the people and the states. Public faith was violated; the common government was deprived of the means of support; and it was not until the lawless dispositions which distracted several of the states, spread a general alarm throughout the country, that patriotism gained the ascendency among the people over the influence of their worst enemies—the hypocritical worshippers of state sovereignty, and enabled them to see that a government common to all the states, was as essentially their government, as that of the state which they inhabited. The New England communities were involved in civil commotions of a terrific form, which not only prostrated the public authorities, but threatened to spread their influence throughout all the states; and never were their liberties in greater jeopardy than at that eventful period, from which they were extricated by the virtue and firmness of the patriots of the revolution, and the establishment of a constitution capable of affording them protection.

The Constitution of the United States has, since its establishment, been the object of the pride and affection of the American people; and it is difficult to reconcile the earnestness with which it has in every emergency been sustained, with the clamours of discontent which have followed all its operations. We find ourselves involved in the grave consideration of questions, which, like the controversies respecting the origin of society itself, seem designed to convert that into a theme for altercation which was designed to be the object of enjoyment. If a government be practically good, if the people are free, prosperous, and happy
under it, and if it presents an insurmountable barrier to foreign encroachments, and affords ample protection to all its citizens, it is a matter of but little importance whether it was formed by one people or by several communities; but as no government can accomplish the objects for which it is formed unless it be permanent, the right to destroy it is no stronger in the one case than in the other.

All governments are, in theory, permanent and indestructible; for, with an ascertained limited duration, society would wither, its energies would lie stagnant, and neither its pecuniary nor moral resources could be developed or applied. The revolutionary right of subverting a government, is, in theory, an exception to a general rule, and should be so in practice; otherwise the constant anticipation of changes would keep the elements of society in constant excitement and confusion. Neither can one state withdraw at pleasure; as there is no sanction given to it by the constitution, no mode established by which it can be done; if it possesses the right, it must be an unlimited one; and if exercised at any time it would rupture the organization of the government; in times of war or domestic calamity, it would endanger the safety, and perhaps destroy the independence of all the rest, a jeopardy, to which neither reason nor the example of other nations, require any community to submit. However curious and instructive, therefore, may be the inquiry into the precise nature of the early association of the American people, and the character in which they assembled to form a constitution for their government, it should not allure us from keeping constantly in view, the incontestable facts, that they not only formed a government which they designed to be permanent, but they maintained it by force, and to the present hour have resisted every attempt to destroy, and rejected every proposition essentially to alter it. If that constitution which was framed by the representatives of the states, and adopted by conventions of the people; which has been assailed in every manner which ingenuity could devise; which has carried the nation triumphantly through wars and insurrections, with no other power to sustain it but the people; which has been at all times in their hands, and has remained inviolate and unaltered; if such a constitution be not emphatically the work and fondling of the people, offspring can never be recognised by the warmth and constancy of the parental embraces and protection.

Opposition to the federal government, and a jealousy of its power, have existed since its establishment: in most cases they naturally arose from the excitement of sectional prejudice and interests, which conflicted with the exercise of its authority; but in other cases, they proceeded from what we are bound to believe to be the sincere apprehension, that the chief danger to the rights
of the states consists in a tendency in federal republics to consolidation, though history ascribes their ruin to dismemberment, by which the powerful states subdue the weak, or the whole are exposed to the foreign invader. The attention of the American people is irresistibly arrested by the position of their country: when they behold one state claiming to give her will as a law to the rest, and to annul what the people and the states have solemnly promulgated as the supreme law of the land, they will not believe that the finger which points to the classic soil of antiquity, is designed to mislead them, or that the spectre which stalks over the floor of their capitol, is destitute of the power to destroy.

To render the rights of the states secure, and give them that proper and unshackled jurisdiction, which makes them a blessing to the community, they should be preserved in their constitutional sphere of action, and in their full vigour, by the protection of a firm and permanent federal government; for without that safeguard, they can no more perform their admirable functions, and be exempt from the aggressions of their neighbouring states, or the usurpations of their own citizens, whose military ambition, in a divided condition, their weakness would cultivate for their security, than a private citizen can enjoy a free, prosperous, and happy existence, without the shelter of laws, whose wholesome regulations restrain many of his actions.

No political function of the federal government can be performed, but with the concurrence of the representatives of the states, in the senate, where all the states are placed on a footing of equality. The representatives of the people hold their offices for two years, and the president, elected by the people in their respective states, for the term of four years: Thus the jealousy of it is founded on a belief, that the rights of the states cannot be trusted to the power of a majority of the states themselves, and that all the people of the United States are less competent to protect their freedom when acting together, than when acting separately. The judicial power by which the laws of the Union are executed, being vested in judges entirely independent in compensation and tenure of office, having no discretion as to the execution of constitutional laws, and bound not to aid in executing such as are unconstitutional, operates as a check on the political branches, but cannot, from its very nature, afford them any assistance in violating the constitution. It would be a more agreeable task than that which we have undertaken, to enumerate the numerous and strong testimonials which have been given by the people, of the unbounded confidence which they have reposed in that power, of the intrepid manner in which they have rushed in every emergency to its support, and of the blessings it has so extensively bestowed on a country, which, by it alone, has been raised from a state of impotence to one of vigour,
from poverty to affluence; and from a dreary prospect of sanguinary discord and anarchical tyranny, to that of blissful harmony and unequalled freedom; but the occasion requires that we should vindicate its strength and excellence, by viewing the dark side of the picture, and portray those disgusting factions, which, opposed to the people, have compelled it to exact obedience to its violated laws. Americans must feel a proud gratification when they reflect, not only on the triumphant manner in which the stability of their government has at all times been vindicated, but on the total defeat and disgrace into which every attempt to subvert it has been thrown, as well as the mild and dignified manner in which it has thwarted all resistance to its authority, and subdued the threatened violence of the boldest insurgents. The first trial of its strength fortunately occurred under the administration of Washington, and a recurrence to the course which he pursued to enforce the execution of the laws, will form the most appropriate introduction to a consideration of the momentous subject which now distracts our country.

Considering the difficulties which existed under the confederacy in raising a revenue, it would have been unreasonable to expect that laws for that purpose should go into operation under the present constitution, without opposition and complaint; and accordingly we find that in various parts of the country, the excise system which was adopted, was received with murmurs, was evaded, and in one section produced an insurrection that called into action to suppress it, one of the largest and best appointed armies which had then ever marched under the American banner. The western counties of Pennsylvania, the theatre of this partial rebellion, so familiarly known as the Whiskey insurrection, were by the circumstances of their early settlement and their frontier exposure, more liable to commotions, and more calculated to afford encouragement to designing and seditious men, than the older and better protected parts of that commonwealth. Throughout the Union, the opponents of the administration, and the self-created guardians of the people's rights, had organized themselves into societies, probably with no other view than to acquire power in a constitutional way, by a more effectual party organization, and without suspecting that they were countenancing in other places a spirit of lawless turbulence, which might break out into the most sanguinary civil discord: yet such is the condition of human nature, and such the course of all dissensions in republics, that the great mass of the people who participate in them, are ignorant of the unhappy results to which their own conduct leads. In performing acts, and in making declarations when they never intend to countenance the open violation of the laws, the more inflammable and indiscreet parts
of society are precipitated to deeds of rashness, and thrown into the power of their unprincipled leaders, whose counsels they would otherwise have disregarded, and whose real intentions are not fully developed to them, until they find themselves involved in the guilt and horrors of civil war. The whiskey tax, so generally unpopular, was in the western counties of Pennsylvania openly resisted; law was set at defiance, its officers became the victims of an intolerant persecution, and were compelled to purchase their lives and the security of their property, not only by forbearing to execute it, but even by avoiding the mildest acts which their duty required. The intercourse of society was interrupted, the mails were forcibly examined, and such citizens as had communicated their repugnance to join in acts of hostility to the government, or had expressed their abhorrence of the outrages which had been committed on the peace of society, were pursued with a savage impetuosity, and became the victims of the most severe treatment. In a well regulated community, the moral feelings and intelligence of the people having the ascendency, the natural tendency of society even in times of great excitement, is to avoid the violation of the laws by which it is governed, and to confide the power, in every emergency, in those whose regard for public order will secure it from violation; but when society is broken up, and all its discordant elements are turned loose, virtue and intellect lose their appropriate rank, and the turbulent instruments of vice and passion not only rule, but give to the whole community the tone and character which, under other circumstances, would have belonged exclusively to the vile condition from which they had arisen. It is only in this manner, that we are able to account for the fact, that out of sixteen thousand men able to bear arms, who inhabited that section of the country, and the majority of whom could not have approved the violence of the leaders of the insurrection, they were not able to rally a force sufficient to preserve order. It proves the vital interest the virtuous have in the firm administration of the laws, by which alone their appropriate ascendency in society is preserved.

The insurgents did not hesitate to fire at the marshal, who had undertaken to serve the legal process in person; being defeated in an attack on the house of the inspector, they on the succeeding day renewed the assault with about five hundred men, and after the conflagration of the adjacent building, which by the heat rendered the house no longer tenable, the inspector, with a party of regulars from the garrison at Pittsburg, who had come to his assistance, were forced to surrender. A circular letter, signed by seven persons, and addressed to the officers of the militia, announcing that the crisis had arrived, when "every citizen must express his sentiments, not by his words but by his actions,"
and commanding them in the language of authority to assemble their men, with arms and accoutrements in good order, produced the famous meeting at Braddock's fields, the object of which was to repair to Pittsburg and take possession of the magazine of the garrison and the military stores.

As the country inhabited by the insurgents was extensive and thinly settled, they marched from a great distance, and many of the militia who crossed the Monongahela, were equipped with their hunting shirts, and heads bound with handkerchiefs, in the manner in which they had been accustomed to fight the Indians. The noise of firing, the smoke, and the wantonness of conduct, too clearly evinced the evil which would be produced if a body of men, so powerful and turbulent, should have full scope, in the exertion of their strength, and projects of mischief.

The whole number of nullifiers assembled at the rendezvous, were estimated at about seven thousand, and about five thousand four hundred marched to Pittsburg; but the dreadful consequences to be apprehended from an infuriated military mob, were arrested by the efforts of conciliation adopted by the inhabitants of that city, and the exertions of their leaders, who had become alarmed at the violence of the storm which they had excited. Comparatively slight conflagration and plunder in the environs, concluded that scene of terror, when such was the madness of the populace, that had the work of destruction once commenced, all would have been involved in desolation. "On the day," says Brackenridge, "the people marched into Pittsburg, there were numbers of women on the hills opposite the town, from a considerable distance, collected to see the destruction of the town, and to share in the plunder."

Various efforts were made by the friends of social order, to allay the excitement. Prior to the meeting at Braddock's field, delegates had been elected to a convention at Parkinson's ferry, whose object, according to the statement of some of its members, was to allay the discontents of the people, and induce them to yield obedience to the government; but that convention seems to have shared the fate of similar bodies when dissensions have destroyed the organization of society before they exerted their influence, for it does not appear to have possessed the confidence of the people or of the government.

The proceedings of the insurgents were watched by the President with the closest attention, and his conduct displays the consciousness of the great responsibility that rested upon him, a responsibility as extensive as the destinies of the nation; for upon the success of his measures would certainly depend the existence of the government, and the preservation of the Union. The resort to force might arm the insurgents with the sympathies of the discontented in other places, and if he failed in rallying
a power effective to coerce obedience to the laws, the government could not survive this display of its impotence. As the militia of Pennsylvania alone was insufficient to accomplish the object, a resort to that of the neighbouring states might involve the cause in deeper difficulties, either by their refusal to march beyond their borders, or the disgust excited by the introduction of such an army into that state. The insurgents had made powerful efforts to embark the adjacent counties of Virginia in their cause, and to increase the spirit of disaffection in other places. It subsequently displayed itself in Maryland, and in other counties of Pennsylvania, even while the militia was assembling. The wisdom and firmness of the President, aided by the patriotism of the people, triumphed over every obstacle, and saved our newly organized institutions from a fate which many, at that momentous period, thought to be inevitable—the land deluged in blood, and republican institutions the prey of anarchy. After obtaining the concurrence of an associate judge in the manner prescribed by law, the first step of Washington was to issue his proclamation in conformity with an act of congress, ordering the insurgents to disperse. At the same time he made a requisition on the governors of New Jersey, Pennsylvania, Maryland, and Virginia, for their respective quotas of militia, to organize an army of 12,000 men; and as a final effort, to prevent a resort to force, he deputed two distinguished citizens of Pennsylvania to offer a general pardon to all who would yield obedience to the laws. The governor of Pennsylvania ardently co-operated with the president in all his measures, and by his strenuous exertions in supplying, by invoking the aid of volunteers, the defects in the laws of that state for drafting the militia, he succeeded in placing the army of Pennsylvania on a footing of equality with those of her sister states.

Finding the measures of conciliation fruitless, General Washington called the military into action. He ordered the armies of New Jersey and Pennsylvania to rendezvous at Bedford, and those of Maryland and Virginia at Cumberland, on the Potomac. The people of those states displayed the most lively attachment to their country. So far was the duty imposed upon them by the president, to aid in suppressing the violation of the law by their neighbours, from being received with sullenness and disaffection, that it aroused all their patriotism. They who wish to form a correct estimate of the character of the American people, should not only closely observe their enterprise, their attachment to social order, and fondness for peaceful habits in private life, but view their conduct in those times of peril, when their manly patriotism has been aroused to protect the laws of their country from violation, and preserve the integrity of their Union. General Washington, in a private letter, described the
alacrity with which the people responded to his call, in the following manner:

"The spirit which blazed out on this occasion," said General Washington, "as soon as the object was fully understood, and the lenient measures of the government were made known to the people, deserves to be communicated. There are instances of general officers going at the head of a single troop, or of light companies; of field officers, when they came to the place of rendezvous, and found no command for them in that grade, turning into the ranks and serving as private soldiers under their own captains; and of numbers of the first fortunes in the country, standing in the ranks as private men, and by way of example to others, marching, day by day, with their knapsacks at their backs, and sleeping on straw with a single blanket, in a soldier's tent, during the frosty nights which we have had. Nay, more, many young quakers of the first family, character, and property, not discouraged by the elders, have turned into the ranks, and are marching with the troops."

The insurgents did not attempt to resist the progress of an army, too large to be successfully opposed. Although the spirit of discontent for awhile lurked among the people, yet this formidable insurrection was quelled without shedding a drop of blood in the attempt; and the mildness of the government was as conspicuous in the pardon of the offenders, who were convicted of treason, as its power was manifest by the overwhelming force which the event proved that it was capable of calling to its support. Thus we behold the failure of the first attempt at nullification. We shall proceed to give a brief narrative of the manner in which the federal government braved another of its feats, which, if possible, was more formidable, from its being invested with the sanction of state authority.

The same patriotic commonwealth that had nearly been the victim of the first, and was the actor in the second attempt to annul the laws of the Union, will find in her honourable conduct on the one occasion, in exerting all her power to aid the federal government, and on the other, her solemn recantation, enough to command respect when in error, as in the rest of her career she has displayed a philanthropy and wisdom winning the affections of her citizens, and extorting the admiration of foreign nations. In the controversy, familiarly known as Olmstead's case, questions involving at their first view, merely the jurisdiction of the Admiralty Courts, established by the recommendation of Congress, in their result exhibited the State of Pennsylvania in arms, resisting at the point of the bayonet the authority of the Federal courts, and threatening to prostrate the government and liberties of the American people. A brief statement of the case will be essential to understand the principles of social order and republicanism, which, through its instrumentality, triumphed over military force. Olmstead and his associates became prisoners of war during the year 1778, and in their passage in the sloop Active, from Jamaica to New York, then in the possession of the British, they succeeded in the daring enterprize of overpowering
the crew, and capturing the vessel. When within five miles of Egg Harbour, the sloop was seized as a prize by the brig Convention, belonging to the state of Pennsylvania. The sloop was libelled in the Court of Admiralty, established by an act of the legislature of Pennsylvania, to which the trial by jury had been annexed, and one fourth was decided to belong to Olmstead and his associates, and the balance to the brig Convention, and consequently to its owner, the state of Pennsylvania; but that state did not appear on the record as a party to the controversy. Olmstead and his associates, by an appeal to a Court of Appeals, established by Congress, obtained a reversal of that decision, and a decree that the vessel and cargo should be sold, and the whole nett proceeds paid to them; but the State Court of Admiralty refusing to acknowledge the jurisdiction of the Court of Appeals over a verdict found in an inferior court, directed the marshal to bring the proceeds of the sale into court. The Judge of the Court of Admiralty, in 1779, delivered $11,496 99 in loan office certificates, issued in his own name, being the proportion, to which, according to the decree, the state was entitled, to the treasurer of the state of Pennsylvania, who executed a bond, obliging himself, his executors, and heirs, to restore the sum received, in case the Admiralty Judge should be compelled to pay it according to the decree of the Court of Appeals. After the death of the state treasurer, these certificates, with the interest that had accrued upon them, came into the possession of his legal representatives. A libel being filed by Olmstead against them in the United States District Court of Pennsylvania, which had gone into operation under the new constitution, praying for execution of the decree of the Court of Appeals, it was in 1803 granted. In the same year, the legislature of Pennsylvania passed an act, requiring the representatives of the state treasurer to pay the money they had received into the state treasury, and requiring the governor to give them an indemnity, to protect their persons and property from any process which might be attempted to be served upon them from the Federal Court, and to protect the just rights of the state by any further measures which he might deem necessary. At this awful moment, the District Judge, with a wisdom equal to his firmness, suspended the proceedings until the opinion of the Supreme Court could be obtained, and that tribunal awarded a peremptory mandamus to him to issue execution, which he accordingly did, and by the order of the Governor of Pennsylvania, a detachment of the militia appeared in arms to prevent its being served. The marshal read his commission to the soldiery, and demanded to be permitted to proceed with the service of the process; but being resisted by their bayonets, and informed that an attempt to enter the houses would be at the risk of his life, he retired, and ordered the posse to be summoned; two thou-
sand notices to citizens selected for that purpose, were actually prepared to aid him in the performance of his duty by force. Prior to the arrival of the day which would have inundated the streets of Philadelphia with blood, and might for ever have blasted the hopes of republican government, he succeeded in the service of the process, and the Major General of the militia, with several of his associates, were indicted for resisting process, convicted, and sent to gaol, where they remained until the President pardoned them. This prosecution was conducted under the eye of James Madison, then President, and by Alexander J. Dallas, the District Attorney. The state of Pennsylvania, by subsequently paying the money, honourably acquiesced in the decision. State sovereignty was invoked on this occasion, with all the power with which eloquence and ingenuity could furnish it, the defendants having produced the act of assembly, and the order of the Governor, as their vindication; but it was in a community essentially republican, and the decision that the law and executive order were unconstitutional, and affords no justification to those who undertook to carry them into effect, has been, to the eternal honour of Pennsylvania, solemnly confirmed by her on more than one occasion. They who were spectators of that scene of terror—the military array in warlike attitude, the menaces which indicated a work of dreadful destruction, the trembling anxiety that pervaded the public mind, and the sensation that thrilled through the community when the law called for support, a voice, which, although sounded among a divided people, was never heard in vain, may well rejoice in the glorious result. It should be ever held in remembrance, as a momentous triumph of law and republican government, over military violence—a triumph, which not only saved the Union from destruction and sanguinary discord, but secured to Pennsylvania, freedom, independence, and unexampled prosperity.

The origin and powers of the federal and state governments were freely discussed, and we are not aware that Mr. Dallas lost ground with the democratic party, on account of the doctrines which he maintained; but on the contrary, his subsequent elevation to the treasury department, furnishes strong evidence that they were in accordance with the views of that party, as they certainly were with its opponent.

"Hence," said he, "while the sovereignty resides inherently and inalienably in the people, it is a perversion of language, to denominate the state as a body politic, or government, sovereign and independent." And again, "the truth is, (a political truth that ought never to be overlooked, in the collisions that may arise between state and federal authorities), that the constitutions of the Union and of the state, must be regarded and construed as instruments, formed and executed by the same party, the sovereign people, delegating powers to different agents, but upon the same trusts and for the same uses. The instruments manifest the power of the constituents, and prescribe the duties of the representatives. And thus you hear the mighty voice of the people, announcing in a
solemn and formal preface to the work, that they, (not the sovereign and independent states), ordain and establish the federal, as well as the state constitution for their government." "The declaration of independence," said Mr. Dallas, "having provided for the national character and powers, it remained, in some mode, to provide for the character and powers of the states individually, as a consequence of the dissolution of the colonial system. Accordingly, the people of each state set themselves to work, under a recommendation from congress, to erect a local government for themselves, but in no instance did the people of any state attempt to incorporate into their local system, any of those attributes of national authority, which the declaration of independence had asserted in favour of the United States."

The measures adopted by several of the state legislatures in reference to the constitutionality of the Bank of the United States, furnish additional evidence of the impracticability, in this country, of organizing a party that can have any permanent success in annulling the laws of the Union, and encroaching on the jurisdiction of the Federal Courts, when the government is faithfully administered. State powers were called into action, apparently sufficient to subvert that institution, but in the end, the genius of federal republicanism triumphed. Soon after the Supreme Court had decided on its constitutionality, opposition sought its appropriate channel, the national councils, and no longer threatened to break and reduce the constitution itself to ruins, for the sake of destroying a measure which had given offence to a minority. It is a phenomenon in our system, for which we shall not undertake to account, that the very objects of the antipathy of the turbulent advocates for state sovereignty, are the measures adopted by a majority of the states represented in the senate, and a majority of the people as represented in the house of representatives; so that the singular spectacle is too often exhibited, of men palming themselves successfully as republicans, and at the same time, denouncing every thing that goes to constitute that character. When deprived of the mask, they in most cases appear in no other light, than as the unprincipled advocates of their own ascendency, the hypocritical preachers of a doctrine, tending to subvert the federal republican principles and institutions of the American people, and in their places to establish a consolidated state sovereignty, without the power to avert foreign dominion, or to interrupt the rapid march of despotism over the bloody fields of civil discord. The Hon. George McDuffie, of South Carolina, in an essay, signed one of the people, and published in 1821, thus forcibly described them. "Ambitious men, of inferior talents, finding they have no hope to be distinguished in the councils of the national government, naturally wish to increase the power and consequence of the state governments, the theatre in which they expect to acquire distinction."

Probably another reason may be, that state legislatures, too often perverted from their constitutional design, furnish a party
rendezvous, whence the apparent voice of the state thunders its
denunciations against an antagonist party, or against the mea-
ures of the nation. The impassioned invectives and ribaldry of
an infuriated minority—which in tavern meetings would ex-
cite contempt from their impotence, or indignation from their
anti-republicanism, which would substitute the despotic force of
the minority, for the only republican mode of government, the
will of the majority—when connected with the false pretence of
state rights, and uttered against a majority of the people and
the states, from the halls of a state legislature, acquire an im-
portance detrimental to the republican cause, and to the true
state rights which it protects. This lamentable prostitution of
state rights, to give an unconstitutional vigour to a minority,
has been conspicuous in reference to every prominent measure
of the government, and under the administration of all the pre-
sidents. No sooner do partisans become disappointed in acquir-
ing ascendancy in the national councils, than we behold them
at the centre of state power, bristling like porcupines, and strut-
ting about with all the despite of insulted sovereignty. Every
thing that has a tendency to turn opposition to the government
from its constitutional channel, and seek a redress of grievances
by violence, or the dissolution of the Union, is essentially anti-
republican; for in the accomplishment of their object, they de-
stroy the only safeguards of republicanism. By no presidents
was this propensity to wield state power in opposition to the
federal government, resisted with more earnestness, than by
Mr. Jefferson and Mr. Madison, both of whom, in the execu-
tion of the strong measures for which their administrations were
distinguished, felt, and bitterly lamented the unconstitutional op-
position waged through the instrumentality of state legislatures,
and courts, and juries.

The Hartford Convention, which was composed of delegates
from the legislatures of Massachusetts, Connecticut, and Rhode
Island, from the counties of Grafton and Cheshire, in the state
of New Hampshire, and the county of Windham, in the state of
Vermont, assembled in the year 1814, amidst a party excite-
ment, which many believed the federal government could not
survive, and at a critical period, when, to the horrors of war, was
added domestic distress, that involved a portion of the Union in
the deepest misery. It was a portentous assembly, whose precise
character has never been fully comprehended by the American
people; but as nothing exists by which the purity of the in-
tentions of its members can be impeached, the public condemna-
tion, which has overwhelmed it, must derive its justification
from its unconstitutionality, and pernicious example. The avow-
ed object of those with whom it originated, was to concert among
the New England States, which were exposed to the invasion of
the enemy, more efficient means of defence, and to procure the concurrence of congress, in measures, by which all the strength of that section of the Union could be exerted for its preservation; and they also proposed certain amendments to the constitution. In their report, they recommended "that if their application to congress should not be successful, and peace should not be concluded, and the defence of these states should be neglected, as it has been since the commencement of the war," another convention should be assembled, "with such powers and instructions as the exigency of a crisis so momentous may require."

Peace prevented the reassembling of a convention. This no American can look upon with regret, particularly when he considers the lasting evil which the example would have produced, had the slightest success attended it, and the talents, intelligence, and respectability of those who were implicated in a measure of which the influence on the country would have been so pernicious. Whilst the New England States believed themselves to be the victims of southern oppression, the latter did not forbear upbraiding them with all the opprobrious epithets which the vocabulary of political crimes could supply. Although all their language breathed professions of fidelity to the Union, they were without hesitation stigmatized as traitors; and if they had incorporated into their proceedings, either of the provisions of the South Carolina Ordinance, it would have been for the politicians of that state, who were then the flaming antagonists of the Hartford Convention, to invent new terms of reproach, by which its avowed profligacy could be appropriately described. The convention was in session from the 15th of December 1814, to the 5th of the following January; but although its existence, whilst the country was involved in war, may heighten the error, yet, as a question of principle, it cannot materially affect it. If the Hartford Convention, breathing professions of loyalty to the Union, and approaching the federal government in the suppliant attitude of memorialists, praying a constitutional redress of grievances, and for amendments to the constitution in a constitutional manner, has been consigned to obloquy and disgrace, they who believe that they can with impunity calculate the value of the Union, or calmly assemble to dissect with surgical skill an American confederacy, and from its various members, organize nations to gratify their ambition or passions, should profit by its example. It was believed to endanger the integrity of the Union, and the stability of the government. The indignation of the people assailed it; the hue and cry of the country pursued it; and not all the intellect, nor the virtues, nor the public services of its accomplished members, have saved them from popular odium, and in many instances from personal insult. Their repeated solemn asseverations of their innocence, the absence of
nullification.

all proof to implicate them in any treasonable design, and their subsequent uniform fidelity to their country, have not changed their doom. Even Massachusetts has denounced the child of her loins.

At a period when we have been threatened with a convention of the southern states, we can look with profit to the decision of the people respecting the constitutionality of such assemblies, in the case of the Hartford Convention. It is conceded, for it is expressly provided by the constitution, that two states cannot enter into a compact with each other without the consent of congress; but it is contended, that appointing delegates for the purpose of consulting on their common interests, is not an infraction of this provision of the constitution. If the right to assemble exists, it must be unlimited and unqualified, and in many instances the injury to the country would be inflicted by the very act of assembling, as in giving encouragement to an enemy, or countenancing a projected resistance to the laws, by which the ignorant might be plunged, by the hope of assistance, into irrecoverable rebellion. The constitution has instituted two assemblies, in which it has deposited all the legislative authority—congress and the state legislatures; now, to authorize the state legislatures to institute a third, an irregular, irresponsible, sectional, convention, to concoct the means of giving them an ascendency in the nation which they could not otherwise obtain, would be a political anomaly, a deformity in our system, if not the means of its total prostration and speedy dissolution. The only object for such a convention is to increase the power of the minority. A majority of the people and the states, exercising the power in congress, have no need of its aid. Whenever the minority is permitted to rule, to aspire after the ascendency in any other manner than by exercising the right of suffrage, or operating on public opinion, by enlightening the public mind, our government loses its distinctive republican character: it becomes the victim of any party, which, by acquiring the control of two or three state legislatures, can, through the instrumentality of a convention avowedly for consultation, organize effectual means of resistance to the laws, and perhaps of the subjugation of the people. Our remarks of course are only applicable to conventions assembled to act on national concerns; for there are many local matters exclusively interesting to neighbouring states, which they have always been in the practice of amicably arranging between themselves, by commissioners mutually appointed, and which have passed as regular, sub silentio—neither congress nor the other states having any interest in, or taking any notice of them; and should their propriety be ever questioned, it will be decided by the competent tribunal: but their unnoticed existence cannot rightfully be urged as an argument in favour of con-
Nullification.

ventions claiming jurisdiction over national concerns, and arrogating the powers of congress.

The expression of public opinion in town meetings, by resolutions in state legislatures, through an unfettered press, and by the exercise of the right of suffrage, is more effectual, and more consistent with the peace of society than by legislative conventions; and the facility of communication with every section of the country, presents ample means of consultation without their aid. Such conventions can only be serviceable to their projectors, for the purpose of intimidation, or to give effect to plans of dismemberment already secretly projected. They should be viewed by a free people with distrust and alarm. If under any contingency, or in any emergency, they can be beneficial to the people, and furnish an additional safeguard to their liberties, no time should be lost in giving them a constitutional sanction and regulation. Let them be no longer used as mere instruments of terror to the government, and of reproach to those who participate in them. But their hostility to the liberties of the people, and the peace and security of society, and their utter superfluousness for all the legitimate purposes of government, are abundant reasons for their not being able to erect a manly front in the constitutional system, and for the surreptitious manner in which they struggle into existence.

The Supreme Court of the United States, which has been the medium through which the authority of the constitution has, in almost all its controverted provisions, been carried into operation, has stood in the heat of the conflict; and as it presented a barrier to encroachments on the federal compact and jurisdiction, their enemies have selected that tribunal as the strong hold against which they have directed the chief assault. The numerous attempts to cripple its authority, have, by their failure, vindicated its strength. The case of the Bank of the United States, to which we have already alluded, presents an honourable example of the superior power of law over military force; for several of the states, with the control of a physical force sufficient to subvert that institution, found it impotent in their hands, when the decree of an unarmed court interposed the command of the law to arrest it. The laws which were enacted by the state legislatures, designed to destroy the national bank, yielded to the decision of the Supreme Court. As they were not founded on an assumption of authority superior to the constitution, and advocates did not arrogate to themselves an exclusive power of construing it, but merely claimed the right to pronounce a nullity, acts of congress, believed to be inconsistent with that instrument, they do not possess the scope of the doctrine of nullification, as it is now understood, but may be viewed as the operation of its spirit on a limited scale, and among men not disposed to
immortalize themselves by avowing a determination to destroy the Union and the Constitution to accomplish their object.

The controversy between Georgia and the Cherokees, produced a menace of nullification, which, had it not been averted by the amicable settlement of the case, in which the power of the law was invoked, would have produced a demonstration of its strength, not surpassed by that in Olmstead’s case.

We shall confine our remarks to the refusal of the courts of that state to obey the mandate of the Supreme Court; for although the claims of that state are in opposition to the provisions of the acts of congress, and treaties of the United States, yet they involve considerations foreign to the purpose of this article, and there has been no effort to resist the authority of the government, except the one to which we have alluded. Georgia claimed the right of extending her laws over the Indian tribes within her borders, and the President concurred in her views of the extent of her jurisdiction over them.

A letter from General Eaton, secretary of war, to the governor of that state, pronouncing the act of congress, relating to the Indians, unconstitutional and void, is one of the most extraordinary productions extant. The war department possesses but few attributes of a judicial tribunal, and the sword, in the estimation of a free people, is an instrument for disentangling knotty, legal, or constitutional controversies, that should never be resorted to. When, therefore, the secretary of war, whether acting by the president’s orders or not, issued a rescript, which nothing short of all the functionaries of the government, executive, legislative, and judicial, were competent to propound as the law and the constitution, he assumed the responsibility of abandoning the powers of the government, which, in a federal republic, constitutes an offence next in magnitude to usurpation. Georgia extended her jurisdiction over the Indian territory, and two missionaries, Messrs. Worcester and Butler, having violated her penal laws, were, after a trial and conviction, sentenced to four years imprisonment. A previous effort to obtain the opinion of the Supreme Court on the proceedings of Georgia, by praying, in the name of the Cherokee nation, for an injunction against the state of Georgia, having failed for the want of jurisdiction in the court, another attempt, by a writ of error to the state court, which removed the record of the trial and conviction of the missionaries, was successfully made; the act of congress, annulled by General Eaton, was resuscitated, the proceedings of the state court were reversed, and a mandate was issued, requiring the release of the prisoners. The authority of the court was treated with contempt, and Georgia threatened to fly to her arms and her state sovereignty, to resist an attempt to enforce it. By the
Nullification. [March,

act of congress, prior to an immediate execution of its decree, a previous mandate must be returned unexecuted, and in that case, another mandate issues to the marshal, who, if he have not the power to execute it himself, certifies the fact to the president, who is required to employ the military for that purpose. The distance prevented the return of the first mandate prior to the rising of the court; or, judging from the determined resolution of the court, and the energy and fidelity to the constitution which the president has recently displayed, we should have seen a rebuke given to despotism, more signal than any which has occurred since the constitution went into operation. The missionaries counted the links in the chain of slavery, for nearly a year, when, upon the eve of the meeting of the court, an arrangement was made, the result of which was, that they ordered their counsel to withdraw their suit, and the governor of Georgia released them by a pardon.

The supreme judicial tribunal of the Union has never yet been successfully resisted, although numerous attempts to impair its authority have been made; but on the contrary, the most powerful states have appeared before it and acquiesced in its decisions. The volumes of the reports of its decisions present incontestable evidence of the futility of all attempts to evade or destroy its authority; and the fate of a proposition in congress to impair its jurisdiction by repealing the 25th section of the Judiciary Act of 1789, which gives effect to its constitutional powers, proves the impracticability of impairing its rights through the representatives of the people. It is impossible to exaggerate the public services of John Marshall, clarum et venerabile nomen, who, for more than thirty-two years, like a faithful watchman, has stood upon the ramparts of the constitution, and guarded it from every assault. His erudition is as truly American as the constitution he has expounded, and his firmness, rectitude, patience of research, and soundness of judgment, have powerfully tended to inspire confidence in the court. The discreet and impartial manner in which the high duties of that tribunal have been performed, have increased the respect for it which pervades the country. Should it ever depart from that attitude of independence on parties, and sections of the country, and permit prejudice or ambition to corrupt its purity, the calamity will be deplored; but the cheering consideration should ever be kept in view, that even in the worst extreme, the constitution has a power of regeneration for all its functions, and the means of protection from the recreancy of all its ministers, more salutary and efficient than either nullification or secession can supply.

We have omitted describing the daring and mysterious project of Aaron Burr, to subvert the government of which he was the vice-president, or to establish a separate empire, because we did
not consider that abortive scheme, which was destroyed by its exposure, as properly coming within the scope of our present inquiry; but the singular fate of that remarkable man, induces us to pause for a moment to contemplate the monument which federal republicanism has erected to its mildness and its strength. The wild scheme of a military expedition to advance the fortunes of its projector was exposed and defeated; he had not brought himself within the penalties of treason, and was acquitted; he now lives under the protection of the laws of the country, and amidst a people who habitually gaze upon him, and speak of him, as a man who escaped the punishment but not the guilt of treason. His offence was ruinous to none but those who participated in it, and his example has been beneficial, for it has checked the impulse of unhallowed ambition, and kept constantly to the view of the people the folly as well as the wickedness of deviating from the plain path of rectitude to acquire power or distinction.

The sketch which we have given of the most prominent efforts which have been made to annul the laws of the Union, and to break down the Constitution, would naturally encourage the hope that their signal defeat would not only prevent any subsequent attempt from being successful, but deter the most daring from commencing a career which had proved so ruinous and disgraceful to all who had pursued it. But federal republicanism seems to be destined to struggle with anarchy and despotism; and each victory presents to her view a new enemy to human freedom to combat and destroy. We hasten to the consideration of the doctrine of nullification, as it has been revived and ushered forth, with new trappings and disciples, by the statesmen of South Carolina. It is a remarkable fact, that the South Carolina adherents of nullification, plume themselves on being the orthodox members of that party which came into power at the commencement of the present century, whose leader announced, at the outset of his career, the doctrine "that absolute acquiescence to the will of the majority, is the vital principle of republics," and exacted a compliance with it, from his political opponents. The non intercourse, the embargo, and the war, bore with the utmost severity on the people of New England; yet in all their sufferings they were compelled to yield to the will of the majority, as the only republican mode by which man could be governed. The most prominent advocates of nullification, at a time when their patriotic conduct and principles made them the hope and pride of their country, assisted in the creation of majorities in favour of measures by which the New England States were convulsed, their commerce impaired, their industry turned from its accustomed channel, and which converted them into manufacturing communities. South Carolina having introduced the protective principle into the statute book of the nation,
and first obtained the benefit of it, the manufacturers of the Eastern States successfully imitated her example; but no sooner is protection granted to them, than South Carolina denies the right of the majority to govern, and asserts a sovereign prerogative in her to annul a law which she deems opposed to her interest. The opposition to the increase of duties for the purpose of affording encouragement to our infant manufactures, was extensive and powerful, pervading the Union. It derived, however, its main strength from the Southern States; but it was not until after the tariff of 1828, that it was converted, from being a constitutional opposition to a measure of congress, into a combination to subvert the government, and tear asunder the bonds of union. After fruitless efforts to induce the delegations from the Southern States to combine in a formal denunciation of the law, the South Carolina delegates held private meetings at the lodgings of Senator Hayne, and there, probably for the first time since the organization of the government, were resistance and the dissolution of the Union discussed. The people of South Carolina too readily responded to the feelings of their representatives. The career of madness which had been commenced, and the departure from the path of patriotism, were soon conspicuous, by the popular meetings which were convened, and the inflammatory resolutions which were adopted. By an address from a meeting in Colleton District, in June 1828, “an attitude of open resistance to the laws of the Union” was recommended; similar sentiments were uttered by a meeting of three thousand persons at Edgefield, and at other meetings in that state, by which the passions of the people were excited, and they were prepared to follow their leaders in the accomplishment of their schemes of ambition.

The legislature was not backward in adding fuel to the excitement. By a resolution, requesting the other states to co-operate “in procuring a repeal of the tariff for protection, and declaring that if the repeal be not procured, they will co-operate in such measures as may be necessary for arresting the evil,” and also in a “protest and exposition” reported by a committee appointed to consider the governor’s message, adopted at the same time—they unfolded their schemes of opposition, and the unconstitutional doctrines upon which it was founded. They denied the constitutional authority of the Supreme Court to decide on the validity of the acts of the state governments. They asserted that it is an essential attribute of state sovereignty to decide on the extent of its own powers; that power can only be met by power, and not by reason and justice; that the states possessed a control on the action of the general government in contested questions of authority, and that this control is the remedy which the constitution has provided to guard the reserved rights of the states. To this they added, that the tariff was a case which justi-
fied the interposition of that state to compel the general government to abandon an unconstitutional power, or to appeal to the amending power of the constitution to confer it by express grant. The exposition and protest were ascribed to Mr. Calhoun, then vice-president; an elaborate address published by him in 1831, and a subsequent correspondence with Governor Hamilton, exhibit the principles, and point out the mode of carrying into operation this novel doctrine. The extensive participation of the vice-president in originating and making proselytes to nullification, are fully developed by those extraordinary documents; and as they contain nearly all that has ever been written in its vindication, and were the first connected view of its theoretic character, it is impossible to refrain from ascribing its origin mainly to him.

They who do not fully comprehend our system of government, will not be able to understand how the uncontrouled freedom with which all public measures and principles are discussed, are reconcilable with the preservation of order and the stability of the government: but our political system encourages error to appear in open conflict with truth. Instead of countenancing the suppression of the feelings of discontent, which, like earthquakes, move on in their subterranean course, until the earth is convulsed by their tremendous explosions, it brings them forth, and they are gradually dissipated by the force of reason and patriotism, which free discussion is calculated to strengthen. Nullification was exhibited in the Senate of the United States by one of its ablest votaries, Colonel Hayne, in January 1830. The signal triumph gained over it by sound constitutional principles, as then expounded and enforced by the commanding eloquence of Mr. Webster, for a time daunted its advocates, and limited its influence to a much narrower circle than the ardent calculations of its friends had assigned to it. That discussion exhibited its enormity. The public mind was guarded from the pernicious influence of a doctrine, which, under any other system of government, might have covered with its toils, and bewildered by its poison, the unwary and the ignorant, in every section of the country, and thus gained by the power of deception, an importance with which argument could not invest it. Every expedient which ingenuity could suggest, was resorted to by the party, intent on nullification, to increase the excitement; public meetings and addresses filled up the interval to the attempt to give it a practical operation. The two most prominent modes of invoking aid to this singular doctrine, were an appeal to the delusive pride of state sovereignty, by which it was believed that the support of those whose chief importance is derived from the management of state affairs, would be secured, and sectional feeling, by which the South was to be arrayed in hos-
Nullification. [March,

tility to the North. But fortunately for our country, these schemes of dismemberment have failed of success. Nearly all the states have declared their hostility to nullification, and none but Virginia have displayed even a sympathy for its advocates, that state having thrust herself forth as a mediator, and despatched a Richmond lawyer on the important embassy of persuading them to refrain from carrying their menaces into execution.

A convention of the people of South Carolina, elected, and empowered by an act of the legislature, assembled in November 1832, and on the 24th of that month, passed an Ordinance providing for the practical operation of nullification and secession. By this ordinance, the tariff laws of 1828, and 1832, are declared "to be null, void, and not binding upon this state, its officers, or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmation thereof, are, and shall be held utterly null and void." It is made the duty of the legislature to adopt the necessary measures to carry the ordinance into effect, and "to prevent the enforcement, and arrest the operation of the said acts of congress," from and after the 1st day of February (1833), and the constituted authorities, and all persons residing or being within the limits of the state, are enjoined to give effect to the ordinance, and the acts of the legislature passed in obedience thereto. It is declared, that in no case decided in the courts of that state, in which the "authority of the ordinance, or any acts of the legislature, made for the purpose of giving it effect, or the said acts of congress, are drawn in question, shall any appeal be permitted to the Supreme Court of the United States, nor any copy of a record allowed for that purpose: and it is made the duty of the state courts, to proceed to execute and enforce their judgments without reference to such appeal. Any person attempting to take the appeal, may be dealt with as for a contempt of court; all officers, civil and military, (members of the legislature excepted), and all jurors, in addition to the usual oaths, shall take oaths to obey, execute, and enforce the ordinance and all laws made in pursuance thereof; and on failure to do so, their offices are to be vacated. The ordinance concludes with a declaration, that they are determined to maintain their ordinance at every hazard; that they will not submit to the application of force by the federal government to coerce the state to obedience, but that they will consider the passage, by congress, of any act, authorizing the employment of a military or naval force against the state of South Carolina, her authorities, or citizens, or any act, abolishing or closing the ports of the state, or otherwise obstructing the free ingress and egress of vessels, or any other acts to destroy or harass her commerce, or to en-
force the acts declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that, should such means be adopted by the Federal Government, they will forthwith hold themselves absolved from all further obligation to preserve their political connexion with the people of the other states, and will proceed to organize a separate government, and do all other acts and things which sovereign states may of right do.

Addresses to the people of South Carolina, and to the people of the United States, closed the labours, and exposed the despotic spirit which animated the convention; an assembly, whose fame will endure as long as the love of freedom warms the hearts of men, and as long as history preserves the remembrance of the chosen temple of its abode, the American Federal Republic.

In their addresses to the people, the convention use the following language, which we are tempted to quote, as containing the most decided disavowal of the authority of the people since the abrogation of the royal charters.

"The true question is, who are the parties to the compact? Who created, and who can alter and destroy it? Is it the states or the people? The question has been already answered. The states, as states, ratified the compact. The people of the United States collectively had no agency in its formation. There did not exist then, nor has there existed at any time since, such a political body as the People of the United States."

It would be natural to suppose that a doctrine so pregnant with despotism, would, without any thing further, expose the authors of it to popular odium, or at least to the imputation of ignorance of the American history; but when we connect it with the concluding paragraph of the address, we are at a loss at which to be most amazed, the daring avowal of the despotic purpose, or the pusillanimity of the people who for an hour submitted to it.

"If," says the Convention, "appeals such as these prove unavailing, we then command your obedience to the laws and authorities of the state by a title which none can gainsay. We demand it by that allegiance which is reciprocal with the protection you have received from the state." And again—"As far as its citizens are concerned, the clear right of the state is to declare the extent of the obligation. This declaration once made, the citizen has no course but to obey. If he refuses obedience, so as to bring himself under the displeasure of his only and lawful sovereign, and within the severe pains and penalties, which, by her high sovereign power, the legislature will not fail to provide in her self-defence, the fault and the folly must be his own."

We may look in vain to any of the public documents of the Revolution, for language like this. We question whether in any of the efforts to acquire despotic power, either in ancient or modern times, the conduct and declarations of the usurper could bear any comparison, in an avowed disregard for popular feeling, and a determination to coerce subjection to his will, with this expression of the sovereign pleasure of the rulers of South Carolina. The revolution, we think, was a sufficient demonstration of the
collective political character of the people. As they, on that and many other occasions, displayed their unity and power, the convention should have been more cautious in avowing their contempt, and schemes of coercion.

The legislature, in fulfilment of the duty enjoined upon them by the ordinance which had become part of the constitution of the state, passed laws, authorizing the issuing, and directing the mode of executing writs of replevin to coerce the officers of the customs to deliver up goods without the payment of the duties. They prohibited the occupation of the prisons of that state for the detention of prisoners under the laws of the United States, and made it a misdemeanor, and prescribed a penalty for any citizen to hire or permit to be used, any place, house, or building, for that purpose. They also authorized the governor to repel by military force, any attempt to resist the execution of the ordinance, or to coerce the state into a submission to the tariff laws, by it declared to be void. They provided for the organization of the military forces of that state; and also prescribed the test oaths, and the time and manner in which these should be taken by the officers of the state.

Let it not however be supposed, that in a state so patriotic as South Carolina, these anti-republican measures were adopted without opposition. On the contrary, they were resisted by a minority, whose patriotism, intrepidity, and fidelity to their country, deserve to be for ever held in remembrance, and are entitled to the gratitude of their country. The Union party could not overpower, but they manfully stemmed the torrent of popular excitement. They have avowed their determination, by every sacrifice, to aid in the execution of the laws, and to sustain a constitution, which their own unhappy experience teaches them is the only safeguard for their personal and state rights, so wantonly violated by the majority that holds the sceptre of despotism over them. The mass of those who compose the majority, will speedily discern the desperate character of the measures they have allowed to be imposed upon them. The means by which they have been deluded, each day become more apparent. They were told, and believed, that nullification was in conformity to the constitution: its peaceable character, to this hour, is urged as one of its excellencies, whilst the military force which it calls to its aid, is ascribed to the meditated violence of an usurper at Washington. In Olmstead's case, similar efforts, according to Mr. Dallas, were resorted to, to delude the people; but they will recoil now, as they did then, upon those who thus wantonly corrupt the current of intelligence, upon the purity of which all free institutions must depend.

"But opinions," said Mr. Dallas, "have been scattered abroad, in pamphlets, in newspapers, and in declamatory harangues, which are, I confess, well calcu-
lated to pervert the public mind, and to excite the public feelings on the peculiar subject of the present prosecution:—It is weakly, if not wickedly, said, that an opposition to the judicial process of our courts, is not an opposition to the laws; and that persons who act under the authority of the state in making such opposition, are guilty of no offence."

Nullification had now obtained a consummation surpassing the fondest anticipations of its devoted admirers. They who had spent years of mournful meditations on state sovereignty, and were lost in a labyrinth of refined reasoning on the complicated question, how an independent and sovereign state was to be rescued from the vortex of federal republicanism, in which all their local pride, and hopes of being lords of the ascendant, were likely to be lost; they who were ever frightened by the spectre of national consolidation, but saw nothing terrific in the sanguinary reality of civil discord, and the inevitable tendency of dismemberment to produce consolidation; they who had afforded no assistance in building up this noble fabric of freedom, but had devoted their lives to the solution of the problem how it might be pulled down, have presented to their view, in the ordinance of South Carolina, their theories practically applied; they behold secession no longer the mere subject of speculation, but standing before them a living being, and nullification reduced to system, engrafted into the constitution of a state, and sustained by a military power created for no other purpose. The governor of South Carolina adopted measures to procure a military force. On the 20th of December 1832, general orders were issued by the adjutant general, requiring the services, and regulating the organization of volunteer corps.

We turn from this disgusting scene, to the cheering prospect exhibited by the declaration of the course which the president intended to pursue, and the masterly exposition of his principles. The President's Proclamation, made on the 10th of December, avowing his constitutional doctrines, and his determination to see that the laws should be faithfully executed, purged from the political atmosphere the clouds of uncertainty and fear with which it was darkened. It presented to the American people a pillar of light which united them in support of the Union and the Constitution. This excellent document terminated the hope which seems to have prevailed among the adherents of nullification, that no effectual measures would be adopted to coerce obedience to the laws. Even Mr. Calhoun, who had resigned his office of vice-president, and taken his seat as a senator from South Carolina, appears to have been misled on that subject; for on a subsequent occasion, in the senate, he declared that the president had recently changed his opinion. The decided tone of the president inspired confidence in the people. The great moral contest was commenced under the most favourable auspices.
Precautionary measures were adopted, to prevent the nullifiers from gaining possession of the fortifications at Charleston, by increasing the military and naval forces; the Custom House was removed to Castle Pinckney, at the distance of about three miles from Charleston; and on the 16th of January, the president made a full communication to congress, and recommended an increase of his power, to enable him effectually to execute the laws. The bill reported by the judiciary committee of the senate conformed to the president's request, provided for the use of the military power, regulated the manner in which proceedings from the state courts should be removed to the federal tribunals, directed, that whenever the collection of the duties should be obstructed, cash payments should be required, and authorized the removal of the custom houses out of the reach of violence. The debates in congress, on this bill, are not concluded; but thus far they have exhibited the most gratifying spectacle of fidelity to the constitution, and their influence upon the country will probably not be surpassed by the measures discussed. The contest between Mr. Calhoun and Mr. Webster, which has just taken place, inspired intense interest among the people. It has terminated in a triumph on the part of that distinguished champion of the constitution, which will be felt in the remotest parts of the Union. The eloquent advocate of constitutional liberty, has added another laurel to his brow. By identifying his fame with the freest and most perfect government that ever existed, he has erected an imperishable monument to his glory.

The first of February, the day fixed in the ordinance for the practical operation of nullification, was viewed with lively concern, as a period for the display of the sincerity of the menaces of disunion and resistance. The appointment by the governor, of the preceding day, for general fasting and prayer throughout the state, was well calculated to produce the belief that an important movement would signalize the development of the sovereign authority of South Carolina. General Hamilton had ordered an importation of sugar on his own account; so that an opportunity was not wanting to try the issue which that state had tendered to the federal government. But circumstances had materially varied the situation of affairs. The current of public opinion had proved an irresistible torrent of popular indignation against nullification. The American people displayed a unanimity beyond all example. The political opponents of the president, regarding nothing but the good of their country, had received the proclamation with enthusiastic applause, and rallied around him. The adherents of nullification, out of South Carolina, rapidly disappeared. Even its friends in the legislature of Virginia shrunk from its embraces, when the voice of the people vindicated their sovereignty, and rebuked that aspiring spirit which
would destroy state rights, by depriving them of the protection derived from their united power. Notwithstanding the fire emitted by the governor of Virginia, himself a nullifier of the first degree, it was impossible to infuse heat enough into that assembly, to bring into action an explosive element, which, by subverting the unity and the power of the people of the United States, would have created amidst the ruins of a government adequate to the protection of freedom, several confederacies, incompetent to secure the rights, independence, and harmonious intercourse of the states. The adherents of nullification felt the expediency of pausing in their career. The first of February was rapidly approaching; and it was apparent, that an attempt to carry the ordinance into effect would be promptly resisted. A town meeting was held on the 21st of January, by the nullifiers of Charleston, which for a time at least nullified nullification. Lieutenant governor Pinckney acted as chairman, and General Hamilton, the president of the convention, and Mr. Preston, a violent partisan of that cause, poured forth a deluge of abuse on the president of the United States. The meeting, however, wisely resolved to postpone nullification until after the adjournment of Congress. Although the ordinance expressly provides for secession, should the course of nullification be forcibly obstructed, General Hamilton assumed to himself the right of construing it as he pleased, for he declared, that should that event occur, he would reassemble the convention, and submit to its consideration the question of secession. Governor Hayne, subsequently, in a letter to the ambassador of Virginia near the state of South Carolina, as he has been called, declared that the people, by common consent, had postponed carrying nullification into effect.

It is apparent, that the nullifiers were disappointed in their calculations, and that the animated and persevering expressions in favour of the Union from every division of the country, convinced them that they had mistaken the voice of a few partisans for the voice of the people. Their return to the path of fidelity will be hailed by acclamations equally enthusiastic. A desire to triumph over any portion of our countrymen, ought not to be cherished. The public rejoicing that will exist when the blot that now stains the constitution of a sister state shall be obliterated, must be mingled with nothing but that exalted American feeling, which, while it recognises a devotion to the state to which we belong, is sufficiently comprehensive to embrace our countrymen wherever they may reside.

The momentous first of February passed in quietness, and the meditated blow was arrested. Thus far, nullification has failed of success; and it is not the less to the honour of our government, or a source of proud gratification, that its failure cannot be ascribed
Nullification. [March,

to the presence of a regular military or naval force, but to that 
stupendous moral and physical power held by the people, which 
was too plainly excited to action when the constitution was dis-
covered to be in jeopardy. What will be the result of this strug-
gle, in its remote consequences, it is impossible to foresee; but 
we have sufficient data to predict the ruin and disgrace of nulli-

The President's Proclamation, which announced constitutional 
principles of vital importance to the freedom of the people, and 
the independence of the nation, denies the correctness and prac-
ticability of two doctrines, nullification and the right of secession;
which, if they be not practically the same, inevitably conduce 
to one another. The right to annul a law, must include the right 
to annul all the laws; and all the states must possess the same 
right; which produces a state of things totally different from that 
which the constitution contemplated. It has provided for no 
other mode of obtaining the assent of a state to a law except 
through the instrumentality of its representatives in congress. 
If the acts of those representatives can be annulled by any pro-
ceeding out of congress, except by the decision of the Supreme 
Court declaring them to be unconstitutional, and consequently 
void, the Constitution is at an end, and secession is effected by 
the same blow that dissolves the Union.

It is difficult to reason in the abstract, on the right of any state 
or community to a separate national existence; for in almost every 
case the physical power to maintain it, and the recognition of 
civilized nations, constitute the principal ingredients of the right.

The American states are so closely united, and their posses-
sions, whether they consist in a common boundary, acquired at 
an immense expense to increase security and power as it regards 
foreigners, or in the right to navigate rivers, or in their territo-
rial property, are so incapable of division, that the successful in-
fracion of the Union, will probably be followed by sanguinary 
contests, surpassing in extent and bloodshed the Peloponnesian 

wars. It must not be overlooked, that the destruction of the pre-

cent organization of society, will place it under the control of a 
different order of beings from those to whom its management at 

present is confided. The learned civilians, the philanthropic cul-
tivators of benevolence, the retired votaries of domestic happiness, 
who excite the little circles of good feeling, until its generous 
influence pervades the community, men of business, who from 
the highest transactions of state to the smallest concerns of pri-

vate life, perform their part in keeping society in prosperous 
operation, and the skilful managers of political parties, who live 
by the public, by persuading the public that it lives by them, and 

wield the great community by their address in wielding town 
meetings and legislative assemblies, will be compelled to submit
to the control of a new order of men, who will grow up amidst the dissensions, to riot on the destruction of the liberties of the states. The habits, feelings, and character of the American people, which aided in creating, have conformed to their present political association; and to place them in a new and untried condition, would produce as great a violence to their affections and principles, as it would to the beautiful constitutional canopy which overhangs and protects them. Federal republicanism is the genius of the American people. To subject them to any other form of government, or impair its vigour as it exists, would derange the whole system of society, and destroy the vigour of that public virtue by which their freedom is sustained.

The rights of the states are essentially connected with the Union and the Constitution. It cannot be pretended that either of the states alone, is strong enough to maintain its independence. The deficiency must be supplied by partial confederacies. But how are these to be formed? Will the large admit the smaller states to an equality of power? Is there any mode by which nullification can be expelled? or, after marching over the ruins of a constitution, which all the despotism of Europe could neither undermine nor overpower, can it be prevented from uttering its sepulchral voice amidst the columns of any confederated capitol which man can erect? The state governments are dear to us all. They should be sustained as essential to our happiness and security. When united, they possess a power which inspires awe in foreign nations; and the very knowledge of its extent, renders them careful not to call it into action; whilst such is its peculiar character, distributed among various communities, each part under a separate control, that it is not only incapable of inflicting an injury, but an effort to use one part of it in violation of law, would bring the rest into operation to sustain the law. Now, change the scene. Fancy an independent state, or a partial confederacy; and how altered would be our condition. All the powers of a nation concentrated within a narrow sphere; the military and naval forces essential to repel foreign aggression; each citizen compelled to hold himself in readiness to join the ranks of a militia contracted in numbers; the terror inspired by every civil commotion, lest it should subvert the government; the heart burnings and the jealousies of men in power lest they should transcend their authority; would present a frightful contrast to the happy system that now exists, where unrestrained intercourse invigorates public virtue, and whilst the avocations of life are busily pursued, conscious strength inspires confidence in the stability of the government which protects them. The rights of the states could not survive the change. If there be a sincere advocate of nullification, we would urge him to gaze on the ruins of Greece, and observe the sceptres that wave their
Nullification.

Nullification. [March.

despotic power over the scenes of prosperity and renown of all other republics, ancient and modern, and discover if he can, any other cause than nullification for their destruction. The American people cannot consent to be its victims. They will never tolerate resistance to the laws, so long as the remedies provided by the constitution, for the prevention or punishment of treason, remain unimpaired. That they have not been resorted to, is a sufficient reason why a mode of redressing pretended grievances, not incorporated in, or sanctioned by the constitution, cannot be brooked. With the right of suffrage, the power of impeachment, of amendment, and finally a convention, when all the authority of the government would be returned to its original elemental condition, we have too many safeguards to indulge a fear for our liberty, if the constitution be preserved. The revolutionary right of resistance is our last resort. Nullification and secession, as explained by their advocates, are neither constitutional nor revolutionary remedies, but an odious compound, which places society in a revolutionary attitude, and deprives it of the sympathy and applause which are often conferred, without reference to the justice of the cause, upon deeds of desperate boldness and courageous suffering. With union and the constitution preserved inviolate, we may calculate upon a long continuance of our prosperity and freedom. If the American people suffer either of them to be destroyed, theirs will be the misery. They will look with bitter regret on the hour when they permitted an infatuated party to assail them with impunity; and the loud lamentation that will bewail their loss, will be destitute of hope; for when once destroyed, they can never be restored to their present happy, equal, and free condition.