PENAL CODES IN EUROPE

H. S. SANFORD

THE DIFFERENT SYSTEMS

OF

PENAL CODES IN EUROPE;

ALSO,

A REPORT

ON THE

ADMINISTRATIVE CHANGES IN FRANCE,

SINCE

THE REVOLUTION OF 1848.

BY H. S. SANFORD,

LATE CHARGÉ D'AFFAIRES OF THE UNITED STATES AT PARIS.

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate, a letter from H. S. Sanford, late chargé d'affaires at Paris, on the different systems of penal codes in Europe; also, a report on the administrative changes in France since the revolution of 1848.

July 24, 1854.—Ordered, that there be printed, for the use of the Senate, 5,000 additional copies of the message of the President of the United States respecting the different systems of penal codes in Europe, and the administrative changes in France since the revolution of 1848.

To the Senate of the United States:

I transmit a report from the Secretary of State, on the subject of the documents called for by the resolution of the Senate of the 9th instant.

FRANKLIN PIERCE.

Washington, *May* 23, 1854.

Department of State,
Washington, May 23, 1854.

The accompanying documents are those embraced in the resolution of the Senate of the 9th instant, which directs the Secretary of State to "furnish the Senate with a communication from H. S. Sanford, late chargé d'affaires at Paris, on the different systems of penal codes in Europe, and also a report on the administrative changes in France since the revolution of 1848." These documents are respectfully submitted to you for your direction in relation to the disposition thereof.

W. L. MARCY.

To the President of the United States.

Paris, *May* 25, 1852.

Sir: I have the honor to transmit herewith the result of some researches which I have made on the condition of penal law in continental Europe, with analyses of the codes of some of its principal States.

The recommendation of the President, in his late annual message, that provision be made by law for the appointment of a commissioner to revise the public statutes of the United States, and to report the same to Congress for its action, has led me to believe that some previous study and research on the subject, and the opportunities I possess of procuring information concerning the penal legislation of Europe, might be brought to useful account in showing the experience of some of the principal States of the old world in the formation of their codes and systems of penal laws, as well as in giving the striking features of those systems.

I have therefore prepared the accompanying document, which I beg leave to submit to you, with the hope that the facts contained in it may be found worthy the attention of the government.

I have the honor to be, sir, most respectfully, your obedient servant,

H. S. SANFORD.

Hon. DANIEL WEBSTER,
Secretary of State

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INTRODUCTION.

I propose in the following pages to give some account of the history and present condition of penal law in continental Europe. In carrying out this design, I have endeavored to avoid minuteness of detail any further than may be necessary to the development of the principles of the various systems now in vigor in the leading States of the continent.

Complete analyses will be given of the codes of France and of Prussia, of the first as having served as the basis of most of the other codes, and as having been of great influence in the formation of all; of the last, which has only been in force since a few months, to show the progress made in this science since the formation of the French codes, and in how small a space a complete system of penal laws for a large State can be given.

I have divided this work into three parts: the first relates to criminal law in France; the codes of penal law and procedure are given in detail, with such modifications as have been introduced since the events of the 2d December, 1852, and are preceded by an historical sketch of the development of penal law in France, with particular reference to the course pursued in the formation of its codes. The judicial, administrative, and penitentiary systems of France are also given in this connection.

The new code of Prussia has been included in this part, and follows immediately the French codes, in order to show side by side the two great codes of Europe, and for the better understanding of their distinctive features.

The second part is devoted to criminal law in Germany; an account of the development of penal law in that country, and some details respecting those theories which have had the most influence in its penal legislation, precedes the consideration of the laws of the individual States. The codes of penal law of Bavaria, Saxe-Weimar, and Baden, and the codes of penal procedure of Prussia and Bavaria, are particularly treated of.

The last part is devoted to the penal legislation of the other States of Europe, except England, and details are given of the codes of those States which possess them. The codes of Belgium, Sardinia, Russia, Turkey, and Spain are analyzed, and mention is made of the condition of penal law in every other State.

I have devoted but little space to the history of penal legislation in the various States treated of. The development of penal law is the same in all countries to a certain period, and marks clearly the progress of civilization. We find, in the lowest stages, no fixed ideas of criminal law, only a sort of instinctive sentiment of penal justice. The right of punishment is confounded with the right of self-defence; private vengeance takes the place of legal punishment, and injuries to person, life, property, or honor, are considered not as crimes, but as wrongs to individuals or their familes, who seek themselves to inflict the punishment for the same. This system of blood for blood leads gradually to the practice of buying with money an atonement for the crime from the injured person or his family, who continue for a long time to have the choice to take justice into their own hands, or, on complaint before the tribunals of the people, to receive compensation from the offender in money.

The executive power commences now to interpose by limiting the amount of these penalties, or enforcing those which custom has introduced; and, finally, the State declares itself in favor of the injured person in case of crimes committed within its territories, and prescribes public penalties for the disturbance of the public peace and the general welfare.

We thus find that each member, or even the life of a person, has its price, and long scales of the valuation of injuries which had been introduced by usage, are to be found in the first books of law, of which the first collection of Germanic laws, the *leges barbarorum*, is a curious instance in point.

Then follows the influence of Christianity, which was a most important element in the development of penal law, mitigating the barbarous severity of the punishments, and introducing many of the precepts of religion into the laws, which may be found in most of the earlier books of law.

The Roman law has exercised a powerful influence in the legislation of Europe. This influence was particularly of importance in the middle ages, when the different States of northern Europe sought to systematize their incoherent laws and usages; nevertheless, this complete and logical system was of more importance in civil than in criminal law.

I have not deemed it advisable in the body of this work to trace back to its source the origin of criminal law, or to follow its development in detail. There have only been mentioned, as having an influence on the existing legislation, the first collections of written laws, and those that have succeeded down to the present times.

The great object of this work is to give, in as few words as possible, the characteristics of the various codes of Europe, and to avoid all unnecessary detail. As has been before said, most of the codes have for basis the French system. When but little detail has been given concerning them, it is because on those points of which no mention has been made, they resemble the French, and repetition was unnecessary. I have particularly sought to give those points which differ from the French code. Each State has more or less marked peculiarities in its laws, which are the reflex of the social, moral, or political condition of the people or of its institutions. These I have attempted to point out.

While I have endeavored to be scrupulously accurate in everything which is herein advanced, and to confine myself to a simple statement of facts, I am fully aware that the following pages must contain many omissions. The difficulty of procuring the proper materials for a work of this nature, and of bringing into so small a space the vast amount of matter which has served for it, will be appreciated on perusal.

It will be found to contain many points of interest to our legislators and our jurists. It would be unbecoming in me to give an opinion as to the advantages to our country of adopting or improving upon some of the principles or details which have been given. If it shall have served to attract the liberal and enlightened attention of those who guide the councils or deliberate on the laws of our country to the subject of the codification of our own criminal laws, I shall feel that the labor bestowed thereon has met with an ample return.

Let me be permitted, however, to say, in answer to the objection that we do not require and cannot adopt European systems of penal law, that while undoubtedly the criminal law of a country should be intimately connected with the moral and religious opinions, as well as in a manner the development of the traditions of the people, rather than being, as in France, a direct emanation from the authority, the experience of other nations, even if they differ greatly in their religious and political institutions, and in the usages and intellectual development of the people, may be useful in perfecting the legislation of any State.

Those principles or provisions, which the experience of other States has proved to be practicable or advantageous, certainly merit consideration. *Majores nostri quod ubique apud socios aut hortes idoneum videbatur, cum summo studio exequebantur, imitari quam invidere bonis malebant.**

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* Sallust.

FIRST PART.

HISTORICAL DEVELOPMENT OF THE PENAL LAWS OF FRANCE.

The first national penal law of France dates back to the year 1539. While France and Germany formed but one empire, the Germanic penal law was in force in both countries. For a long period after the division of the empire, at the death of Charlemagne, great disorders existed in the administration of the criminal laws, the defects of which were remedied but slowly. The Bible was for a long time a principal source of criminal law, the precepts of the Old Testament being cited by the judges. Roman law, though in many respects falsely interpreted, had also great influence. In this state of criminal justice, the necessity of new penal legislation was very urgent.

The ordinance of 1539 was the first which laid down certain principles of penal legislation. This ordinance, however, was devoted almost exclusively to procedure; and the forms introduced by it were arbitrary and barbarous. It failed to insure independence in criminal jurisdiction, and could be directly and arbitrarily exercised by the king, or by his representative in the place of the judge. An example of this is given in the Chronicles, in the case of a man, who, on the 17th of January, 1640, was broken on the wheel, and four of his accomplices hung, for the crime of sedition, after condemnation by the chancellor, who represented the king, and who not only had not questioned the accused persons, but had not even seen them.

In 1670, Louis XIV published an ordinance to mitigate the severity of that of 1539, and to establish the independence of the criminal courts. This ordinance, like its predecessors, contained no material regulations of penal justice, and the criminal procedure was not entirely freed from the rigor of the former law. Thus we find the philosophical writers of the 18th century, Filangieri and Beccaria, arguing against the condition of the penal laws in France.

Such was the state of criminal law till the revolution of 1789. One of the principal reforms brought about by that revolution was in the penal legislation of France. The constituent and legislative assemblies showed the greatest activity in organizing and radically reforming it; and it will not be without interest to give a short sketch of the legislation on this subject from the commencement of the revolution; for it was at that period that the present penal laws of France originated.

The first important general law of the Constituent Assembly was the organic law of the 24th of August, 1790, by which a separation was made between civil and criminal jurisdiction.

By a law which was published only a few days previously, trial by jury was proclaimed as a principle in criminal cases.

In 1791, the National Assembly published a *code pénal*, which was prepared by a commission appointed by Louis XVI, in 1788. This penal code laid down the most important principles of criminal law.

Of these the two following may be mentioned as the most essential: 1st. No action can be considered as a crime when it is not specially defined as such by law. 2d. The judge has no discretion in the matter of punishments, but can only pronounce those prescribed by law.

This code was abolished by the code of 3 Brumaire, an. iv, which, with the exception of a few modifications which were required by the political institutions of the Convention, is nearly word for word the code of 1791. It provoked much opposition; the principal argument against it being, that there was no general definition of crimes and misdemeanors, and that the different classes of offences were not sufficiently distinguished from each other, and that, in consequence of these deficiencies, an unnecessarily large number of questions concerning single circumstances must be proposed to the jury.

This code proved equally defective in practice; the judge not being permitted to make allowance for extenuating circumstances, or to commute in any way the punishment prescribed by law. Moreover, the condition of criminal procedure was never satisfactory; and even its principal bases were contested. No separate code of criminal procedure existed; the laws on this subject being contained partly in the code of 3 Brumaire, an. iv, and party in special statutes.

These arguments against the then existing penal laws induced Napoleon, then First Consul, to institute a commission for preparing a criminal code. By a decree of 7th Germmal, an. ix, Vieillard, Target, Oudard, Treilhard, and Blondel, were appointed members of this commission, which, in a short time, proposed a "*Code criminel, correctionnel et de police*," composed of 1,169 articles. This project was printed and referred to the courts of Cassation and Appeal for a legal opinion. At the same time, the court of Cassation was directed to send to the government every year a report of those points of general legislation which proved defective in their judicial practice. The minister of justice was also instructed to give an annual statement of the inconveniences of the administration of penal justice.

This project of penal law was first presented to the Council of State, at their sitting of the 2d Prairial, an. xii. The authors of the bill were present at this first deliberation, which was presided over by Napoleon himself.

Before the commencement of the discussion of the bill in the Council of State, the following fourteen questions were proposed:

1st. Shall the institution of the jury be preserved?

2d. Shall a grand jury and a jury for trials be established?

3d. In what manner shall the jury be appointed?

4th. In what manner, and to what extent, shall the right of challenging the jury, (*récusation*,) be exercised?

5th. Shall the proceedings be oral, or partially written and partly oral?

6th. Shall the verdict of the jury be unanimous, or by a majority?

7th. Shall several questions, or merely the questions of "guilty" or "not guilty," be proposed?

8th. Shall proper magistrates be appointed to hold assizes at one or several tribunals of the departments?

9th. Shall capital punishment be continued?

10th. Shall imprisonment for life be introduced?

11th. Shall confiscation be permitted?

12th. Shall the court be allowed to establish a maximum and minimum of punishments?

13th. Shall *surveillance* be introduced for a particular class of criminals, and, after the expiration of the term of punishment, shall bail be demanded for future good conduct?

14th. Shall *réhabilitation* be accorded to those who prove themselves worthy of it?

Before examining these various questions, the First Consul made a proposition which he esteemed of the highest importance; it was to unite the civil and criminal codes in one great body. The remarkble words of Napoleon on this occasion were: "This fusion is necessary for the formation of a great body, strong in the consideration which civil science gives, strong by its numbers, beyond the reach of fear and individual considerations, which shall cause the guilty to tremble whoever they may be, and shall communicate strength and energy to the ministry."

The Council of State decided at first in favor of the fusion, but afterwards this decision was cancelled on account of the incompatibility of such an union with the institution of the jury. Napoleon on this occasion defended the jury, which was attacked by various members of the council, and finally withdrew his proposition in consideration of that institution.

This incident had such an influence, however, on the First Consul, that he no longer took part as president in the deliberations on criminal law. Soon after this, the discussion in the Council of State was closed, and the project remained stationary for four years.

In 1808 the discussion was renewed, and the deliberation commenced on the report of the legislative commission of the Council of State, to which the first president of the court of Cassation, Muraine, and the attorney general, Merlin, were invited.

The Council of State decided that the codes of penal law and penal procedure should be separated, and that the deliberation should commence with the code of penal procedure, on which Trielhard had drawn up a very luminous report. Accordingly, the discussion of the individual articles commenced under the presidency of the Emperor. The fourteen preliminary questions, which are cited above, being first decided upon at the first discussion, no definitive conclusion was arrived at.*

At a subsequent deliberation, Napoleon renewed his proposition for the union of the civil and criminal courts, which was then definitively adopted. The former ground of opposition on account of the incompatibility of the courts was removed; for, besides the regular working of the penal courts, assizes were established for trying those cases in which the jury pronounced the verdict.

The existing organization limited the competency of the jury to certain cases of grave crimes; and, in ordinary cases, the judges administered justice without the assistance of the jury.†

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* The answer to these questions will be detailed in treating of the present condition of penal legislation in France.

The discussion in the Council of State on the *Code d'Instruction Criminelle* was continued during thirty-seven sittings; after which, as prescribed by the constitution, the project was presented to the legislative body, and was adopted. The *Code d'Instruction Criminelle*, which was promulgated in 1810, took effect in 1811.

After the termination of these debates, the Council of State entered upon the deliberation on the *Code Pénal*. This was rather for the improvement of the code of 1791, than for preparing a new system of laws. These deliberations occupied forty-one sittings, and the project was then laid before the legislative body and adopted. Like the code of criminal procedure it took effect in 1811.

The restoration preserved the greater part of these codes. The only change worthy of particular notice among the few which were made is that concerning the jury. By a law of 2d May, 1827, various restrictions were abolished, and the jury was organized in a more liberal manner.

Public opinion had urgently demanded a reform in the penal code since its first promulgation. The chief objections to it were, that its punishments were too severe and arbitrary, and that the judge had not sufficient discretion allowed him in the application of punishments. This reform was adopted in 1832, and a new code published by the government of Louis Philippe. The alterations in the code by this new law were but partial, and as the reporter, Monsieur Dumont, said, its only object was to assuage the severity of some punishments, and to abolish certain others, the pillory, for instance, which were against the customs of the times; to reduce other penalties, such as banishment, to their narrowest limits; and, lastly, to mitigate such punishments as the surveillance of the police.

A further alteration was made in the year 1835 by the admission of extenuating circumstances, *(circonstances attenuantes.)* Under this law the jury decide not only on the question "guilty" or "not guilty," but also whether certain circumstances exist to diminish the criminality of the action, and its consequent punishment. When the jury admit such *circonstances attenuantes*, the court pronounces a punishment less than the minimum fixed by law.*

THE PENAL CODE OF FRANCE.—(*Code Pénal.*)

The *Code Pénal*, comprising 484 articles, gives all the provisions of criminal law in France. Its economy is very simple. It is divided into four books with a short introduction entitled "*dispositions préliminaires.*" The first book treats of punishments and their consequences, *(des peines en matière criminelle et correctionnelle et leurs effets;)* the second book treats of persons who are punishable, excusable, or responsible for crimes or misdemeanors, *(des personnes punissables, excusables, ou res-*

* The principal writers on penal legislation in France are, Carnot, Legraverend, Bourguignon, Rogron, Chauveau, Faustin-Hélie.

ponsables pour crimes ou pour délits;) the third book treats of crimes and misdemeanors themselves; and their punishments, *(des crimes, des délits, et de leurs punitions;)* the fourth book treats of police infractions and their punishments *(des contraventions de police et peines.)*

All prohibited actions are divided into three classes: *Contraventions, Délits,* and *Crimes.* These grades of offence are not defined, but are classified according to their degress of punishment. *Contraventions,* which are lowest in the scale, and which come within the jurisdiction of the *Tribunal de Police,* are punishable by a fine not exceeding fifteen francs, or imprisonment not exceeding five days. *Délits* are those offences which are punishable with upwards of fifteen francs fine, or five days imprisonment, and fall within the jurisdiction of the *Tribunal Correctionnel.* The last and highest grade, *crime,* is judged by the *Cour d'Assizes,* and is subject to an afflictive or infamous punishment *(peine afflictive ou infamante.)* The 7th and 8th articles indicate their punishments. This division forms the basis of the competency of the French criminal tribunals.

A single officer, either a justice of the peace *(Juge de paix)* or mayor *(Maire,)* is judge of the *Tribunal de Police.*

The *Tribunal Correctionnel,* which passes judgment upon misdemeanors, is composed of three members of the tribunal judging in first instance, *(Tribunal de Première instance,)* which is also the tribunal for civil cases of the first category.

The *Cour d'Assizes,* which has the jurisdiction of crimes, is composed of three members of the Court of Appeal, *(Cour d'Appel,)* and has a jury.

Appeal from the decision of the *Tribunal Correctionnel* can be made to the correctional chamber of the Court of Appeal, *(de la chambre correctionnelle Cour d'Appel.)*

Persons condemned for *contraventions* may appeal to the *Tribunal Correctionnel;* but no appeal is allowed for a punishment of less than three francs. There is no appeal from a sentence of the *Cour d'Assizes;* but in case of a formal or material violation of the law, recourse can be had to the court of cassation; and a new trial must follow before another Court of Assizes.

To complete the description of the organization of the tribunals of France, and the connexion of its judicial hierarchy with the administrative division of its territory, it may be proper here to remark, that France is divided into eighty-six departments, each department being governed by a Prefect (*Préfet*) with a council, (*Conseil de Prefecture,*) and is subdivided, according to the size of the department, into 363 *arrondissements,* governed by Sub-Prefects, (*Sous Préfets,*) which are divided in turn into 2,847 *cantons,* which are subdivided into 36,835 *communes.*

Each canton has a *Juge de paix;* and, consequently, a *Tribunal de police.*

Each *arrondissement* has a Court of First Instance (*Tribunal de Première Instance*) divided into civil and correctional chambers.

Each department has a court of assizes composed of members of the court of appeal.

For the Courts of Appeal, France is divided into 27 *Ressorts* or jurisdictions, each with its *Cour d'Appel.*

Lastly: at the head of the hierarchy is a court of cassation, (*cour de cassation,*) the seat of which is at Paris. This consists of three chambers, of which two are for civil affairs, (*chambre des requêtes, et chambre civile,*) and the third for criminal cases (*chambre criminelle.*)

There is a public prosecutor (*ministère public*) connected with every court. At the police court he is the commissary of police; at the Tribunal of first instance he is the *procureur de la République;** at the court of appeal he is the *Procureur Général.* The chief of the whole *parquet* is the *Procureur général de la cour de cassation.* A hierarchical subordination exists between these magistrates, whose mission it is to see to the execution of the laws, and who are greatly assisted by the system of centralization, according to which twenty-seven *procureurs* of the courts of appeal are in permanent relation with the *Procureur général* of the Court of Cassation, and with the minister of justice.

A public prosecutor is exclusively attached to the court of assizes, these courts being composed of members of the courts of appeal. At the court of appeals, when this court exists in the same place with the assizes, the fuctions of public prosecutor are performed by the persons who compose the *ministère public;* otherwise by the *Procureur de la République.*

This general sketch of the divisions, judicial and administrative, of France, will not be complete without giving the legal and administrative provisions concerning the penitentiary system of France.

An *ordonnance* of 2d April, 1817, modified the most essential dispositions of the *Code Pénal* on punishments, and completely changed the whole prison system of the country. By this ordinance were instituted *maisons centrales de détention,* or penitentiaries, uniting the *maisons de force* with the *maisons de correction* for prisoners condemned for more than one year. The flagrant injustice of this ordinance consists in this: that persons who are condemned to the degrading penalty of *réclusion* receive the same punishment as those who are condemned for a correctional imprisonment of more than one year.

There are in France sixteen *circonscriptions de maisons centrales,* or penitentiary districts, one *maison centrale,* or penitentiary, serving for several departments.

In order to reform this condition of the prisons, which is so contrary to the spirit of the laws, a commission was instituted in 1844 to inquire what changes were needed. This commission has as yet made no report.

For imprisonment of less than one year there is a house of correction in every Department, except when the Departments are very small, in which case there is one establishment of this kind for two Departments, the superintendence of which is entrusted to a commission of from three to seven persons, appointed by the Minister of the Interior.

For the execution of police sentences, there are cantonal and municipal prisons, supported by the communes by which they are used.

The execution of the punishments of *travaux forcés,* (hard labor,) banishment and *déportation* (transportation) will be spoken of hereafter.

The ordinance of 1817, before mentioned, directs that the *maison*

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* Now *Procureur Impérial.*

centrale of Mont St. Michel (department of the Manche) shall be fixed as the residence for those condemned to transportation, till a penal colony shall be instituted, and that when permission to emigrate has not been given, persons condemned to banishment shall be sent to the *maison centrale* of Pierre-Chatel.

By an ordinance of the year 1835, the prison of Mont St. Michel was designated for the incarceration of political offenders; and, as may be well imagined, it is not the least crowded prison in France.

In regard to those who are awaiting trial, there are particular prisons, called *maisons d'arrêt* and *maisons de justice*—these last being places where prisoners are confined who are indicted by order of a criminal court, (*chambre d'accusation*,) which takes the place of our grand jury.

By an ordinance of the year 1819, a general committee on prisons (*conseil général des prisons*) was organized, consisting of twenty-four members chosen by the minister of the interior from among the members of the association for the amelioration of prisons. It ascertains the condition of the prisons, and indicates proposed ameliorations. Besides this council, there is a special inspection of the prisons performed by a commission consisting of two inspectors of the first class, four of the second class, and two honorary inspectors general.

Besides this central commission, each department has a commission of from three to seven persons, appointed by the minister of the interior, on the proposition of the prefect. One of those persons must be the *Procureur de la République*. The special object of this commission is the interior superintendence of the prisons and of all that concerns the salubrity, the discipline, the regular tenure of the registers, the labor and its distribution, and lastly, the religious and moral instruction of the prisoners.

For the prisons of Paris there is a special council of twelve members, who are chosen from the *conseil général des prisons*, under the direction of the prefect of police. Besides the administrative superintendence, there is a legal *surveillance* by the judicial magistrate; the *juge d'instruction* being obliged to visit the prisons in his jurisdiction every month, and to make a minute of his visit in his own handwriting on the records. The law requires that the *Procureur de la République* visit the prisons "frequently."

Lastly, the president of the Court of Assizes must visit the *maison de justice* before the commencement of the session, and hear all complaints of prolongation of detention.

Besides these judicial magistrates, the prefect must at least once a year visit all the prisons and prisoners within his department. (Art. 611, *Code d'Instruction Criminelle*.) The mayor of every commune, where there is a prison, and in those communes which have several mayoralties, the prefect of police, or the commissary general of police, is obliged to visit the prisons within his jurisdiction at least once a month. The last named officers see particularly that the nourishment of the prisoners is sufficient and wholesome. They also have charge of the police of the prisons. Nevertheless the *judge d'instruction* and the president of the court of assizes can determine the regulations which they may think necessary for the preliminary proceedings of their office.

The economy of the *Code Pénal*, the jurisdiction of the criminal courts, and the administrative judicial and penitentiary systems of France, having thus been explained, I shall now proceed to analyze the code itself, according to the method observed in the same.

BOOK I.

PUNISHMENTS OF CRIMES AND MISDEMEANORS, AND THE CONSEQUENCES OF THE SAME.

The *Code Pénal* differs from most existing codes, in commencing with the punishment, instead of the description of offences. There is the advantage of clearness in this system, the French legislator giving no definition of offences, but indicating their nature by the punishments which follow them.

Punishments of crime are either afflictive and infamous, *(afflictives et infamantes,)* or simply infamous, *(infamantes.)*

Punishments of misdemeanors are *afflictives*, without being degrading. There are also certain punishments which are common to both crimes and misdemeanors.

The distinction made by Bentham, that every punishment should be personal, divisible, proportionate, certain, and repairable, has not been observed in the *Code Pénal;* for the punishment is in many cases not personal, as in the case of civil death, *(mort civile,)* when the family of the offender is more punished than he himself. All punishments are not divisible, as, for example, capital punishment, imprisonment for life, and the numerous degrading punishments. Neither are they all proportionate: fines, which are very frequent in the laws, not being proportioned to the means of the offender; and lastly, they are not, in all cases, repairable, as in the instances above mentioned of the punishment of death and penalties implying degradation.

A great deficiency in the French penal system is, that the infamy results, not from the intrinsic nature of the crime, but from the accidental nature of the punishment.

I.—PUNISHMENT FOR CRIMES.

The following punishments are called *afflictives et infamantes:*

1st. *Capital Punishments.*

The proposition to abolish capital punishment has been several times brought forward in France.* It was abolished soon after the revolution of 1830, but was restored in the revised code of 1832. In 1848 it was abolished for all political offences, except under the regime of martial law, and has since, in 1853, been partially restored.

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* By the *Lex Portia* of Rome, capital punishment was abolished. It was also abolished by one of the Potiphars of Egypt, centuries before Christ.

The crimes punishable with death under the existing code are:

1st. High treason;

2d. Exciting to civil war;

3d. Seducing the troops from their duty;

4th. Usurpation of any of the rights of the executive;

5th. Conspiracy of public functionaries against the internal safety of the state;

6th. Blows or wounds inflicted on a public agent (with intent to kill) when he is in the performance of his duties;

7th. Murder;

8th. Parricide;

9th. Infanticide;

10th. Sequestration of any person, accompanied by physical torture;

11th. Perjury or bribery of witnesses, when it results in a sentence of death;

12th. Arson, when it consists in burning an inhabited or habitable building.

The code of 1832 diminished the liability to capital punishment for these offences, by extending to the jury the right of declaring the existence of extenuating circumstances, in which case the punishment was commuted.

The mode of capital punishment, according to article 12, is decapitation.

In case of parricide, the punishment is aggravated by the criminal being compelled to walk barefooted to the scaffold, clothed only in a shirt, with a black veil over his head, and being exposed on the scaffold while the sentence of condemnation is read.*

The execution of capital punishment is public, and takes place in one of the public squares, which is designated in the sentence. In case of pregnancy, the execution of a woman must be postponed till after her delivery.

The family of a criminal who has been condemned to death can claim his body after execution, but upon the express condition that it be buried without ceremony.

2d. *Imprisonment and hard labor for life, (Travaux forcés à perpétuité.)*

The crimes subject to this punishment are:

1st. Counterfeiting gold or silver coin;

2d. Passing the same;

3d. Counterfeiting the seal of the state, bank bills, or state bonds with the government stamp;

4th. Counterfeiting on the part of a public officer in the exercise of his functions, whether by false signatures, or by alteration of acts, writings, or signatures, or by substituting the names of persons in public documents, (whether by additions or interpolations,) after said documents have been completed; or by in any way altering or interlining public records;

* By the Roman law, according to the *Lex Pompeija*, the parricide was tied up in a leathern sack with a dog, an ape, a cock, and a viper, and thrown into the Tiber.

5th. The fraudulent distortion of the substance or details of any official paper on the part of the functionary who draws it up, whether the fraud consists in writing agreements other than those which have been dictated to him by the parties, or in stating as true facts which are false, or in falsely certifying as to facts agreed upon by the parties to the instrument;

6th. The punishment of hard labor for life is also incurred in case of violence, resulting in death, against a public agent or functionary, while in the performance of his duties;

7th. In case of a prison guardian furnishing arms to a prisoner to assist him in his escape;

8th. In case of homicide, when this crime is neither preceded, accompanied, nor followed by another crime; and also when it shall have had for its object either to prepare, facilitate, or commit a misdemeanor, or to assure the safety of the authors or accomplices in a misdemeanor;*

9th. Premeditated corporeal injury, resulting in immediate death, or fatal wounds, when this injury is inflicted upon a legitimate or illegitimate father or mother, or upon other legitimate ascendants, and when the injury, if committed by another, would be punished with hard labor for a term of years;

10th. Violation of a child under fifteen years of age, accompanied by personal injury, and when the guilty person has a certain authority over the child, whether that of parent, teacher, priest, or public functionary, and when the criminal has been aided by one or more persons;

11th. The detaining or sequestration of a person against his will for more than a month;

12th. The exposure and abandoning of a child, when death follows such exposure;

13th. False witness against any one accused of crime, when followed by sentence to hard labor for life—in which case, the false witness is subjected to the same punishment;

14th. Bribery of witnesses is a similar case, and is followed by similar results;

15th. Robbery, attended by the following circumstances: if committed in the night; if committed by two or more persons; if the criminal or either of his accomplices was armed, secretly or openly; if committed in an inhabited house, apartment, chamber, lodging, or any place serving for a habitation, or any outhouses belonging thereto, by means of false keys, or scaling the walls, *(escalade,)* or the use of any external violence; when the criminal takes the title of a public functionary, or of any civil or military authority; when committed by corporeal violence, or threat of arms; and when the criminal inflicts personal wounds, or leaves marks of contusion;

16th. This punishment is inflicted on exchange agents and brokers—who are alone permitted by law to do business at the exchange†—when convicted of fraudulent bankruptcy;

17th. It is also the punishment of arson under certain circumstances.

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*In this last case as in the one preceding, however, the punishment may be death.

†See appendix (*b*) to report in administrative changes in France.

The kind of work performed by criminals condemned to hard labor for life, is determined by the administration. At Brest and Rochefort, they are engaged on the public works of those two ports; in Toulon they work at different trades.

A decree of the president of the 20th February, 1852, founded on an interesting report of the minister of marine and the colonies, provides for the removal of the *bagnes* out of France. The report is founded on a suggestion of the president that the penalty of hard labor in the *bagnes* might be made more efficacious, moralizing, less expensive, and at the same time more humane, by being turned to account in the work of colonization. This suggestion had been referred to a commission, and the result of its labors was the proposition in question.

Cayenne is to be made the seat of the new penitentiary establishment. In order not to subject the convicts to transportation against their will, registers were opened at the *bagnes* of Brest, Rochefort, and Toulon, for receiving the names of those willing to go. Three thousand volunteered. They are to be sent off in detachments, the first to consist of artisans, who will prepare for the accommodation of those coming after.

The convicts are to be fed like prisoners of war, to be lodged like the troops in the colonial garrisons, to be clothed as the climate may require, not to wear chains, except as a means of punishment; to be kept in order by a military force, gendarmes, police, &c.; to be accompanied by a chaplain, and an hospital is to be established.

It is proposed to employ them mostly in cultivating the land, and those conducting themselves well are to receive concessions of land.

The estimated cost of founding the penal colony and making the changes is four millions and a quarter of francs.

The *bagne* of Rochefort is to be immediately suppressed, and the elements of a new decree are now being elaborated, which shall abolish the institution of *bagnes* in France.

3d. *Transportation.*

According to the code of 1832 this punishment is only for political offenders. Since 1815 it has been so difficult to find a suitable place for the reception of criminals that, to a great extent, transportation has given place to arbitrary imprisonment. But, at this moment, the government is organizing extensive penal colonies in Cayenne and Algiers. By a decree, dating but a few years back, criminals to be transported to these colonies will include those who have been convicted of *rupture de ban*, or in other words, with having transgressed the regulations concerning former convicts who are under the surveillance of the police.

4th. *Imprisonment and hard labor for a term of years.*

This punishment is very common. The duration of it is not less than five nor more than twenty years. It is applied to the following offences:

1st. Counterfeiting or altering the copper coins of French or foreign currency, or passing or assisting in the circulation of counterfeit copper coin; counterfeiting the common stamp of the state, or the gold and

silver stamp, or the timber mark; and lastly, forging of legal documents, or of commercial or banking paper, whether by counterfeiting or altering the writing or signature, or by the writing of false articles of contract, or false provisions to legal documents, or false indictments, or false codicils, or the alteration of clauses, depositions, or statements of which any legal document is composed, or assisting in the execution of or in any way practising such forgeries;

2d. The giving of a passport, on the part of a public officer, made out in a false name, and he knowing it to be false;

3d. The embezzlement or purloining, on the part of a clerk, receiver, public depositary, or accountant, of public or private money, or current bills, or documents, or titles, or moveable effects, which may be in his possession by virtue of his functions, provided the value is over 3,000 francs; and no matter what may be the value of the embezzled or purloined property, if this property exceeds or equals a third of the whole receipts or deposites in the offender's possession; or if it consists of money, or documents received or deposited as security; or if it is a receipt or deposite attached to a place requiring security; or if, lastly, it is a third of the common product of the receipts for one month, or a receipt composed of successive entries not subject to security.

4th. The destruction, suppression, embezzlement, or intentional mislaying, on the part of a judge, administrator, public officer, or functionary, of acts or documents, of which he may have been, in his official capacity, the depositary, or which may have been confided or communicated to him in his official capacity;

5th. Also the same crimes, when committed by any officer or clerk, whether of the government or of a public depositary;

6th. Rebellion, when more than twenty armed persons are engaged in it;

7th. Favoring the escape of a person condemned to death or to hard labor for life, whether by the guardian of the prison or persons who have corrupted him;

8th. Breaking of seals;

9th. The forming or commanding of bands before any crime has resulted from their organization;

10th. Wounds given with premeditation, or lying in wait.

11th. The suggestion or application of means of abortion by physicians, when followed by the effect intended;

12th. Violation of a child under twelve years of age;

13th. Bigamy;

14th. Sequestration of a person without the order of the proper authorities, except, in those cases provided for by law;

15th. Exposure of a child;

16th. Abduction of a girl under sixteen years old;

17th. Perjury for money;

18th. Aggravated theft;

19th and lastly. Misdemeanors of constructors or purveyors.

Those who in these numerous cases have been condemned to hard labor are employed at the severest kind of work. Each one has a chain and ball attached to his foot. When the nature of the work permits it they are chained together in couples.

Women and girls condemned to hard labor, are employed in the interior of the prisons. The men, generally, work in the open air.

Those who are condemned to hard labor and confinement are exposed, for one hour, on a public place. A writing placed over the head gives, in large legible letters, the name, profession, domicile, crime, and punishment of the criminal. This punishment cannot be pronounced against minors under 18 years of age, or septuagenarians. The Court of assizes can also, when the condemnation is not for life, and when it is the first offence of the criminal, direct that it be dispensed with.

The penal code of 1832 substituted for the pillory public exposure. The only mitigation of the severity of this kind of punishment is in the power given to the Court of assizes of dispensing with it, which is frequently done.

Another consequence of this punishment, as well as of *réclusion*, *détention*, and banishment, is civil degragation, (on which I shall speak more at length hereafter,) the being placed under the *surveillance* of the high police, and deprivation of all civil rights.

A brief abstract of the sentence is printed and posted in the chief town of the department, or in the city where it was pronounced; in the *commune* of the place where the offence was committed; in that where the sentence is executed; and in that of the domicile of the criminal.

5th. *Détention.*

Those who are sentenced to this punishment are confined in some one of the fortifications in continental France, specified by an ordinance of the president. The prisoners communicate with the persons in and out of the fortifications, according to a police regulation established by an ordinance of the executive power.

This punishment cannot be pronounced for less than three nor more than twenty years. It is pronounced but in few cases, as follows:

1st. Conspiracy, when not followed by an overt act;

2d. Design upon the life of any member of the reigning family, when formed by one person alone, and followed by some overt act towards its execution;

3d. The celebration of a marriage by a priest, who has not first satisfied himself, by presentation of the *acte civil*, that the marriage has been regularly contracted, and who has been already punished twice for a similar omission. In explanation of this provision it may be remarked, that the code civil recognizes no other marriage than the *mariage civil*, which must be performed before a civil magistrate, according to certain prescribed forms—a regulation provided by Napoleon, in order to diminish the influence of the clergy.

4th. Writing a direct provocation to the disobedience of the laws, or to any act of the public authorities, or which has a tendency to excite citizens to take arms.

6th. *Réclusion.*

Réclusion consists of imprisonment in a *maison de force*, (penitentiary,) in which the prisoners have a choice of labor in several trades. The duration of this punishment is not less than five or more than ten years.

A decree of 25th of February, 1852, regulates the work in the prisons. The prisoners who are not directly employed by the administration in works destined to the service of the prisons, or to the public service, can be employed in works of private industry, under certain conditions, determined on by particular regulations. In virtue of this decree the minister of the interior has issued a *reglement*, by which the employment at different works, which may be exercised in the *maisons centrales* and prisons of the Seine, is fixed by contract and by public competition.

With the consent of the administration, the manufacturers in the prisons can make experiments, which may be introduced at a later period in their establishments.

The minister of the interior fixes the minimum and the maximum of number of prisoners who can be employed at each trade.

It is inflicted for—

1st. Counterfeiting, under certain circumstances, whether of money or documents;

2d. Bribery of a judge or jury in criminal affairs;

3d. Abuse of authority in certain cases, or aiding or abetting the same, when against the commonwealth;

4th. Rebellion without arms, when more than thirty persons are engaged in it, or with arms, when it consists of from three to twenty persons;

5th. Premeditated violence against public functionaries, or their agents, when it causes wounds, sickness, or the shedding of blood;

6th. Favoring the evasion or escape of a prisoner;

7th. Breaking the seals of public documents, or taking them away from public depositories;

8th. Lending any assistance to a band or association of malefactors, formed against persons or property; or for knowingly and voluntarily furnishing weapons, munitions, instruments of crime, lodging, retreat, or place of meeting, to any such band, or to any portion of it;

9th. The commission, on the part of a beggar or vagabond, of any act of violence for which, owing to the peculiar circumstances, other and severer punishments have not been provided; and, also, in case such beggars or vagabonds have made use of false certificates, passes or passports;

10th. Assault and battery, causing wounds or sickness, or leading to inability to work for twenty days; and in case of assault and battery which causes no such result, but is committed against a legitimate, illegitimate, or adopted father or mother, or against a legitimate grandparent;

11th. Furnishing the means for producing abortion in a pregnant woman, when by the use of the same there results sickness, or inability to labor for more than twenty days;

12th. An indecent assault, (*attentat à la pudeur*,) attempted or committed, without violence, on the person of a child of either sex, under eleven years of age, or any such assault on a person over fifteen years of age;

13th. The abduction of a child; the secretion, or denying the existence of a child; or the substitution of one child for another; or the pas-

sing off of a strange child as the child of a woman who has never been delivered;

14th. The abduction, by fraud or violence, of minors; or enticing or removing them away from those under whose authority or direction they have been placed, and to whom they owe obedience;

15th. Perjury, without bribery, in a trial for misdemeanor, or a simple police case.

7th. *Banishment.*

Persons who are condemned to banishment, are conducted to the frontiers of the State, under order of the government, and there set at liberty.

This punishment, which dates back to the Roman law, *(relegatio,)* was abolished by the code of 1791, for reasons of international comity. To set criminals loose in foreign territory was considered contrary to the principles of good neighborhood. Nevertheless, it was re-enacted by the code of 1810, and by an ordinance of April 2, 1817, persons condemned to banishment were to be first confined at *Pierre Châtel,* whence they were sent to foreign countries only in the event of a royal permission.

In case the banished person returns to the country before the expiration of his term, he is condemned, on the simple evidence of his identity, to imprisonment for a term of years at least equal to, but never more than double, his unexpired term of banishment.

Late penal codes in other countries—the code of Prussia, for instance —have not introduced this punishment.

8th. *Civil Degradation.*

This is rather an accessory than an independent punishment, being the result of a condemnation to *détention, réclusion,* or banishment.

The punishments of hard labor for life, of transportation, and of death, involve also civil disability, or, as it is sometimes called, civil death, the chief characteristics of which are, the loss of all property on the part of the condemned; the opening of a new succession in favor of his legal heirs; incapacity to dispose in any way of his property, in whole or in part; incompetency to perform any civil act; and, finally, so far as its civil effects are concerned, dissolution of marriage.

The results of civil degradation are:

1st. Forfeiture of all political, but not civil, rights;

2d. Dismissal from public functions or employments;

3d. Deprivation of the right of voting, or of being elected to any office;

4th. Incapacity to give evidence in public affairs, or to be a juryman or an official appraiser or surveyor;

5th. Exclusion from taking any part in the *conseil de famille,* (council of the nearest relatives,) or of being a tutor or guardian;

6th. Deprivation of the right to bear arms, to belong to the national guard, to serve in the army, to keep school, or to be employed in any educational institution;

The only instances of civil degradation without previous punishments are:

1st. In case of fraud at elections, such as fraudulently taking away or altering ballots;

2d. The infringement on the personal liberty of a citizen by the arbitrary action of a public officer;

3d. In case of wilful resignation of a public office for the purpose of preventing or suspending the administration of justice, or of any public affairs;

4th. In case of the usurpation, on the part of a judge, of legislative or administrative functions which do not belong to him;

5th. In case of the taking of pay by a public officer for doing his duty when no pay is allowed by the law;

6th. In case of insult offered to a judge in court, or to a priest while in the exercise of his functions; lastly,

7th. The bribery of witnesses in a case before the correctional police. Perjury in civil procedure, is provided for in the same way.

II.—PUNISHMENTS FOR MISDEMEANORS, (*en matière correctionnelle.*)

These punishments are as follows:

1st. Temporary imprisonment in a house of correction;

2d. Temporary forfeiture of certain political or social rights;

3d. Fines.

The nature of these punishments is as follows:

1st. *Temporary imprisonment.*

This is not for less than six days, nor more than five years, except in case of repetition of an offence, when the judge, in view of aggravating circumstances, can increase the punishment.

By the provisions of the penal code, persons who are sentenced to imprisonment are confined in a house of correction, where they have the privilege of choosing some kind of labor. The product of their labor is applied partly to the expenses of the prison, partly, where it is merited, to procure some alleviation of the lot of the prisoners, and partly to form a reserved fund which is given to the prisoner on the expiration of his sentence.

2d. *Temporary forfeiture of certain political and social rights.*

The rights which in case of civil degradation are completely annulled, are in this case merely suspended.

3d. *Fine.*

This punishment is either pronounced separately, or in addition to imprisonment.

It is to be remarked, that in all the system of fines imposed by this code, no allowance is made for the difference of property of offenders.

The Roman law declared a fine which was disproportioned to the fortune of the offender to be null, (*mulcta immoderata et excessiva ipso*

jure nulla est,) and in case of poverty, the fine could be remitted by the judge.

In the Brazilian penal code, fines are regulated in a remarkable manner. No specific amount is fixed in any case, but it depends wholly upon the offender's income.

The French jurists affirm, in defence of their system, that to estimate the property of the person condemned, in such instance, is too difficult; and for this reason their best authors advocate the system of giving to the judges, in this respect, unlimited power.

The annals of penal condemnations in France show that fines, as regulated by the existing legislation on this subject, often amount to confiscation of the offender's whole property; and this punishment was abolished by the code of 1832.

The French legislators fail, in this respect, to accord a right which in England dates back to the *Magna Charta.* The articles twenty-five and twenty-eight of that instrument, declare that fines shall depend upon the amount of property of the person fined.

It may be well to remark, however, that in practice, this provision is far from being strictly observed.

The new penal code of Prussia, by which the minimum fine is one thaler, (sixty-nine cents,) leaves the amount of the fine to the discretion of the judge. In case of insolvency, the punishment is changed from fine to imprisonment, one day of imprisonment being reckoned, according to circumstances, from one to three thalers. (Article 17.)

So far as can be judged by Staunton's translation of the *Ta-Tsing-Lew-Lee,* in which all offences, even capital offences, can be redeemed in money, according to a regular tariff of prices (as in the *Leges Barbarorum* of Germany,) it would seem that the Chinese go further in respect to the system of pecuniary retributions and substitutions, in case of crime, than any other people.

III.—Punishments for Crimes or Misdemeanors.

To this class belong:

1st. Placing persons under the surveillance of the high police;

2d. Pecuniary damages in favor of the injured party;

3d. Fines,

Of which I have already spoken, and which, together with damages and costs, may be changed, where there is incapacity to pay, to imprisonment.

After one year's imprisonment on account of the fine and costs of suit, counting from the termination of the punishment for the offence for which the offender was imprisoned, he can demand a conditional liberation.

In case of simple misdemeanor, additional imprisonment, on account of inability to pay a fine, cannot exceed six months.

The surveillance of the high police is a punishment which was much mitigated by the code of 1832.

By the original penal code, persons who incurred this punishment had to give bonds for good behavior, (the amount being fixed by the

judge,) on leaving prison, and were compelled, besides, to reside in some place appointed by the magistrate.

In the code of 1832, this provision was abolished, and the government has only the right to designate certain places to which the criminal shall *not* go.*

At the expiration of his term of imprisonment, the criminal must declare where he intends to reside, and is furnished with a passport (*feuille de route*) to that place, by which he must regulate his route, and from which he is not to deviate. This passport indicates also the time he can rest in each place on the route.

Within twenty-four hours after his arrival, he must present himself at the mayor's office, and not leave it till he has received a new passport. In case of violation of either of these provisions, he is liable to imprisonment for a term not exceeding five years.

These punishments are never inflicted independently of each other, but always additionally.

Many regulations exist as to their execution, to which reference will be made later.

In case of crime and misdemeanor, the offender can be condemned to damages in favor of the injured party. The amount of these damages is left to the decision of the judge, provided the injured party demands it.

More precise regulations concerning the realization of such demands will be given under the head of penal procedure.

IV.—Police Punishments, (*Peines de police.*)

To this lowest class of penalties, belong imprisonment and fine, and the confiscation of certain objects seized by the authorities.

The penalty of imprisonment pronounced by the police courts cannot be less than one day, or more than five days, according to the distinction and classes laid down by law. One day's imprisonment is a term of twenty-four hours.

The fine can be from one to fifteen francs, inclusive, and is also pronounced according to the different classes and distinctions of the law. Fines are applied to the benefit of the commune where the offence was committed.

In certain cases fixed by law, the police court can pronounce the confiscation, either of the object seized, or the materials or instruments which have served, or were destined to commit the offence.

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* By a decree issued lately, all persons under the surveillance of the high police are forbidden to remain in Paris, or its environs, or in Lyons.

BOOK II.

CONCERNING PERSONS PUNISHABLE, EXCUSABLE, OR RESPONSIBLE FOR CRIMES OR MISDEMEANORS. (DES PERSONNES PUNISSABLES, EXCUSABLES, OU RESPONSABLES POUR CRIMES OU DELITS.)

This book contains general provisions concerning the personal effects of a punishable action. It is not enough that the law, *in objectivo*, fixes the requisitions and conditions of a crime or misdemeanor, but the legislator has another and more difficult task to determine, *in subjectivo*, the elements of culpability.

For this last, the legislator must be acquainted with the laws of psychology as well as with the laws of criminal polity.

The will only must be punished; that is, the free, spontaneous, conscious will; and when, instead of this will, a condition of the mind exists which leads irresistibly to an action which is attended by penal consequences, or when no will exists, owing to want of intelligence and the incapacity to distinguish between right and wrong, a just law can find no wrong, and institute no punishment.

It is the chief duty of the judge and the jury to appreciate the mental condition of the accused, and to know how far he has knowingly and voluntarily committed an action which in itself is considered by the law as a crime or misdemeanor.

This book also contains general rules concerning participation in a punishable action; and to this end is divided into two parts—the first treating of the consequences of the participation of several persons in the same crime or misdemeanor; the second, defining the circumstances which make the act of an individual punishable.

By this last provision, the judge and jury are not limited in their decisions in this respect, as they have in every case to determine whether there is impunity, and to what extent.

The law gives merely the general grounds which are demanded by equity and morality, without ever making the application to a single case. Complicity differs therefore from culpability as a principle, in so far that, in what regards the first, the law defines clearly and fully its nature and consequences; while in what regards the second, all the circumstances which constitute an offence are not positively defined, but only negatively; and it gives some exceptions in which a complete or partial exercise of judicial discretion is allowed.

I.—*Complicity.*

By complicity in its widest sense is understood the action of a person who has participated in the preparation, execution, or consummation of a crime. It is of a two-fold nature—material and moral. The material participation consists in furnishing the means of execution; the moral participation consists in the direct or indirect provocation to crime by means which are particularly defined by the law. In article 60 every case of complicity is detailed.

According to this article, there are punished as accomplices:

1st. Those who have excited to crime, or aided and abetted in it by

gifts, promises, threats, abuse of authority or of power, machinations, or guilty artifices;

2d. Those who may have furnished arms, instruments, or any other means which may have served in the commission of the offence, knowing that they were to be so used;

3d. Those who shall knowingly have aided and abetted the author or authors of a crime by any acts which may have prepared or facilitated its execution.

This is without prejudice to the punishment specially prescribed against the authors of *complots*, or of provocation against the exterior or interior security of the State, even in the case when the contemplated crime of the conspirators has not been committed.

In order to better understand this last provision, it must be remarked that a very important distinction exists between complicity and complot. Both are alike in this, that in both there exists a co-operation of several; the difference between them is, that complicity is in general the participation of several, whilst the complot is either alone a particular offence on account of the object of the association; or with the complot the grade of the offence, and the quantum of the punishment, in certain cases designated by the law, are augmented. In other words, in case of complicity, the participation in the case of each individual is examined separately, and the fact of the co-operation of several is regarded as accidental and without influence. In case of complot this distinction of the particular participation is not established, and the fact of the association or conspiracy is alone the ground of the punishment.

In the *Code Pénal*, complot, in this last signification, is treated of in articles 265 to 268. "Complot" is, in article 265, called a crime against public peace, and is defined as "every association of malefactors against personal property."

The article following shows clearly the nature of a complot, as has been described. According to it, the complot exists by the fact alone of the organization of bands, or correspondences between bands and their chiefs and commanders, or by the fact of covenant, even agreeing to render account, or to make peculiar division of the products of the misdeed.

The members of these bands are punished by temporary hard labor; and those who are not members of the band, but have knowingly co-operated with the same, are punished by *réclusion*.

Bearing in mind the distinction just explained, let us return to particular cases of complicity as determined by the law.

Those persons are punished as accomplices who, knowing the criminal intentions of malefactors proposing robbery, or violence against the security of the state, the public peace, persons, or property, furnish them habitually lodging, or places of retreat, or of meeting.

Lastly, those are regarded as accomplices who have knowingly received and secreted objects taken away, embezzled, or obtained by means of any crime or misdemeanor.

The accomplices in a crime or misdemeanor are subject to the same penalty as the authors, except in those cases where the law has provided otherwise. These exceptions are very rare, viz: in case of a seditious gathering, of counterfeiting a public act, of adultery, of the

banding together of malefactors, of opposition by acts to the continuation of works authorized by the government.

Although the punishments fixed by law are equal for all accomplices, they may nevertheless differ, as every offence has various degrees, and the judge can, according to the graduation of the offence, act within the maximum and minimum of punishment.

Some interesting decisions of the court of cassation will serve to show more clearly the spirit of the French legislation on this subject:

The accomplice of a parricide is punished the same as the principal offender, although the relationship exists only between the principal offender and the victim. Nevertheless, the court of cassation has recognized that when the punishment must be more rigorous in consequence of the repetition of the crime, this aggravation does not touch the accomplice, because the repetition is a personal matter, and does not affect the nature of the crime itself.

Assisting the flight of a criminal has been decided by the same court not to be an act of complicity.

Finally, the court of cassation has decided, in a very doubtful case, and in contradiction to the opinion of many jurists, that an accomplice can be prosecuted and have the whole punishment inflicted upon him, even when the principal cannot be prosecuted—for example, in case of flight or death.

A milder decision of this court, on the other hand, declares that the wife is not an accomplice in case of the secretion of stolen goods in the conjugal residence.

In the theory of complicity, the German, and many other codes, differ essentially from the French legislation.

Many grounds of complicity are established. A difference is made between the originator and the accomplice; the originator is either intellectually or physically so. In either case the punishment is the same. But in regard to accomplices, a distinction is made between a principal and an accessory.

By the first is understood those without whose co-operation the deed could not have been completed; while by the last is understood those who merely facilited its execution, and render assistance not absolutely necessary to its consummation. The accessory receives a milder punishment than the principal accomplice. The principal accomplice receives the same punishment as the principal originator.

Besides this complicity before and at the time of the deed, these codes recognize a complicity after the deed—the so-called *Begünstigung*, or "aid and comfort."

This being accessory after the fact, is a crime much less severely punished than any participation in the fact itself.

Even the French law makes the only exceptions in regard to complicity after the deed, in favor of the *recéleur*, or he who has secreted the objects which have been obtained by a crime. In this last-named case the punishment of death is changed to hard labor for life.

This last punishment, or that of transportation, is changed to hard labor for a term of years, when it is found that the receivers had no knowledge of the circumstances to which the law attaches the punishment of death, hard labor for life, and transportation.

On account of great doubts among jurists, the Council of State, on the 10th of December, 1813, gave an interpretation of the prescriptions concerning the receivers of stolen goods, by which, when a robbery has been committed by means of a murder, the persons who have received the stolen goods, and having knowledge of this fact, must be considered as accomplices in the murder.

The Prussian penal code contains a special article on provocation to an offence by speeches in public places, or before public assemblies, or by writings, caricatures, or other representations, which may be sold, distributed, or colported, or openly exposed or placarded.

In this case, complicity exists when the provocation results in a crime or misdemeanor, or a criminal attempt, liable to punishment.

If the provocation is without any such result, the sentence of imprisonment is pronounced for one year, when the crimes have no other penalty attached to them. (These provisions of the Prussian law are borrowed almost textually from a French law of the 10th May, 1819.)

Another French law contains a regulation concerning the press, (it is dated September 19, 1835,) by which every apology for actions defined as crimes and misdemeanors by the penal law is particularly punished.

The Prussian penal code fixes but a mild punishment for those who, after the commission of a crime or misdemeanor, give assistance to the perpetrator, in order to shield him from punishment, or to secure to him the advantage of the crime or misdemeanor. Such *Begünstiger* is punished by fine, not to exceed two or three thalers, or imprisonment, not to exceed one year. When the assistance rendered to a criminal to shield him from punishment is rendered by ascendants or descendants, brothers, sisters, or spouse, there is no punishment. If the assistance is rendered in consequence of an agreement made before the commission of the crime or misdemeanor, the person rendering assistance is punished as an accomplice.

II.—*Cases in which an excuse is allowed, and in which a complete or partial responsibility is established.*

The 64th article of the penal code contains most important provisions, to the effect that neither a crime nor a misdemeanor exists when the accused is in a state of mental alienation at the time of the commission of the act, or when he is constrained by a force which he cannot resist.

The laconicism of the French code on this subject is not to be found in most of the other codes, where want of intelligence or free will are specified. Some codes go so far in this respect, that they enumerate the cases of mental alienation—one might almost say medically. For example, the code of Oldenburg, which speaks even of melancholy as a ground of impunity.

Other codes speak specially of the deaf and dumb, and make a special distinction between those who by their education have reached such a degree of intelligence, that it is to be supposed they can distinguish good from evil; and those whose mental and moral incapacity is as unfortunate as their incapacity for hearing and speaking. Many

codes treat of very old age, and declare those persons who have reached their second childhood to be irresponsible.

The French code has established a general formula, under which all these particular cases fall, and has thereby a great advantage over other codes, for the greatest controversies always arise in the settlement of individual and exceptional cases, concerning which the other codes are always insufficient and defective.

The judge or jury must seek in every particular case to know if the offender was exposed to influences or impulses which he was incapable of resisting; if he was a responsible being in the full exercise of free-will and mental capacity; or if, in the absence of those mental and physical qualities which distinguish rational men from lunatics and idiots, he had not ceased to be an accountable being.

Lastly, when there is full possession of the mental faculties, an offence may be committed under circumstances which could not have been resisted, as, for example, when the husband kills the adulterer whom he surprises *in flagrante delicto*, he may be said to have been impelled by an irresistible force. If he kills the adulterer some time after the adultery has been committed, then it cannot be said that he acted under the influence of irresistible force, for it is to be supposed that in the interval his reason had resumed its sway.

The French code contains not one word about drunkenness, and it is only necessary to know if a man in that condition was so far clouded in his faculties as to have been impelled by a force which such a state of mind made him unable to resist. The court of cassation, however, has repeatedly decided, that drunkenness was no ground for excuse or impunity.

Certain German penal codes have special provisions concerning drunkenness, and we find in some of them the remarkable principle that a high degree of drunkenness always excuses, when the person has not intentionally put himself in that condition in order to commit an offence.

Most of the codes speak under the head of imputableness—of self-defence. In this case, when the conditions of a legitimate self-defence exists, that is, when an attack on persons or property is made, and the same cannot be prevented by the intervention of the legal authorities, there is no criminality, and resistance only becomes a crime or misdemeanor when the limits of this legitimate defence are exceeded.

The penal code does not speak of self-defence in the general part of the second book, but only in the special part of the third book, in which the different crimes and misdemeanors are treated of. Homicide, wounds, or blows, necessitated by legitimate self-defence, constitute neither crimes nor misdemeanors.

This legitimate defence exists: 1st. When the homicide is committed, or the wounds or blows given result from repelling an attempt at *escalade*, or breaking into enclosures, over walls, or into the entries of a dwelling-house, or an inhabited apartment or their dependencies. 2d. If the action occurs in defending one's self against robbers or persons engaged in pillage by means of violence.

In some cases, the French law declares an offender excusable in manslaughter. For instance, wounds and blows, or when they are provoked by wounds or violence against the person, or when committed

in repelling an *escalade* of an inhabited house during the day; the killing of an adulterous wife or her accomplices when caught in the act; and even the crime of castration, when it is provoked by a violent indecent assault.

In these cases, the excusability does not imply complete impunity, but the ordinary punishment is greatly diminished.

The new penal code of Prussia does not define self-defence (*Nothwehr*) particularly, as the French code does, and gives no particular instances. By that code, self-defence is to be treated as a case in which an offending person had, under the influence of confusion, fright, or fear, exceeded the legal bounds of defence.

Concerning youth, the French code decides that when the accused is less than sixteen years of age he shall be acquitted, provided it is ascertained that he acted without discernment. But in that case he is either given over to his parents or put into a house of correction, in order to be educated and reformed. In the latter case he is detained as long as the sentence of the court determines, which time, however, cannot extend beyond the epoch at which he shall have completed his twentieth year.

In cases when it is decided that he has committed the offence with discernment—that is, with a knowledge of its character—he is punished, but with a milder punishment than in ordinary cases. That is to say, instead of punishment of death he is sentenced to imprisonment and hard labor for life, and instead of transportation, he is condemned to imprisonment from ten to twenty years in a house of correction. Instead of the punishment of imprisonment and hard labor for a term of years with *détention* or *réclusion*, he is condemned to confinement for a term equal to one-third at least, and one-half at most, of the term fixed by law. Instead of civil degradation and banishment, he is condemned to confinement in a house of correction for from one to five years.

A child under sixteen years of age, and having no accomplices older than himself, who is accused of a crime other than that which the law punishes with death, imprisonment and hard labor for life, transportation, or *détention*, is not judged by the court of assizes but by the *tribunal correctionnel*, and according to the rules which have been given above.

In all cases, when the minor, under sixteen years of age, has committed only a simple misdemeanor, the punishment pronounced against him cannot exceed the half of the punishment which he would have been sentenced to had he reached sixteen years.

Other European penal codes have adopted some of these provisions and introduced some modifications concerning age. For example, the laws of Norway and Wurtemburg decide that children under the age of ten years cannot be punished. By the laws of Bavaria and Oldenburg they cannot be punished under the age of twelve years. The Russian laws have the same provisions in this respect as the French.

Lastly, it may be remarked, that many penal codes lay a stress upon the circumstances and motives under which the offence was committed.

According to the theory of these laws, the intention to commit a particular crime or misdemeanor, which has been accomplished, belongs to the imputation of a crime, (*dolus determinatus.*)

Hence those persons are exempt from punishment who, at the time

of the act, supposed they were performing an action not forbidden; but which action, though not prohibited in itself, is nevertheless punishable on account of accidental circumstances, not known to the offenders.—(Codes of Saxony, Wurtemburg, and Hesse Darmstadt.)

The code of Hanover goes so far as to provide a mitigated punishment for persons who, from ignorance or error as to certain facts, have not known the legal characteristics of an act, or of the means used for accomplishing it, and have in consequence been led to commit a more serious offence than was intended.

This minute analysis of criminal motives causes great difficulties to arise in the execution of the law, which cannot occur under the French code, as it in no case defines criminal motives.

III.—*Cases in which an extenuation of culpability, and, consequently, a diminution of the punishment occurs.*

A general principle of the French code is, that no crime or misdemeanor can be excused, except in those cases especially provided for by law. In a similar manner, there can be no mitigations of punishments, except in cases provided for by particular provisions. There is one case only, that of parricide, where no extenuating circumstances or palliation is allowed. In all other crimes and misdemeanors, the punishment can be mitigated, when there are extenuating circumstances.

The code of 1832 set forth an entirely new theory on this point. According to this code, whenever there are extenuating circumstances, the punishment is changed and graduated, according to a given scale. (Article 463.)

The existence of extenuating circumstances is decided in each case by the jury. The correctional courts can also decide on this subject. In this theory it stands alone, and in the other codes extenuating circumstances have only this effect, that the judge chooses within the minimum and maximum of the punishments fixed by law, and, according to his judgment, pronounces either the minimum or an appropriate quantum.

The peculiarity of the provisions of the French law can be explained, when it is understood that the legislator wished to give the judge the power to make in every case an exception to the rule, in favor of the accused, for whom the general punishment seemed too severe.

The most prominent writers on criminal law, and more especially Faustin-Hélie, in his excellent work on French penal legislation, criticise this system, on the ground that the judge wields too great a power, and that by admitting an exception to every rule, in the end no general rule can remain.

The punishment of imprisonment and hard labor for life, of transportation, and of imprisonment and hard labor for a term of years, cannot be pronounced against any person over seventy years of age. These punishments are replaced in each case in the following manner: Transportation is changed to imprisonment for life; hard labor to confinement.

Also when a person condemned to imprisonment and hard labor reaches seventy years before the expiration of his sentence, he is freed

from that punishment and confined in a *maison de force* for the remainder of his term of punishment.

The grounds for mitigation of punishment on account of youth, are given here, because the principal question concerning them is, whether the fact of responsibility can be established; or, in other words, whether the offence was committed with discernment or intelligently.

IV.—*Cases in which punishment is aggravated.*

Whoever has committed a crime, and on this account is condemned to a *peine afflictive* or *infamante*, is, on the commission of a second crime, which has for its punishment civil degradation, condemned to banishment. When the penalty for the second crime is banishment, he is condemned to *détention*. When the penalty in the second instance is *réclusion*, he is condemned to imprisonment and hard labor for a term of years. When it is *détention*, he is condemned to the maximum of the same punishment, which, in certain cases, can be doubled. When it is hard labor and imprisonment for a term of years, he is condemned to a maximum of this punishment, which can also, in certain cases, be doubled. If it is transportation, he is condemned to imprisonment and hard labor for life. And, when it is imprisonment and hard labor for life, he can be condemned to death.

Whoever, after having been punished for a crime, commits afterwards a misdemeanor, which is liable to correctional punishment, is condemned to the maximum of this penalty, which can also, in certain cases, be doubled.

Whoever has already been punished for a misdemeanor by imprisonment of over one year, is condemned to the maximum of the punishment provided for the new offence, which can also be doubled, and is also placed under the surveillance of the high police, during not less than five, nor more than ten years.

In its provisions touching the repetition of offences, the French code differs from all others in this respect, that the increased severity of a punishment, on account of a former condemnation, does not depend on the identity of the two offences, but on the nature of the punishment to which the criminal was before condemned. This theory is logical with the whole system by which crimes and misdemeanors are not separately defined, but depend upon the punishments which are attached to them.

Condemnation for imprisonment of less than one year has no influence on the sentence for a second misdemeanor.

For *contraventions*, the second offence involves increased severity of punishment only when it occurs within a twelvemonth of the first offence, and within the jurisdiction of the same police court.

Cases of repetition of offence have also the peculiarity, that the punishment cannot be mitigated on account of extenuating circumstances, excepting at the correctional courts, and then only in the case of the punishments of imprisonment or fine.

In this last case, when there are extenuating circumstances, the imprisonment can be reduced to less than 6 days, and the fine to less than 16 francs.

The correctional courts can even pronounce these penalties separately, and in certain cases substitute fine for imprisonment, without, however, pronouncing a penalty less than that of the police court.

It has been decided by the court of cassation, that the question of *récidive* cannot be proposed to a jury; although it always decides in a matter of extenuating circumstances, it has no decision in the matter of second offences. The consideration of these belongs exclusively to the judge, who, on the basis of the verdict of the jury, applies the law and determines the punishment.

The same court has decided in numerous cases, that when an individual is prosecuted at the same time for several misdemeanors, or is punished on account of a crime or misdemeanor, the maximum of the punishment for one offence will be pronounced, when the offences are of various natures, (*pœna major absorbet minorem,*) but when the punishments are of the same nature, then, according to the principle laid down by the court of cassation, accumulation of the punishment which accompanies these offences follows, in so far as not to exceed the maximum of this punishment.

On this point, also, there is great controversy, both as respects theory and practice among jurists; and the opinion of the court of cassation is contradicted by that of the most eminent writers on criminal law in France.—(Berriat Saint-Prix, *Cours du Droit Criminel.*)

V.—*Cases when the punishment ceases.*

A punishment ends not only by the expiration of its term, but also for other legal reasons.

It has already been shown that the punishment of imprisonment and hard labor ceases at seventy years of age. A more general case than this is the extinction of a punishment by limitation, *préscription.*

The penal code does not treat of this subject; its principles, however, are laid down in the code of criminal procedure. According to these principles, limitation of a punishment for crime takes place in twenty years, counting from the date of the sentence; for misdemeanors, in five years after date of sentence; for contraventions, in two years after date of sentence.

Prosecution on account of a crime punishable by a *peine afflictive* or *infamante,* cannot be instituted after a lapse of ten years from the day when the crime was committed, if within this period no *acte d'instruction* or prosecution has been entered.

A misdemeanor cannot be prosecuted after three years have elapsed from the date when it was committed, and a simple contravention after one year.

The limitation of the period for prosecution, as well as of the period of punishment, is found in all European codes. In regard to the terms, there are various modifications, which are not interesting.

The writers on criminal law urge the necessity and justice of limitation in these respects, on the ground that, after the expiration of a long period of time, the traces of a crime become effaced, and at the trial the accused might easily be sacrificed on vague and insufficient evidence.

BOOK III.

CRIMES, MISDEMEANORS, AND THEIR PUNISHMENTS.

In treating of this book, which enumerates the crimes and misdemeanors in particular, and gives the punishments attached to them, great detail will be unnecessary; for we merely find here the application of the general principles set forth in the two previous books.

In the first book, in the chapter on punishments, not only the particular penalties have been given, but also the names of the particular offences to which these penalties are respectively attached.

The theory set forth in the second book, on complicity and suspension of punishment, as well as on the aggravation and extenuation of the same, are relevant to the particular provisions of this book.

The third book commences with the divisions of crimes and misdemeanors, but gives no general definition of offences; whilst the code of IV *Brumaire*, defines an offence to be "the doing of what is forbidden, or the not doing what is commanded to be done by the laws, which have for their object the maintenance of social order and public tranquility." *(De faire ce que défendent, ne pas faire ce qu'ordonnent les lois, qui ont pour objet le maintein de l'ordre social et la tranquillité.)*

The code in force at present divides offences into two categories—those against the State, (*choses publiques,*) and those against individuals.

The four categories of Bentham which comprised, 1st. Private offences against the person or property of an individual member of the community; 2d. Offences committed against one's self; 3d. Public offences which can be injurious to a considerable portion of the community; 4th. Public offences which injure society as a whole, are not observed in this code.

I.—*Crimes and misdemeanors against the State.*

Crimes and misdemeanors against the state are those which compromise the security of the state, those which are in violation of the constitution, and those which disturb public tranquility.

Crimes against the security or safety of the State.

These are either those which, by means of communication with a foreign enemy, affect its external safety, in which case the punishment is death; or those which affect its internal safety by a criminal attempt against the executive power, or his family, (also punishable with death;) by crimes tending to trouble the state; by civil war; by the employment of armed force; by public devastation and pillage; in which cases also, when the execution of these crimes has been commenced, the punishment is death.

Crimes and Misdemeanors against the Constitution.

These either refer to the exercise of civil rights at political elections, or to attempts upon the liberty of citizens by the arbitrary acts of public officers, or an encroachment on administrative and judicial authority.

Crimes and Misdemeanors against Public Peace.

These are, counterfeiting; prevarication of public functionaries in the exercise of their duties; troubles caused to public order by the ministers of the different religions in the exercise of their functions; resistance to, or disobedience of, public authorities; associations of malefactors; vagabondage and mendicity; misdemeanors by writings, images, or engravings, distributed without the name of the author engraved or printed on the same; lastly, prohibited associations or meetings.

It is to be remarked, concerning the particular crimes and misdemeanors against public peace:

1st. Counterfeiting consists either in the preparing of false money, (the falsification of silver money being more severely punished than that of copper money;) or the counterfeiting of the seal of the state, or of bank notes, public papers, stamps, *timbres*, and marks; or the counterfeiting of public and authentic acts; or of commercial or banking paper; or of private documents; or lastly, the counterfeiting of passports, travelling papers, or certificates.

2d. Crimes and misdemeanors of public functionaries in the exercise of their functions, called *forfaiture*, consist in the embezzlement by a public depositary of objects confided to him, or in taking bribes; the demanding or taking by a public officer, in the exercise of his functions, of money or taxes which are not due; in the misdemeanors of functionaries who have taken part in commerce or in affairs incompatible with their office; the corrupting of public officers; in the abuse of authority in regard to individuals, (to which class belongs the violation of the secrecy of letters;) or in respect to the state, misdemeano s concerning the keeping the registers of births, marriages, and deaths; lastly, in the exercise of public authority illegally anticipated or prolonged.

3d. Troubles to public order by ministers of religion, in the exercise of their ministry, are either *contraventions* tending to compromise the social relations, in case, for example, of performing the religious ceremonies of a marriage before the marriage has been duly celebrated as prescribed by the civil code; or in criticism, censure, or provocation, directed against public authority in a sermon publicly pronounced; or in a pastoral writing; or in the correspondence on religious affairs of the ministers of religion with foreign courts or powers, without having authorization for the same from the minister charged with the surveillance of religion.

4th. Resistance, disobedience, and other like offences against public authority, are rebellion, that is, forcible attack, or violent resistance to a public officer in the exercise of his functions; violence or outrage against the depositaries of the government, when committed by words tending to inculpate the honor or delicacy *(délicatesse)* of the officers; the refusal of a service legally due, (under which head falls the refusal of service by a commandant, officer, or sub-officer of the public peace;) the case of a juryman or a witness alleging a false excuse; the *évasion* of prisoners, and the concealing of criminals; (the guardians of a prison, in case of an *évasion*, or escape, are punished according to the grade of punishment to which the prisoner was condemned;) the break-

ing of seals, or removing of documents from the public departments; the defacing or mutilation of public monuments; the usurpation of titles and functions; hindrance offered to the free exercise of religion.

5th. To the category of associations of malefactors, vagrancy, and mendicity, belong associations of malefactors against persons and property; and the vagrancy of persons who have no fixed domicile nor means of subsistence, and who exercise habitually no trade nor profession; and the asking of alms in any place where there is a poor house.

6th. Misdemeanors committed by writings, images, or engravings distributed without the name of the author printed or engraven on the same. This category explains itself.

By a law of 10th December, 1831, no writings on political subjects can be publicly posted or distributed in the public streets or squares.

7th. Forbidden associations are those which, composed of more than twenty members, assemble at fixed times for the discussion of religious, political, or literary subjects, without having obtained the authorization of the government.

II.—*Crimes and Misdemeanors against Individuals.*

These are divided into crimes and misdemeanors against persons and against property.

Crimes and Misdemeanors against Persons.

Those against persons are:

1st. Murder, or voluntary manslaughter.

2d. Assassination, or murder with premeditation and lying in wait.

3d. Menace, by anonymous or signed letters or writings, of assassination, poisoning, or any criminal attempt against others, which is punishable with death, hard labor and imprisonment for life, or transportation. (The penalty for such a crime is imprisonment and hard labor for a term of years, that is, in case the crime is accompanied by an attempt at extortion, such as ordering the deposite of a sum of money in a particular place, or any requirement of the kind.)

4th. Voluntary wounds or blows, without intention to kill, or any other voluntary crimes named in the laws, such as the fabrication of prohibited arms, castration, abortion, or sale of adulterated liquors, containing mixtures injurious to the health.

5th. Involuntary homicide—that is, homicide resulting from imprudence or negligence; also wounds and blows inflicted under the same circumstances.

6th. Attempts against morals, *(attentat aux mœurs)*—to which class belongs violation of the person; the corrupting and debauching of persons under twenty-one years of age; adultery on the side of the wife, which can only be denounced before the law by the husband; and on the side of the husband, but only in case of his keeping a concubine in the conjugal residence; and bigamy.

7th. The illegal arrest and sequestration of persons.

8th. Crimes and misdemeanors tending to interfere with or to destroy the civil and social condition of a child, or to compromise its exist-

ence; the abduction of minors; and infraction of the laws concerning inhumation.

9th. Perjury, calumny, injury, and revelation of secrets. This last misdemeanor is liable to be committed by physicians, surgeons, and other officers of health; by apothecaries, midwives, and all other persons who by their calling or profession are entrusted with individual or family secrets.

Crimes and Misdemeanors committed against Property.

These are:

1st. Robbery; that is, the fraudulent taking away of an object which does not belong to the person taking it. Robbery is either simple or "qualified." *Qualified* robbery is that which is accompanied by aggravating circumstances, such as have been before stated.

2d. Fraudulent bankruptcy; swindling; breach of trust; contravention of the regulations concerning gambling-houses, pawnbrokers' shops, and lotteries; (since 1830 lotteries have been prohibited, unless they have had for their object the encouragement of art or charity;) hindrance to the freedom and honesty of public auctions; violation of the regulations relative to manufacturers, commerce, or art; (to this class belong strikes of workmen for higher wages;) and lastly, misdemeanors of quartermasters general and other agents of the government for the purchase and distribution of provisions, forage, &c.

3d. Destruction of property, or injuries to the same—to which class belongs incendiarism. The particulars have been before spoken of.

BOOK IV.

POLICE OFFENCES AND THEIR PUNISHMENTS.

The definition of *contraventions* has already been given, as also the punishments attached to them. It is unnecessary to enter into the particular provisions, most of which depend on local circumstances connected with the police.

The *animus* of a crime, or the criminal intention, is not considered in contraventions; the punishment is regulated by the nature of the act and of its results alone.

The penal code divides contraventions into three classes;

1st. Those which are punishable with a fine of from one to five francs, inclusive;

2d. Those which are punishable with a fine of from six to ten francs, inclusive; and

3d. Those which are punishable with a fine of from eleven to fifteen francs, inclusive.

In these three classes, imprisonment can be pronounced for a term not exceeding five days, according to circumstances.

LAWS ON THE PRESS.

A new law on the press was promulgated the 23d February, 1852. The following are its principal features of interest:

No journal or periodical which treats of political matters or social economy can be created or published in France without the authorization of the government.

The proprietors of such journals or periodicals are bound, before their publication, to deposit at the treasury caution money. For the department of the Seine, of the Seine et Oise, of the Seine et Marne, and of the Rhone, the caution money is, for a journal appearing more than three times a week, whether on fixed days or not, 50,000 francs; if three times a week, or less, 30,000 francs. For cities with 50,000 inhabitants or over, the caution money for journals and periodicals appearing more than three times a week, is 25,000 francs. It is 15,000 francs for other cities, as well as for those journals or publications appearing three times a week, or at more distant intervals.

Journals and periodicals of less than ten sheets must pay, besides, a stamp duty.

The publication or reproduction of false news is punished by fine of from 5 to 1,000 francs, and if in bad faith, the penalty is from one month to one year's imprisonment, and from 500 to 1,000 francs fine. Misdemeanors of the press are presented before the courts of the *police correctionnelle.*

After a journal has been condemned, in the person of its responsible editor, for an offence of the press, the government has the power to suspend it for a period of two months after the condemnation, or to suppress it entirely. A journal may be suspended for two months by ministerial decision, after having received two warnings, given on sufficient cause, by the competent authority.

A journal may be suppressed, either after a judicial suspension or administrative suspension, or as a measure of general security, by a special decree of the president of the republic, published in the *Bulletin des Lois.*

THE CODE OF PENAL PROCEDURE OF FRANCE.

(CODE D'INSTRUCTION CRIMINELLE.)

Every criminal act may be considered under two points of view: first, as it affects the individual particularly injured; second, as it affects society, which is injured by every violation of the laws made for its preservation.

The French legislation separates these in the accusation of the criminal. The state prosecutes him who commits an offence against it in an *action publique*, which is directed and carried on by the representatives of society. The individual who is injured by a criminal act has an *action civile*, which is independent of the public action, but can nevertheless be joined to it.

This theory of public and civil actions, by which the former are prosecuted by a public officer, and the latter by a private party, forms the principal difference between the French and English systems of procedure. In a public action at French law a *nolle prosequi* is impossible; whilst in a civil action, where merely the material indemnification of an individual is concerned, the plaintiff may withdraw the suit.

1st. When the authorities receive information that an offence has been committed, they interfere, *ex officio*, and when even the person injured by the offence renounces, or even protests against the prosecution; or, *privatim*, has received reparation for the injury done to him, the magistrate must nevertheless avenge the injustice which society in general has received in the individual.

2d. When an individual makes a complaint (*plainte*) on account of an injury caused by a crime or misdemeanor, he makes application to the *juge d'instruction* (examining magistrate) of the place of residence of the offender, or of the place where he can be found. The complaint can also be made before other public officers, who take it in writing, (*procès verbal;*) nevertheless, in *correctional affairs* it can immediately be brought before the correctional court, (*Tribunal Correctionnel.*) This *plainte* is not in itself sufficient to give a claim for damages, but it requires a special demand, which can, however, be included in the *information* wherein the complainant declares himself as *partie civile*, just as in civil procedure, in which nothing is adjudged to the plaintiff without his special demand. This declaration as *partie civile*, can be made in every stage of the proceedings till the close of the oral pleadings.

When a magistrate *ex officio* directs the prosecution of an *action publique*, this *plainte* is not necessary; officers of justice collect the *elements* which serve, later, to form a judgment. This point will be spoken of in treating of the functions and competency of these officers.

3d. In regard to those who are competent to examine and to judge in criminal process, and the formalities to be observed by them, the French law makes two great categories, viz: the proceedings in which the proofs of an offence are collected, and the competency of the court to judge the same, when they fix suspicion on an individual, is decided on; and the procedure, of which the other was the preliminary, in the

criminal courts, which seek if the facts established in the preliminary process are sufficient to bring the case under one of the denominations of offence fixed by the law. These categories form the entire contents of the *Code d'Instruction Criminelle*, in the two books of which the first is superscribed "*de la police judiciaire*," and the second simply "*de la justice*."

The system of criminal procedure which follows will be given according to these two categories, and it only remains to designate the principal points, and to present in a single view the different provisions which are connected together. In order to follow entirely the system of French legislation, the preliminary proceedings will be first given, with which, as in the *Code Pénal*, the *Code d'Instruction Criminelle* begins.

The articles 1, 3, and 4, contain provisions concerning civil and public suits, which has already been given; and the 2d article declares merely, that the public action, as regards the application of the punishment, is extinguished by the death of the accused, while the *action civile*, for damages, can lie against the heirs. Both are extinguished by limitation.

The articles 5, 6, and 7, contain the principles of international penal law, by which French citizens are punished for crimes against the State which are committed out of France, and strangers who are arrested in France, or when extradition from another country has been pronounced. In a similar manner French citizens who have, in a foreign country, been guilty of a crime against a French citizen, are, on their return, prosecuted before the courts on the complaint of the injured person, when not already judged before a foreign court of justice.

BOOK I.

PRELIMINARY PROCEDURE, AND THE OFFICERS WHO ARE COMPETENT FOR THE SAME.

(De la Police judiciaire et des officiers de police qui l'exercent.)

In the French administration there are two kinds of police; the administrative and the judicial. The latter is alone of importance in criminal procedure, being the authority which seeks out crimes, misdemeanors, and contraventions, which collects the proofs of the same, and delivers the authors to the tribunals charged to punish them.

Offences *about to be committed* are, in general, the objects of the *Police administrative*, (called by us Police,) whilst offences *already committed*, are the objects of the judicial police.

The *Police judiciaire* is exercised under the authority of the *Cour d'Appel*, by—1. Justices of the peace, (*Juges de paix;*) 2. Officers of gendarmes, (*Officiers de gendarmerie;*) 3. Superior officers of Police districts, (*Commissaires de police;*) 4. Mayors, (*Maires;*) and 5. Their adjuncts, (*Adjoints de Maires;*) &c.

Preliminary examination for contraventions, misdemeanors, and crimes.

1st. *For examination of contraventions.* The *commissaire de police*, and, in the absence of the same, the *adjoint du maire*, are competent. They receive the reports, information, and complaints relative to police offences. They consign, in their *procès verbal*, the nature and circumstances of the contravention, the time when and the place where it was committed, the proofs and indications which lead to presumption of culpability. For contraventions, which consist in trespasses on forests and fields, there are particular officers—rural and forest guards, (*gardes champètres* and *gardes forestiers*,) who take *proces verbaux* (minutes) of the same, and send them to the *Commissaire de Police.* If a misdemeanor is committed, the *procès verbal* is sent to the *Procureur de la République.*

2d. *Misdemeanors and crimes.* The misdemeanor is prosecuted by the *Procureur Général* and *Procureur de la République.* These magistrates prosecute rather than direct, for the *Juge d'Instruction*, concerning whom will first be spoken, conducts the preliminary examination. Every departmental *arrondissement* has a *Juge d'Instruction*, or examining magistrate. He is named by the president, for three years, from amongst the members of the civil tribunal of first instance, and can be re-appointed. This office does not prevent him from acting as judge in civil cases. In Paris there are six examining magistrates, and in other places the number of these officers is proportioned to the necessities of justice.

The *Juge d'Instruction** is assisted in his functions by the *Procureur de la République*, as he can undertake no *acte d'instruction*, or prosecution, without having given communication of the same to that functionary. After terminating the examination he sends all the papers in the cause to the *Procureur de la République*, who makes the necessary motion, (*requisition.*)

In case of a *flagrant délit*, (or when the criminal has been taken in the act,) the *Juge d'Instruction* or *Procureur de la République* can act alone.

The principal business of a *Juge d'Instruction* is to hear the witnesses in the cause. These are summoned by a *huissier*,† an agent of the public force, on the demand of the *Procureur de la République.*

The witnesses are heard by the *Juge d'Instruction*, assisted by his *greffier*,‡ (clerk,) singly, and not in the presence of the accused. They take oath to tell the truth, and nothing but the truth; children under fifteen years do not take oath. They receive an indemnity for their

* By a new decree, not only the judges, but the supplementary judges, (*juges suppléants*,) who are not members of the civil tribunals, can be charged with the functions of *juge d'instruction.* By a still later decree, (March 15th, 1852,) these *juges suppléants* are declared competent to judge in certain civil cases, the object being to make use of the younger men, and to increase the number of magistrates without cost to the government.

† The *huissiers* are the officers who communicate to the parties the judicial ordinance, who cite them to appear before the courts, and co-operate in the execution of the sentence. In penal cases they are the agents of the *procureur de la république*; in civil cases they serve the parties in the introduction and carrying through of the prosecution and the execution of the sentence. (See appendix B. to report on administrative changes in France.)

‡ Every court, civil or criminal, has a *greffier*, or public officer, who records the proceedings of the sittings, and gives an authentic copy of the same.

services, and are condemned, when they fail to appear as summoned, to a fine, which cannot be more than one hundred francs, and they can be compelled to appear. When they live in another department or canton, or when there is a material impossibility to appear, the *Juge d'Instruction* can himself take the deposition of such witnesses at their domicil, or he can delegate a justice of the peace to take it. The *Juge d'Instruction* can also make domiciliary searches, either in the house of the accused or of other parties, in order to discover anything which may have a bearing on the case. He cannot be hindered from entering any house where he thinks to find evidence that may throw a light on the case. He has four kinds of writs, to wit: *mandat de comparition*, *mandat de depôt*, *mandat d'amener*, and *mandat d'arrêt*.

The first, which leaves the alleged offender (*inculpé*) in freedom, who has a residence or domicil, and is only suspected of an offence, is a simple citation to appear before the *Juge d'Instruction*. In this case he must be heard immediately. If he does not present himself he may be compelled to appear by a *mandat d'amener*. The *mandat*, or writ, can be issued against every person who is charged with an offence which entails an afflictive or degrading punishment. In this case the accused (*prévenu*) must be heard in twenty-four hours. After hearing him, and the motion (*conclusion*) of the *Procureur de la République*, the *Juge d'Instruction* can change the *mandat d'amener* into a *mandat d'arrêt*, when the penalty for the offence is a *peine afflictive* or *infamante*, or a correctional imprisonment.

In the *mandat d'arrêt* the offence for which it is issued is detailed, and the law which declares the act a crime or misdemeanor is cited. When, after a lapse of more than two days, the accused is found not to be in the district of the officer who issued the writ, the *Procureur de la République* of the *arrondissement* in which he is found can issue a *mandat de depôt*, in consequence of which he is provisionally confined in a *maison de détention*.

This *mandat de depôt* can be issued as a provisional measure, when the accused party has not justified himself entirely, when the charge is insufficient, or the procedure incomplete.

In issuing these writs, which he can do independently, the *Juge d'Instruction* has a power which can be very dangerous to individual freedom, and is condemned by many jurists, who affirm that the accused should not be compelled to furnish the proof that he is innocent, but that the magistrate should prove that he is guilty. All the *mandats* above named have full force throughout France.

The provisional freedom can never be accorded when a *peine afflictive* or *infamante* is the penalty for the act of which the accused is suspected. When, however, it is a correctional punishment only, the *Chambre du conseil* (to which we shall return hereafter) orders, on the demand of the accused, and on the motion of the *Procureur de la République* that he be set provisionally at liberty, on good and sufficient security that he presents himself at all stages of the procedure, and for the execution of the sentence. The bail must either be deposited in money, or justified by unincumbered real property for the amount of the same and one-half more. It cannot be less than five hundred francs. Bail given by another person must be paid by the bondsman in case of non-

appearance of the accused; or, in default of the same, he is imprisoned. Before the *prévenu* is set provisionally at liberty he is compelled to choose his domicil in the place where the tribunal sits, declaration of which is made before the clerk of the court.

The *Juge d'Instruction* is obliged, at least once a week, to make a report to the *Chambre du conseil* of the cases which have come before him, after the papers relative thereto have been communicated to the *Procureur de la République* for his decision, (*conclusion.*)

The *Chambre du conseil* consists of at least three judges, members of *the Court of first instance*, of which one must be the *Juge d'Instruction.* This *Chambre du conseil* decides:

1st. How far the facts which form the subject of the preliminary *instruction* are proved, or are probable, and whether they constitute a *crime*, a *misdemeanor*, or a *contravention.* When the judges are of opinion that the act presents none of the above named offences, or that there is not sufficient proof against the accused, they declare that there is no ground for prosecution, (*qu'il n'y a pas lieu à poursuivre.*) When they decide that the incriminated action forms only a contravention, the accused is referred to the *tribunal de police*, and if he is in prison, he is set at liberty. When it forms a misdemeanor, he is sent before the *tribunal de police correctionnelle*, and when the punishment of it is imprisonment, he remains in temporary arrest, from which he is exempt only in case of a misdemeanor, which incurs no penalty of imprisonment.

The accused being referred to either of the two courts above named, the *Procureur de la République*, within twenty-four hours thereafter, sends to the clerk of the court all the documents connected with the affair. When the *Juge d'Instruction* or another member of the chamber is of opinion that the offence is punishable with a *peine afflictive* or *infamante*, and that the charge is sufficiently established against the accused, the *Procureur de la République* transmits to the *Procureur Général* the *pieces d'instruction*, the *procès verbal*, establishing the *corpus delicti*, and a list of the papers serving for the conviction. At the same time the *Chambre du conseil* issues against the accused an order to arrest, which is addressed, with the other papers, to the *Procureur Général.* Within five days after receiving these documents, he must have the case ready for trial, and in the course of the five following days he must make his report. This report is made before a section of the court of appeal, which assembles for this purpose at least once a week in the *Chambre du conseil*, called *Chambre d'accusation.* It must, within three days, decide whether the action is qualified by the laws as crime, and whether the proofs are sufficiently strong to pronounce upon the arraignment. Nevertheless, the judge can order a new examination when the previous one is not sufficient; when there is enough evidence of a crime, the person incriminated is indicted (*mis en état d'accusation*) and sent before the court of assizes, and the *Procureur Général* ordered to prepare an *acte d'accusation.* This document contains: 1st. The nature of the crime which forms the basis of the accusation. 2d. The facts and all the circumstances which can aggravate or diminish the punishment.

Copies of the decision of the *Chambre d'accusation*, and of the act of accusation, are communicated to the accused, who, within twenty-four

hours after this communication, is transferred from the *maison d'arrêt* to a *maison de justice* which appertains to the court of justice. When the *Chambre d'accusation* declares that neither crime nor contravention exist, or, that no sufficient proof can be found, the accused is released and cannot be brought again before the assizes for the same act, unless new charges are brought forward—the papers and official reports are considered as new charges, which the proper officer may not have been able to submit at the commencement to the *Chambre d'accusation* of the *cour d'appel*, and which are of a nature either to fortify the proofs which the court has already found too weak, or to give to the facts new developments.

Although the province of the *Chambre d'accusation* is only to refer crimes to the assizes, it is not bound by the interpretation of the *Chambre du conseil*, but on finding the elements of a misdemeanor or contravention in the imputed crime can transfer the presumed offender to the proper courts.

The only appeal against the decision of the *Chambre d'accusation* is the Court of Cassation, which can be demanded in only two cases.

1st. When one of the following defects occur: either that the imputed offence was no crime, or that the *Procureur Général* was not heard, or that the legal number of judges had not sat in judgment.

2d. In case of incompetency of the *Chambre d'accusation*, that is, when the judges have ordered inopportunely a reference to the criminal courts, for example, when a simple misdemeanor is referred to a police court, or a contravention to a correctional court.

2d. A second case is, when, without examining the proofs against the accused and on the presumption alone that the imputed offence is no crime, or that it is covered by limitation or judgment, the *Chambre* has declared that there was no ground of accusation (*qu'il n'y a pas lieu d'accuser.*)

It may be well to observe, in closing these remarks, that before the promulgation of the *Code d'Instruction Criminelle* a grand jury existed, consisting of eight members, who exercised the functions of the *Chambre d'accusation.*

On comparing this system of preliminary procedure with the English, the following differences are remarked:

1st. The penal action does not depend on the writ of the injured party, but the same is the duty of certain public officers. These officers are called, in general, *ministère public*, whose mission it is to represent society and public order, in all civil and criminal affairs, both in the criminal courts, and in all civil courts or tribunals, with the exception of those of commerce or of the justices of the peace.

This institution is organized in hierarchical subordination, in such a way that the *Procureur Général* of the court of appeal is the head, and the other officers of the *ministère public* appear only as his agents. To the latter appertain not only the substitutes of the *Procureur Général*, (*avocats généraux*,) but also those of the *Procureur de la République*, although he is the *chef du parquet*, or chief of the public prosecutors at the *tribunal de prémière instance*, and has also under him a number of substitutes, as, for example, the one in Paris, who has twenty-two.

Notwithstanding this subordination, all magistrates of the *ministère*

public,* when they perform their functions, are independent; and there exists such an indivisibility that the first magistrate of the *ministère public* cannot disavow the least of the substitutes who, in a special case, may have taken the place of public prosecutor.

The principal occupation of this representative of society and public order is more in criminal than in civil suits. Montesquieu in his "*Esprit des Lois*"† says, "we have at present an admirable law; it is that which ordains that the prince, whose duty it is to execute the laws, names an officer in each tribunal to prosecute, in his name, all crimes, so that the function of an informer is unknown amongst us."

The public prosecutor is charged in criminal procedure to prosecute all crimes and misdemeanors, to collect evidence, and to deliver the authors to the competent tribunal. The examination itself is conducted by the *Juge d'Instruction*, but the latter acts only in connexion with the former, whose duty it is to see that nothing is omitted in the *instruction*, and that all legal means are employed against the supposed offender. The public prosecutor exercises the functions of examining magistrate only in cases of *flagrant délit*.

After ending the preliminary proceedings, and after referring the accused to a criminal court, the *ministère public* appears in the public sitting, in order to present the indictment, to collect the proofs, and show their importance, and to propose the punishment. After condemnation, the public prosecutor is charged with seeing to its execution. In case of condemnation to imprisonment, he delivers the order of incarceration at the foot of the sentence. This being executed, a copy of the sentence is given to the receiver of the record office, (*receveur de l'enrégistrement*,) in order to serve for the recovery of fines and damages.

It is well known that no public prosecutor exists in England with the extended rights of a French *ministère public*. To the introduction of this institution is opposed particularly the traditional maxim that the public peace and security are placed under the guarantee of all the citizens, and that an especial officer for prosecuting the offence is an usurpation on the individual right. Besides this, there are in England other officers who exercise in part these functions; the justices of the peace, the coroner, and even the grand jury. The attorney general and the solicitor general have not the least resemblance to a French public prosecutor. They do not represent society and public order, but plead in a suit, like private individuals; and only in rare cases, such as offences of the press, do they proceed to inquiry. The informations are not directed to them, but to the *procurator fiscal*, by every sheriff's court, and to the lord advocate by the high court of judiciary.

In Scotland, on the contrary, there is a public prosecutor, on whom is dependent the prosecution of criminal offences, and who even by his *motion* can cause a mitigation of the punishment fixed by law. In like manner, the English, in 1829, introduced in Malta, a public prosecutor,

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* In civil cases the *ministère public* acts generally not as the principal but as an accessary party, (*partie jointe*) not to follow the private claims, but to take part only in those cases in which the public prosecutor *must* submit a motion, (*réquisitoire*) which the court follows or or not; in a few cases he is the principal party, and then acts precisely as a private suitor.

† Book 4, chapter 8.

who conducts the whole preliminary examination. In the new "revised statutes" the principle of a public prosecutor is also recognised. Nevertheless, in these last named countries, the public prosecutor is not in unconditional dependance on the government, like the individual agents of the *ministère public* in France, who are strictly subordinate to the hierarchy, at whose head is the *Procureur Général*, and who, at every moment, can be removed by the government, and is blindly subjected to it.

2d. One of the principal peculiarities of the French preliminary procedure is the institution of the *Juge d'Instruction*, with his extended functions. This magistrate, after having taken all the steps previous to the trial, after having heard the witnesses against the accused, and deprived the latter, by the measures which lie within his power, of his freedom, passes sentence, as a member of the *Chambre du conseil*, with but two colleagues, who cannot fail, says Faustin-Hélie, in his commentaries, to be influenced by him in their decision, on account of the more intimate acquaintance which he is supposed to have with the case in question. This influence is the more dangerous, as the debates before the chamber, as well as the whole preliminary proceedings, are secret; the accused cannot appear before this judge, or even consult in private a legal adviser.

3d. The personal freedom of an accused person is, as has been seen above, very precarious; it depends on the examining magistrate to imprison a citizen, or to search a house, and the prolongation of these provisional measures is left too much to his discretion.*

BOOK II.

PROCEEDINGS ON TRIAL

I.—*Police Courts—Tribunaux de Police.*

This jurisdiction is administered by the *juges de paix* and the *maires*, who are assisted by a clerk, (*greffier.*) The functions of *ministère public* are exercised by a commissary of police, and the citations, to appear within twenty-four hours, are notified through a *huissier*. The trial is conducted publicly, and in the following manner: The *procès verbaux*, or minutes, are read by the clerk; the *partie civile*, or his advocate, prefers his complaint and specifies his demands; the accused makes his defence, and causes his witnesses to be heard; the *ministère public* sums up the affair, and puts the motion, whereupon the accused can present his observations, and the tribunal then pronounces sentence, either in the same sitting, or at latest on the following day. When the trial takes place in the absence of the accused, (*contumax,*) he is sentenced *par défaut*, generally to the maximum of the legal punishment, and from

* See Faustin-Hélie.

this sentence appeal cannot be made after the expiration of three days.

When a mayor exercises the functions of a police magistrate, the *adjoint*, or, when he takes the place of the mayor in such duties, an officer designated by the *Procureur de la République* for a year, acts as *ministère public*. The clerk, in this case, is a person proposed by the mayor, and *huissiers* are not required, but simple notification suffices, which can be communicated by a servant of the mayor.

The sentence of the police court can be appealed from when imprisonment has been pronounced, or when the fine (*amende*) exceeds the sum of five francs. Appeal has a suspensive effect. It must be made within ten days after the communication, by a *huissier*, of the sentence, and is brought before the *tribunal correctionnel*, where the same procedure is observed as at the police court. Besides the appeal, recourse can be had to the court of cassation.

At the commencement of every quarter (*trimestre*) the *juges de paix* and the *maires* send to the *Procureur de la République* a report of the sentences of the police courts which have been passed in the foregoing term. The *Procureur de la République* deposits the same at the *greffe* of the tribunal *correctionnel*, and makes a summary report on the same to the *Procureur Général* of the court of appeal.

II.—*Correctional Courts—Tribunaux Correctionnels.*

The courts of first instance, which are competent in civil affairs, judge, under the name of *tribunaux correctionnels*, all offences against the forest laws, which are prosecuted by the administration of forests, and all misdemeanors where the punishment exceeds fifteen francs fine or five days imprisonment. The accused, who can always be represented by proxy at a police court, must appear in person before this tribunal, if so ordered, with the exception of the cases where no imprisonment can be pronounced, when his lawyer (*avoué*) can represent him.*

When he does not appear, he is judged by default, (*par défaut*,) and he can only appeal against a condemnation under such circumstances within five days after the communication of the sentence. The same proofs are admitted as in cases of *contravention*. The ascendants or descendants of the accused, brothers or sisters, or the same relations by marriage, are not admitted as witnesses.

The proceedings before the court are as follows: The public prosecutor or the *partie civile* commences with a statement of the affair; then the *procès verbaux*, or reports, if there are any, are read by the clerk. The witnesses for and against are heard; the accused is interrogated and makes his defence; the public prosecutor sums up the affair and makes his report (*conclusion*;) the accused has the right of reply, and thereupon judgment is pronounced, either in the same sitting or in the next. When the act appears to the court only a *contravention*, it pronounces the legal penalty of the same, when it is a crime, the

* The difference between *avocat* and *avoué*, in the French courts, is, that the first defends the client, and the last represents the person of the client, a difference analogous to that between barrister and lawyer in England.—(See appendix *b* to Report on Administrative Changes in France.)

tribunal is incompetent, and can only give a warrant of commitment, (*mandat de dépôt*) or warrant of arrest (*mandat d'arrêt*) and the accused is sent back before the *Juge d'Instruction*, in order that he may prepare the case for the court of assizes.

Every person condemned must pay the costs of the suit, which are named in the sentence. It contains also the text of the law by which he is condemned. The *minutes* of the sentence must, within twenty-four hours, be signed on the records by the judge who pronounced it. Appeal from this sentence is allowed. It is brought either before another *tribunal de première instance*, or, in those departments in which there exists one, before the court of appeal. This appeal can be made at the furthest in ten days after the sentence is pronounced, either by the person sentenced or by the public prosecutor.

The *ministère public* at the court of appeals can appeal during two months after judgment has been pronounced. It is decided upon within one month. The audience begins with a report of the judges on the whole procedure. Thereupon the accused and the public prosecutor state their case, and judgment is then pronounced finally, as in the court judging in first instance.

III.—*Court of Assizes—Cour d'Assizes.*

The *Cour d'Assizes* consists of two chief elements, the *Cour d'Assizes*, properly speaking, that is, the college of judges, and the jury. The functions of president and of public prosecutor are of great importance and will be specially treated of.

In every department, as has been before shown, a *cour d'assizes* is established, which consists of three members of the *cour d'appel*, or of two members of the court judging in *première instance*, of the place where the assizes are held, and a president who is member of the *Cour d'Appel*, and a *Procureur Général*, or a *Procureur de la République;* and lastly, a *greffier*. The assizes can be held oftener than every three months when the necessities of the service require it.

By a law of the 9th September, 1835, the minister of justice can ordain that in the same *Cour d'Appel* different sections shall be formed of the assizes which can sit simultaneously; under this law, Paris has two courts of assizes. By it the authorization was given to the *Procureur Général* to summon the accused, in affairs of the press, directly before the court of assizes, without the preliminary examination being terminated, or a decision pronounced by the *Chambre d'accusation*. When he avails himself of this authorization, he addresses his *réquisitoire* to the president of the court of assizes to have a day fixed for the trial. This *réquisitoire*, and the *ordinance* (*mandamus*) issued thereupon by the president, are communicated by the *huissier* to the accused.

The day of the opening of the assizes is fixed by the president, and all cases must be disposed of before the court can be adjourned. The president is in duty bound to hear the accused after his coming in a *maison de justice;* to convoke the jurors, and to form the jury by lot; personally to direct them in the exercise of their functions, to explain to them the case on which they have to deliberate, and recall to them their duties; to determine the order in which they shall speak who wish it, and to administer the police of the court.

The law has given the president a very extended power in the exercise of these functions, so called *pouvoir discrétionnaire*, in virtue of which he can take upon himself to do all that he thinks useful to discover the truth. The article 261, says that "the law charges his honor and his conscience to employ all his efforts to favor its manifestation," (*en favoriser la manifestation.*) This power consists principally in the right to cause to appear before him all persons, by a *mandat d'amener*, if necessary, and to hear them as witnesses; and further, the right to direct that all documents which are important for the verdict of the jury be brought into court. This *pouvoir discrétionnaire*, which the president does not share with the court of assizes, is much criticised by many writers on criminal jurisprudence. In fact, when the president is not a man of honor and conscience, he has a most dangerous weapon against the guiltless accused.

Before the revolution of 1848, the law permitted only those to serve on the jury who were thirty years of age, and who were in the enjoyment of all civil and political rights. They were taken from among the members of the electoral colleges, or from those who fill certain public offices, or were members of the learned professions. The list of the jurors were permanent. Every year, from the 1st to the 10th of June, they were revised by the mayor; in July, by the prefects; they were posted up on the 15th August; reclamations for exemption were allowed till the 30th September, and the definitive closing of the jurors ordered on the 20th of October.

The functions of a juryman were incompatible with the offices of minister, prefect, sub-prefect, judge, *Procureur Général*, *Procureur de la République*, and his substitutes, a minister of religion of any sect or creed, and lastly, a councillor of state who was charged with any part of the administration of government; old men of seventy years of age were dispensed from serving when they demand it.

After the 30th of September, the prefects choose from the general list one quarter of the names contained therein, nevertheless, not more than 300, and in the department of the Seine 1,500, from which the jury for the following year was composed. These lists were immediately transmitted by the prefect to the minister of justice, the president of the *cour d'appel*, and the *Procureur général*. Ten days, at least, before the commencement of the session of the assizes the first president of the *cour d'appel* drew by lot from the list submitted to him 36 names, which formed the jury list for the whole session. Besides which he drew four supplementary jurymen, to supply the place of such principal jurymen as might be prevented from acting, and who, by a particular and rational condition, must be resident in the city where the assizes are held. The jury, thus formed, were summoned by the prefect at least eight days before the opening of the session, who sent to them the copy of the list which contains their names. No man needed to serve twice in one year.

By the law of 7th August, 1848,* the jury was completely reorganized, and the provisions of the code of penal procedure concerning the

* See, for later modifications, Report on Administrative Changes in France; law of May, 1853, page 168.

choice and composition of the jury and its attributions were very essentially altered. The following are the principal changes introduced by this law.

By article 1, all citizens of thirty years, in the enjoyment of civil and political rights, are inscribed on the general list of the jury. From this list are excepted those who cannot read or write French; domestics and servants on wages; those *interdits*, (under guardians;) bankrupts who are not rehabilitated; those under accusation, or who are contumacious; those condemned to *a peine afflictive ou infamante*, or to a correctional punishment on account of theft, cheating, usury; abuse of trust; offence against decency; vagrancy; beggary; and generally all those who have been condemned to over one year's imprisonment.

On their demand can be dispensed from inscription on the list, septuagenarians, and citizens who are dependent on daily labor for subsistence, and prove that they cannot support the charges resulting from the functions of a juryman. These lists are made by the mayor of every commune from the general list of electors, are posted on the door of the church, of the mayoralty, and wherever besides the mayor thinks fit. Opposition to this list can be made during ten days; it is decided upon by the municipal council within eight days after; appeal against this decision being in most cases submitted to the civil tribunals.

This list is permanent. It is rectified by the mayor every year before the 15th of September; opposition can be made for ten days thereafter.

Before the 1st of November of each year the mayor sends to the prefect the list of the jury. The prefect makes immediately (*sans rétard*) the general list of the department by cantons and alphabetical order. The list of each canton is sent to the *juges de paix*.

The yearly list contains one juryman for every 200 inhabitants; but the number cannot exceed 3,000 in the department of the Seine, (Paris,) and 1,500 in every other department.

Besides this, there is also a yearly list of supplementary jurymen, which consists only of citizens of the city in which the assizes are held.

The prefect in council of prefecture decides on the number to be taken from each arrondissement or canton for this yearly list. A special commission names the persons who are to serve on this list, which is made in duplicate, one is deposited with the prefect, and another at the clerk's office (*greffe*) of the justice of peace.

The prefect forms from this cantonal list a list for the department. Before the 15th December of each year it is transmitted to the clerk of the court which is charged with holding the assizes. Ten days before the opening of the assizes the president draws thirty-six principal jurymen, and six supplementary. The jury consists of twelve persons; it is formed from the list before alluded to, and must, one day at least, before the opening of the session, be announced to the accused. On the day of the trial all the names of the list are called over; the names of all who answer to the call are deposited in an urn. If more than six jurymen fail to answer the call, the names of the supplementary jurymen are called to supply their place.

The president then retires, with the accused, his counsel, and the *ministère public*, to the council chamber, (*chambre de deliberation;*) twelve

names are drawn in their presence from the urn to form the jury for the trial, the first drawn being foreman. As each name drawn by the president is called, the *Procureur* or the accused can challenge the person without assigning a reason. When twelve names have been drawn without challenge, or when the names remaining in the urn, joined to those which have not been challenged, make twelve, the jury is formed. Each party has a right to an equal number of challenges. When there are several accused, the right of challenging of the whole is limited to the same number; and when they do not agree on the challenge, the priority is decided by lot. The accused, during this preliminary operation, is accompanied by his counsel, who is either chosen by himself, or named to him *ex officio* by the president, within twenty-four hours after entering the *maison de justice.*

The accused appears during the trial *free*, accompanied by guardians, to prevent his escape. Immediately after opening the court the president asks him his name, age, domicil, place of birth, and profession. He then recalls to the counsel his duty—that he can say nothing against his conscience or contrary to the respect due to the law, and that he must express himself with decency and moderation. He then rises, takes off his official cap, and swears the jury, who individually answer, with uplifted hand, "I swear it," (*Je le jure,*) to the formula proposed to them. The president then warns the jury to be attentive to what they are about to hear. He directs the clerk (*greffier*) to read aloud and distinctly the *acte d'accusation* and the judgment of the *chambre d'accusation.* After this the president repeats to the accused the substance of the contents of these documents, and tells him that he will now hear the charge which is brought against him.

The public prosecutor then states the subject of the accusation, and presents the list of witnesses for and against, (*à charge et à décharge.*)

The witnesses then retire to the room set apart for them, from which they are called, singly, for their depositions. They are heard by the president, and all questions to them must be put through him.

When all the witnesses have been heard, the *ministère public* or the *partie civile* states the accusation. The accused and his counsel reply. The *ministère public* can answer, but the accused has a right to be last heard.

The president then declares the debates to be ended, and sums up impartially to the jury the evidence on both sides, calls to mind their functions and duties, and recapitulates the questions to which they have to reply, and which are sometimes very numerous.

The verdict of the jury does not consist in replying "guilty" or "not guilty," but in answering "yes" or "no" to facts, and in recognising or not the criminal intention; and, lastly, in the admission or not of extenuating circumstances.*

Before the president puts the questions to the jury, he observes to them that they have in their answers to state when there is merely a simple majority on the principal imputed crime, but on the other questions it is unnecessary.

* In rendering the verdict the jury must note, opposite *each* question answered unfavorably to the prisoner, whether there are extenuating circumstances. It is not sufficient to say, in general terms, at the end of the verdict, that they exist.

The jury then retire to the jury-room. The foreman reads to the jury a *réglement*, (set of regulations,) which declares that they are not bound to any theory of evidence, but only to decide according to their conscientious conviction, (*conviction intime*) The jury are not allowed to leave their room before having decided on their verdict. The foreman (*chef*) collects the opinions of the jury, which is by vote, each juryman having a paper, on which is inscribed "On my honor and conscience my declaration is, ———."

After concluding this operation the jury return to the court to announce the verdict of the majority. The answer is read by the foreman, standing, with his hand on his heart: "On my honor and conscience, before God and men, the declaration of the jury is, ———." This declaration is signed by the foreman, in presence of the jury, by the president, and the *greffier*.

The judges of the assizes have no right to dispute the verdict when it is unanimous; when a simple majority of the jury (seven to five) have found the prisoner guilty, and a majority of the judges are convinced that the jury have, although observing the forms, erred as to the real merits of the case, the affair can be sent before a new jury. In case of acquittal, the case can never be sent before a new jury.

A decree of the provisional government under date of 6th March, 1848, repealed the laws of September, 1835, concerning the press, and a majority of nine voices in the jury was declared necessary to condemn.

The article eighty-three of the constitution of 4th November, 1848, guarantees particularly the exclusive competency of the jury for all political offences and all affairs of the press. By a decree of the president since the events of the 2d December, (1st January, 1852,) all offences of the press, or of speech, are taken from the jury and judged by the correctional tribunals.

The law of the 18th October, 1848, contains the provision that the declaration of extenuating circumstances can be made in a simple majority, on the principal charge, and for aggravating circumstances a majority of more than seven voices is necessary as before.*

The jury in its verdict can only declare the majority, and it is void if the relative number of votes are given in any other way. For example, if the number for and against were named, the law permits only to use the words "by a majority of more than seven voices."

When the accused is declared guilty, the *Procureur général* demands the application of the law, and the *partie civile* makes his demand for damages and restitution.

The president then asks the prisoner if he has anything to say in defence. Neither he nor his council can after that plead innocence of the act charged, but that it is not forbidden, and that it is not qualified as crime by the law, or that it does not merit the punishment demanded by the *Procureur*, or that it does not incur damages, or incurs less than is demanded.

* The article 347 of the Penal Code, abrogated by the above, was re-established by vote of 7th May, 1851, of the Corps Legislatif, and seven voices now suffice. Another law of 10th May, same year, diminishes the list of jurymen by about two-thirds.—(See Administrative Changes in France, under the head of jury.)

The sentence is pronounced by the president, in the name of the court, after consulting with the other judges; it must set forth the motive of the application of the punishment, and give texually the law upon which the sentence rests. The court also condemns when, by the verdict of the jury, no *crime*, but some other offence has been committed. When the jury have found the accused *not guilty*, the president directs that he be immediately set at liberty, if he be not detained on other charges.

The accused has three *free days* (*jours francs*) after sentence, to declare at the clerk's office (*greffe*) that he appeals to the court of cassation. The *Procureur général* has the same term to make the same declaration. The sentence is, or may be, executed within twenty-four hours after the expiration of these three days, when an appeal is not made.

The appeal in cassation is the only recourse against the sentence of the court of assizes. Against the sentence of the police and correctional courts, there is recourse in cassation when no other appeal is admissible. When the court of cassation annuls a sentence, the case is sent before another court of the same denomination as that which had given the annulled sentence. When, after the *cassation* of a first sentence, a second action between the same parties is appealed from, the *cour de cassation* decides in full sitting (*toutes les chambres réunies.*) When the second sentence is annulled, the court to which the case is then referred must conform to the decision of the court of cassation on the point of law judged by that court.

It has already been shown that *cassation* is only admissible when a formality is not observed which is absolutely required by law; or, when an express declaration of the law is violated. It decides on the point of law alone, never on points of fact.

The public prosecutor to whom is accorded this appeal in error, can only apply for the same in the interest of the law (*dans l'intérêt de la loi,*) that is, the court of cassation is only called on for a decision, without having the power to reform the sentence which rests on the accused.

Besides the cassation, there is a particular *révision*. This is demanded when two persons, accused separately of a crime committed by one alone, have both been condemned, so that the two sentences are irreconcileable, and they give evidence of the innocence of one of the two parties accused. The two contradictory sentences are transmitted by the minister of justice to the *Procureur Général* of the court of cassation. The *Chambre criminelle* of this court, after having verified the incompatibility of the two condemnations, annuls the two sentences, and sends the accused before another court than either of those which pronounced the sentences. In a similar manner, also, when, after sentence of a person for homicide, sufficient indications are found of the existence of the supposed victim. Lastly, when, after the condemnation of an accused person, one or more witnesses against him (*à charge*) are found to have borne false witness.

For many years, propositions for increasing the catagories of such cases have been made in the legislative chambers of France, caused by the case of Lésurques, who, upwards of fifty years ago, was executed for the murder of a courier of the post office, a remarkable

resemblance between him and the real murderer having caused his condemnation by the jury, and the mistake having been discovered only after his execution, and confiscation of his property had followed. Yet although no one doubts his innocence, and favorable reports have been made on the subject to the various legislative bodies, by their committees, the injustice of the sentence has never been recognised by the government.

In case of revision on account of homicide alone, rehabilitation to the memory of the person condemned is possible; for, by the laws, a *curator* is named by the court of cassation, who represents him in the demand for a revision.

In the two other cases of revision this procedure is impossible.

The *Conseil d'Etat* of France in the sitting of 25th and 31st March, and 7th and 8th April, 1852, deliberated upon a project of law on rehabilitation of condemned persons, which is now before the *Corps Legislatif.* The committee of this last body has already adopted the proposition of the council of State.* The chief provisions of this project are the following:

1st. The fourth chapter of the seventh title of the second book of the *code d'instruction criminelle* is abolished.

2d. Every person condemned to a correctional or criminal punishment can demand rehabilitation. (By the former laws a rehabilitation for a correctional punishment was not admitted.)

3d. The rehabilitation can be demanded five years after the end of the criminal, and three years after the termination of the correctional punishment. The person demanding the same, if condemned to a criminal punishment, must be domiciled five years in the same arrondissement, and two years in the same commune; if condemned to a correctional punishment, he must have been three years in the same arrondissement, and two years in the same commune after the expiration of the term of punishment. He must produce a certificate of the municipal council to prove this, and show his conduct and means of subsistence. He must also produce a receipt for the payment of the costs of court, fine, and damages contained in his former sentence.

This demand must be made to the *Procureur de la République;* who, after having made due inquiry of the mayor, justice of the peace, and *Sub-prefect,* transmits the papers to the *Procureur Général.* The court of appeal decides on them in the *Chambre d'accusation.*

When the court accords the demand, the decision is presented to the minister of justice, who reports to the president of the republic.

The *lettre de réhabilitation* is given by the president, and is then transcribed in the records of the court of justice which passed the sentence of condemnation.

When the demand is refused, a new one cannot be made before the expiration of two years.

A person cannot be *réhabilité* a second time.

The *réhabilitation* causes to cease in the future all the disqualifications resulting from the condemnation.

The *réhabilitation* neither abolishes sentence nor punishment, unlike

* It has since become a law.

the revision which annuls both, and the pardon, which annuls the last alone.

The *réhabilitation* has only this effect, that the ulterior consequences of a punishment already undergone, or the accessory effects of a punishment, are remitted.

THE PENAL CODE OF PRUSSIA.

(STRAF-GESETZBUCH FUR DIE PREUSSICHEN STAATEN.)

After the analysis which has been given of the French penal code, a similar one of the remarkable code lately promulgated in Prussia will not be without interest in this connexion.

Although founded on the French *Code Pénal*, it differs from it in many important particulars, and I have thought it necessary to place in juxtaposition the principal features of the two great codes of Europe.

The Prussian code has been in force only since the 1st of July, 1851, and its authors, profiting by the experience of other nations, may be supposed to have arrived at a system of law more nearly approaching the wants of the nation, and of society, and more conformable to the spirit and institutions of the age, than any which have preceded it.

The Prussian code is the product of twenty-five years of legislative labor. Six complete and elaborated projects were presented and discussed in the years 1827, 1830, 1843, 1845, 1847, and 1851. If the desired goal was not sooner arrived at, it was not for want of profound investigation, sixty commentaries and criticisms having been written on one single project, (that of 1830.)

The reason of this delay is to be found partly in the slow movements of the legislative bodies, and partly in the long-continued differences on the question, whether a new code should be made, or whether the former laws should be revised.

The criminal law of Prussia before the reform was contained in the general Prussian law of 1794, (*Landrecht.*) By a cabinet order of the king, dated 28th January, 1826, the revision of the penal laws was decreed; and on this occasion it was expressly remarked, that no new body of laws was intended, but that it was only meant to give the former laws a thorough examination, and, according to the result, to improve and complete the existing system. The minister of justice, Graf Von Danckelmann, protested against this plan of revision, and declared that the general *Landrecht* could be revised in all its parts, except the criminal law, for which a new code was required. The king yielded to this opinion, and decreed by a cabinet order of 14th November, 1826, the plan proposed by the minister, that a commission should be appointed to prepare a new penal code for the whole State of Prussia.*

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* In the Rhenish provinces the French penal code was in force till the adoption of the new Prussian code. The commission had great difficulty in satisfying these provinces, in which besides the French system of penal procedure was also in force.

In order to hasten its preparation, a second commission was appointed in 1838, called *Immediat Commission*, consisting of the ministers of justice, and of the interior, and of several members of the council of State. The proceedings of this commission were to be more prompt than those of the ordinary commission, and it was to stand in immediate relation with the *plenum*, or general assembly.

The project of the year 1843, the revised project of 1845, (the latter under the direction of the celebrated Savigny, then minister of justice,) and the project of the year 1847, were the result of the labors of this commission. The last project was laid before the legislative chambers (*Vereinigten Landtag*) on their first meeting, under the celebrated *patent* of the 3d February, 1847. It was discussed during twenty-six sittings, in a committee of ninety-nine members, named for this purpose by the *Landtag*, and a report made to the assembly. The general discussion commenced on the 17th January, 1848, and was interrupted in the sitting of the 6th March, by the revolution.

In the year 1850, the project remodelled by the minister of justice, Herr Simons, was again taken up, with alterations rendered necessary by the reformed organization of the judiciary. In the first and second chambers, the project was adopted without discussion, and promulgated as law the 14th April, 1851, to take effect the 1st July, following.

Of all the German penal codes, that of Prussia most resembles the French, both in form and principle. It consists of 349 articles, being reduced by one-half from the number proposed by the former commissions.

It is divided into three parts, preceded by introductory prescriptions. These are founded on the *dispositions préliminaires* of the *Code Pénal*, and are almost a literal translation of them. In the first paragraph* offences are divided, as in the French code, into crimes, misdemeanors, and contraventions. (*Verbrechen*, *Vergehen*, *Uebertretungen.*)

A crime is punishable with death, hard labor, (*Zuchthausstraffe*,) or confinement, (*Einschliessung*,) for more than five years.

A misdemeanor is punishable with confinement for less than five years, imprisonment (*Gefängniss-Strafe*) for more than six weeks, or fine (*Geldbusse*) of more than fifty thalers.†

A contravention is punishable with imprisonment for a term of less than six weeks, or by a fine, which cannot exceed fifty thalers.

The Prussian Code recognizes but five kinds of punishment: capital punishment, hard labor, confinement, imprisonment, and fine.

1st. *Capital Punishment.*—This is by decapitation. (Civil death is abolished, and civil degradation is pronounced only in very grave cases.) The execution is private, in an enclosed space. Two members of the court judging in first instance, the public prosecutor, or his substitute, a clerk, and one of the superior officers of the prison must be present. Notice of the execution must be given to the municipal council of the place where the execution is to take place. This body must send twelve persons of consideration to act as witnesses. A

* This code is divided into paragraphs instead of articles.
† A thaler is equivalent to sixty-nine cents.

member of the religion of the condemned and his counsel must be admitted. Other persons can obtain admission only on particular grounds; the law, however, neither gives those grounds, nor does it name the magistrate by whom the permission is granted.

2d. *Hard Labor*, (*Zuchthausstrafe.*)—This punishment is either for life or for a term of from two to twenty years. Those condemned to it are employed, as in the *bagnes* in France, at such labor as is fixed by law in the prisons prepared for this purpose, and called *Zuchthäuser*. They are not capable during their term of punishment of performing any civil act; and, in case of holding property, a *curator* is named for them who administers their affairs. They are deprived of their civil rights, by which is understood the following: loss of right to wear the Prussian national cocade; incapacity to maintain or receive public office, honors, titles, orders, or decorations; loss of nobility, incapacity to be a juryman or elector, or to perform any other political act; incapacity to make oath as a witness or appraiser, or to serve as witness to a public document; incapacity to be guardian or member of a family council, with the exception of guardianship of their own children, with the approbation of the family council, or other council of guardianship; lastly, the loss of right to bear arms or to enter the army.*

3d. *Confinement*, (*Einschliessung.*)—This punishment is incarceration in fortresses, (*Festungen,*) or other places named for the purpose, with employment at different trades, for the most part chosen by the prisoners. It cannot exceed twenty years.

4th. *Imprisonment*, (*Gefängniss-Straffe.*)—Those condemned to this punishment are confined in a prison, (*Gefängniss,*) and are employed according to their capacities and circumstances. Its duration is from one day to five years.

5th. *Fines*, (*Geldbusse.*)—A fine of less than one thaler cannot be levied. In case of insolvency of the condemned, the judge can change the fine to imprisonment, a fine of from one to three thalers counting as one day's imprisonment. Under such circumstances it can never exceed four years.

The Prussian code, like the French, does not prescribe general confiscation of property as a punishment, but only a special one of those objects which are the fruits of the crime or misdemeanor, or which were used, or intended to be used, for the commission of the offence.

Besides the entire privation of civil rights, there is a temporary interdiction of them of from one to ten years, with the effects before mentioned. The temporary interdiction of the right of holding public office, however, cannot exceed five years.

The *surveillance* of the police, introduced into this code, has also been adopted from the French. The residence in certain places can be interdicted to a convict; and he is subjected to visits from the police as often as they deem it advisable. Those who are punished and placed under the surveillance of the police on account of theft, robbery, or of

* At this moment, when the jury in nearly all cases is abolished in Prussia, and when bearing arms is generally not only not allowed but punished, the loss of these political rights is less to be apprehended by the criminal, who shares it with every honorable citizen.

receiving stolen goods, are not allowed to leave by night either their domicil or lodging, without permission of the police.*

A foreigner instead of being placed under the *surveillance* of the police, is ejected from the Prussian territory.

All condemnations to death, hard labor, or confinement for more than five years, must be published in the *Amtsblatt*, or official organ of the government, in the district in which the punishment is pronounced.

Offences receive a much milder punishment by the Prussian, than by the French code; and the principal difference of the effects of punishment is, that the system of penalties dishonoring the person is not adopted in the former, and that only in certain very grave cases deprivation of civil rights and consideration is pronounced. Capital punishment appears in much fewer cases; the punishments of civil death, exile, transportation, and *détention*, do not exist.

The second paragraph contains the general principle, that no offence, whether a crime, misdemeanor, or contravention, can be punished in any other mode than that prescribed by the law before the action was committed. In this respect it differs widely from the French law, which forbids the *pronouncing* of a punishment that is not fixed by the law, but does not add "before the action was committed;" a very rigid interpretation of the old maxim, *nulla pœna sine lege.*† By the very positive phraseology of the Prussian Code, it is established that the judge cannot employ analogy in pronouncing a sentence, and must rigorously observe those laws in vigor at the moment the action was committed.

The paragraphs three and four contain the maxims of the so-called international penal law. All crimes and misdemeanors committed by foreigners on the Prussian territory are punished by the Prussian laws. In regard to offences committed in other countries, the law makes no provision except in the following cases: a foreigner who has been guilty of treason, or counterfeiting money to the injury of Prussia, or of an outrage to the king, (*Majestäts-Beleidigung;*) a Prussian who has been guilty of the same actions, or the provocation to war against Prussia, (*Landesverrath;*) lastly, a Prussian who has committed an action which is punishable by Prussian laws, and also punishable in the place where the action was committed, is prosecuted and punished by the Prussian courts; nevertheless, the prosecution and punishment are forbidden when the courts of the country where the offence was committed have passed judgment upon it, and when the punishment pronounced has been executed or remitted. These last prescriptions apply only to crimes and misdemeanors; contraventions committed in foreign countries are only punished in Prussia when it is prescribed by special laws or treaties.

In paragraph five, the military are, as in the French code, excepted from the prescriptions contained in these laws. The spirit of the laws for the military has been already given in treating of the *code pénal*,

* The law defines the *night*, from 1st October to 31st March, as the interval between 6 o'clock in the evening to 6 o'clock in the morning; and from 1st of April to 30th September, from 9 o'clock in the evening to 4 in the morning.

† The old criminalists based the entire penal law on three fundamental rules: 1st. *Nulla crimen sine lege;* 2d. *Nulla lex sine pœna;* 3d. *Nulla pœna sine lege.*

and it only remains here to detail the positive elements of the Prussian legislation on this point. The military laws now in force in Prussia are the following: the ordinance concerning disciplinary punishment in the army, of 21st October, 1841; the ordinance concerning the punishment of difficulties between officers, and of duels, as well as the organization of courts for the decision of these cases, (*Ehrengerichte*,) of 20th July, 1843; the articles of war, and the ordinances concerning their application, of 27th June, 1844; and the penal code of the army of 3d April, 1845.

The preliminary prescriptions close with a paragraph identical with that of the *Code Pénal*, and in conformity to the principles of law and equity, that the right of the injured to damages is independent of the punishment itself.

PART I.

GENERAL PRINCIPLES CONCERNING PUNISHABLE ACTS.

The first part of this Code contains, as has been already mentioned, only general doctrines. The first chapter treats of punishments, and has already been noticed.

Attempt, (*Versuch.*)

The second chapter treats of attempts to commit crimes or misdemeanors, (*Versuch*,) and establishes a theory which is almost literally copied from the French penal code. A *Versuch* is only punishable when the same is manifested by acts which constitute a commencement of execution, and when the consummation is hindered only by circumstances, independent of the will of the author. The attempt to commit a crime is punished the same as the crime itself. Nevertheless, the judge, in fixing the measure of punishment which is within the limits allowed him by the law, is permitted to take into consideration that the crime was not consummated.

The only exception to this rule is, in case of capital punishment and hard labor for life, when these penalties must be changed to hard labor for at least ten years, with *surveillance* of the police. The attempt at a misdemeanor is only punished in those cases specified by the laws; the punishment is, in such cases, the same as for the misdemeanor itself, with the above mentioned modification in respect to judicial appreciation.

Complicity.

The third chapter treats of the participation in a crime or misdemeanor. The following questions are decided in the same:

1st. Who shall be punished as author or accomplice (*Theilnehmer*) of a crime or misdemeanor?

2d. What punishment must be pronounced in the different cases?

3d. How is he to be punished who takes part in a punishable action after the same has been committed? so called *Begünstigung*.

Are punished as the accomplices of a crime or misdemeanor:

1st. Whoever excites, seduces, or persuades the doer, by gifts or promises; by threats, abuse of authority or power; by intentional provocation or other means.

2d. Whoever may have advised to commit a crime or misdemeanor; also, whoever has procured weapons, instruments, or other means, which have served for the deed, knowing that they were to serve in the perpetration of a punishable action; or whoever, knowingly, has given aid in the acts which have either prepared, facilitated, or completed the offence. The punishment is, in this case, whether the offence is consummated, or only attempted, the same for both the principal and accomplice. Nevertheless, the judge can, in applying the law, have regard to the degree of the co-operation. Only, in the case of capital punishment, or hard labor for life, when the part taken was not essential to the accomplishment of the crime, hard labor for a term of years must replace these penalties, and when, besides, extenuating circumstances exist, the punishment is imprisonment of from two to ten years.

3d. Whoever excites to a crime or misdemeanor, by speeches at public places or meetings, or by writings, prints, or other publications, which are sold, distributed, propagated, exposed or posted, is considered and punished as an accomplice, when the instigation has resulted in a crime or misdemeanor, or a punishable attempt at either. If no result has followed these provocations, imprisonment of at most one year is generally pronounced.

The law calls him a *Begünstiger*, who, after the perpetration of a crime or misdemeanor, knowingly assists the perpetrator to escape punishment, or to secure the advantage of the offence. The punishment for this is. fine of at most 200 thalers, or imprisonment of at the utmost one year. When a person does this with the intention of saving a blood-relation, either ascendant or descendant, brother, sister, or spouse, from punishment, he incurs no penalty. Nevertheless, in the case when this assistance is given in consequence of an agreement made before the commission of the offence, a common *Complicität* exists, even for a relation of the grade just mentioned.

This chapter closes with a peculiar disposition which is not found in many other codes. Whoever has received notice of a project of high treason, counterfeiting of money, murder, robbery, kidnapping, or a crime dangerous to the life of man, when the hindering of the same is still possible, and fails to denounce the fact to the authorities, or to the person threatened, is punished with imprisonment for a term which can be extended to five years, when the crime is committed or attempted.

Exemption from or mitigation of punishment.

In the fourth chapter, which is logically connected with the first on punishments, are enumerated the grounds which exclude or mitigate the punishments. In the three following cases, there is neither a crime

nor misdemeanor committed, although the external conditions of the same exist: 1st. When the author at the moment of the deed, is insane or idiotic, or when the freedom of the will is hindred by force or menace. 2d. When the deed is an act of legitimate defence, to repulse an attack on one's self, or on another, even in the case when from terror, fright, or horror, the limits of defence are exceeded. 3d. When the author has not completed his 16th year, and it is proved that he has acted without discrimination. In this latter case, the judge decides whether he shall be entrusted to his family, or sent to a house of correction. If sent to the latter, he remains there as long as the administrators deem it necessary; nevertheless, never beyond his 20th year.

When a youth, under 16 years, has committed a crime, and it is shown that he acted with discernment, no other punishment than imprisonment can be pronounced against him. When the crime is punished in ordinary cases with death or hard labor for life, the penalty is changed to imprisonment for from three to fifteen years. In all other cases, the judge is authorized to diminish the *minimum* of the ordinary punishments; he can never exceed the half of the ordinary *maximum*. The imprisonment for such young persons is in separated wards within the ordinary prisons.

Limitation, (*Verjachrung*.)

The prosecution of crimes and misdemeanors is subject to limitation. The limitation (*Verjachrung*) for crimes punishable with death is thirty years; for those crimes, whose punishment is loss of liberty for more than ten years, the limitation is twenty years; and for those of which the penalty is a milder punishment, the period is ten years. Those misdemeanors which are punishable with more than three months' imprisonment as a *maximum*, cannot be prosecuted after five years, nor others after three years.

The term of limitation begins with the day that the crime or misdemeanor is committed. A crime or misdemeanor which can only be punished on the complaint of a private individual—for example, theft from a near relative—cannot be prosecuted after a lapse of three months, which commences with the time of knowledge of the offence. When it is interrupted by a judicial examination which leads to no result, a new term of limitation commences with the latter judicial act. Whoever escapes by flight from the examining magistrate cannot avail himself of the new limitation. The law defines precisely the interruption of the limitation, and embraces therein every motion or other act of the public prosecutor, as well as every decision and every other act of the judicial magistrate, concerning the opening, continuation, or termination of the investigation or incarceration of the accused. No limitation is admitted for punishments pronounced by a definitive judgment.

When the culpability of an action depends either on matters peculiar to the person of the offender,* or to the one against whom the action is

* A late commentary of this law, by Goltdammer, contains, as an example, the case of a father who in a dark room administers a castigation to a stranger, supposing him to be his son, and who, therefore, is not to be counted as guilty of assault and battery.

directed, or, in particular circumstances, such action is not to be counted as a crime or misdemeanor, when the doer at the time of the deed was ignorant of such relations.

Cumulation and repetition of offences, (*Rückfall.*)

The first part closes with the 5th chapter, concerning the cumulation of several offences, and the repetition of offence, (*Rückfall.*) The first occurs when the same action includes the characteristics of several crimes or misdemeanors, in which case that law is applied which inflicts the severest punishment, or when, by several independent actions, several crimes or misdemeanors are committed. In the last case, all punishments to which the criminal is subjected are to be cumulated in one, with the following modifications: When there are several punishments of loss of liberty for a less term than for life, the term cannot, for crime, exceed twenty years, and for misdemeanors ten years. If the punishments are of different kinds, the severest is to be pronounced, and the milder are, by a fixed rule, reduced to the same kind. One year's imprisonment counts as eight months' confinement, and one year's confinement for eight months at hard labor. In case of the cumulation, imprisonment, which by law cannot in ordinary cases exceed five years, can be extended to ten years.

By *Rückfall* is understood the perpetration of a crime or misdemeanor for which an individual has been already condemned by a Prussian court of justice. In this case, the maximum of the ordinary punishment is increased, but by not more than one-half, and cannot exceed incarceration for twenty years. The term of five years for imprisonment can, in this case, be augmented. This augmentation does not occur when ten years have elapsed since the time when the punishment of the crime last committed has been inflicted or remitted. When the deed, in the first or last case, or in both, consists merely in being accessory to a crime or misdemeanor, or to the attempt to commit the same, the same augmentation of severity of punishment is to be observed.

PART II.

CRIMES AND MISDEMEANORS IN DETAIL, AND THE PUNISHMENTS OF THE SAME.

This part contains very numerous special prescriptions concerning the nature and the mode of prosecution of punishable actions, excepting offences against the police regulations, which are treated of in a special chapter.

In order to show more clearly the economy of the code and system of the legislation, the heads of the 28 chapters, (*Titel,*) into which it is divided, will be given.

For the "particular circumstances," he gives, as a second example, the man who enters upon a second marriage, believing the first spouse to be dead, who thus errs in the "particular circumstances" which makes a second marriage criminal.

Chapter 1st. Treats of high treason and instigation to war against Prussia. (*Landesverrath.*)
Chapter 2d. Of insult offered to the king and to the royal family.
Chapter 3d. Of hostile acts against the allies of the State.
Chapter 4th. Of crimes and misdemeanors in respect to the exercise of political rights.
Chapter 5th. Of resistance to the legal authorities.
Chapter 6th. Of offences against public order.
Chapter 7th. Of the counterfeiting of money.
Chapter 8th. Of perjury,
Chapter 9th. Of false informing.
Chapter 10th. Of offences against religion.
Chapter 11th. Of offences in regard to civic rights. (*Personenstand.*)
Chapter 12th. Of offences against good morals. (*Sittlichkeit.*)
Chapter 13th. Of slander and libel. (*Verletzungen der Ehre.*)
Chapter 14th. Of duelling. (*Zweikampf.*)
Chapter 15th. Of crimes and misdemeanors against life.
Chapter 16th. Of corporeal injuries. (*Körperverletzungen.*)
Chapter 17th. Of offences against personal freedom.
Chapter 18th. Of theft and embezzlement. (*Unterschlagungen.*)
Chapter 19th. Of robbery and extortion. (*Raub und Erpressung.*)
Chapter 20th. Of receiving stolen goods. (*Hehlerei.*)
Chapter 21st. Of fraud. (*Betrug.*)
Chapter 22d. Of breach of faith. (*Untreue.*)
Chapter 23d. Of counterfeiting documents.
Chapter 24th. Of bankruptcy.
Chapter 25th. Of punishable *selfishness.* (*Strafbarer Eigennutz.*)
Chapter 26th. Of damages caused to another's property. (*Vermögensbeschädigung.*)
Chapter 27th. Of crimes and misdemeanors of a generally dangerous character.
Chapter 28th. Of crimes and misdemeanors by a public officer.

1st. *High Treason,* (*Landesverrath.*)

High treason is an undertaking against the king, tending to kill, imprison, or deliver him to the enemy, or to render him incapable of governing, or forcibly to alter the succession to the throne or the constitution, or to incorporate the territory of Prussia, in whole or in part, with a foreign State, or to wrest a portion of its territory from the kingdom. The punishment in these cases is death. If the action is only prepared, and not commenced, its punishment is hard labor; or, when there are mitigating circumstances, confinement.

A Prussian who excites a foreign government to war against Prussia, suffers, if war follows the same, capital punishment and civil degradation. The giving assistance by a Prussian citizen to the enemy during a war with Prussia is punished with hard labor.

2d. *Insult to the King.*

Insult to the king is either by words or deeds; the latter is punished with death, or, in certain cases, with hard labor for from ten to twenty years.

An offence committed against one of the members of the royal family is punished with hard labor for from five to twenty years.

The manifesting of a want of reverence for the king, by words, writings, prints, or drawings, is punished with hard labor for from five to twenty years. If against a member of the royal family, with imprisonment for from one month to three years.

3d. *Acts against Allies.*

A Prussian, in or out of Prussia, or a foreigner during his stay in Prussia, who commits an action against one of the German States or rulers, which, if exercised against Prussia or its king, would be high treason, is punished with hard labor of from two to ten years.

The same punishment is pronounced when the action is directed against another State with which reciprocity in such cases is guaranteed by law or treaty.

The insulting by words the sovereign of a German State, or of another State, when reciprocity is assured for such cases, is punished with imprisonment of from one month to two years. The prosecution in the last case is made on the proposition of the foreign government.

A part of this chapter has reference to diplomatic representatives, the insulting the foreign agent accredited to the Prussian courts being punished with from one month to one year's imprisonment.

4th. *Crimes and Misdemeanors in respect to Political Rights.*

An offence against the exercise of political rights is committed by the undertaking forcibly to dissolve the representative body, to obtain the adoption of a resolution, or forcibly to eject or exclude a member of the chambers, or to prevent his going to the same, or voting, or to falsify an electoral act. In these cases the punishment is hard labor or imprisonment.

The buying or selling a vote is punished with imprisonment of from three months to two years.

5th. *Resistance to Legal Authorities.*

By resistance to the authorities is understood the provocation to disobedience to the laws or orders of the magistrates; the exciting a soldier to breach of discipline; the justifying a crime or misdemeanor; the attack on a magistrate, or resistance to the same in the exercise of his functions; lastly, the forcing a magistrate to do or to omit an official act. In these cases, the punishment is fine or imprisonment.

The law includes, under this head, the favoring the escape of a prisoner, and the conspiracy of prisoners; in the latter case imprisonment must be pronounced.

6th. *Offences against Public Order.*

By an offence against public order is understood the illegal formation of armed bodies; the taking part in a secret association, or associating to prevent the execution of the laws; the exciting citizens to

hatred and contempt for each other, or for the institutions of the State, or for the orders of the authorities; the insulting a person while in the exercise of a political or religious right; the usurpation of a public office, uniform, decoration, or title; the destroying or removing of public ordinances which are posted in public places; the breaking of official seals; the false accusation of a witness or juror; the emigration without permission, when thereby the person seeks to avoid military service, or the practising the profession of inducing to emigrate; the seducing Prussian soldiers to desert, or the seeking to induce Prussian subjects to enlist in a foreign army; vagrancy, or the wandering over the country without means of subsistence, or attempting legitimately to obtain the same; beggary, when with threats, force, weapons, or false representations; the making beggars of children, or persons who are entrusted to the care or authority of the persons so doing.

The law adds to these numerous cases the leading a life of drunkenness gambling, and idleness, which prevents the giving support to those who are dependent on such persons for the same; whoever receives support from public establishments for the poor, and refuses to perform the labor suitable to his strength which is alloted him; lastly, whoever, after the loss of his means of support, has, within, a term fixed by the police, procured no other means of subsistence, and cannot prove that, after taking all necessary pains, he has not been able to procure the same—in all these cases the punishment is imprisonment; or, in rare cases, fine, or both.

7th. *Counterfeiting Money.*

By counterfeiting money, (*Münzverbrechen,*) is understood the imitating of the coin or paper money of Prussia, or of any foreign State; or the altering of moneys in order to give them the appearance of higher value, or to give to uncurrent money the appearance of current. This crime is punished with hard labor of from five to fifteen years, and with surveillance of the police.

The same punishment is incurred by him who procures false or falsified money, and either imports the same or puts it in circulation; whoever receives such money, and, after recognising its spuriousness, passes it, or seeks to pass it, as genuine, is punished with imprisonment of not more than three months, or fine not to exceed 100 thalers.

8th. *Perjury.*

Perjury, (*Meineid,*) is committed by him who knowingly swears falsely in civil or criminal suits. The punishment is more severe in the latter than in the former case, as the penalty of hard labor for a term of twenty years can be pronounced for perjury in a criminal suit.

An appraiser who knowingly confirms a false statement with an oath, is punished as a false witness.

Testimony, on oath, is not required for the members of those religious societies where the oath is forbidden, or for those who have already in the same suit made oath, or when a sworn magistrate gives official affirmation, making appeal to his oath of office; whoever gives know-

ingly to a public officer a false affirmation, which is received instead of an oath, (*an Eidesstatt,*) is punished with imprisonment of from three months to one year, and the judge can even pronounce temporary interdiction of civil rights. Subornation of perjury is punished with condemnation to hard labor, which can extend to five years.

This chapter closes with a prescription not to be found in any other code: Whoever, through negligence, (*Fahrlässigkeit,*) makes a false oath, can be condemned to imprisonment for one year. This punishment is not pronounced when the individual revokes, formally, his false testimony before he has been denounced or prosecuted, and before any injurious consequences have resulted from it.

Beseler* gives an argument on this paragraph, which must appear to the reader at first in contradiction to the general principles of penal law; that perjury has the most dangerous and pernicious consequences for society and the interests of every citizen, and therefore "that both must, so far as possible, be guarantied, not only against criminal intentions, but also against culpable negligence."

9th. *False Informing.*

Whoever addresses to the public authorities a denunciation against a person on account of a punishable action is, if the denunciation is made falsely, and with intent, punished with imprisonment of not less than three months, and according to the discretion of the judge, with temporary interdiction of civic rights. In this case, the sentence is copied from the records, and published in a journal designated by the judge.

10th. *Offences against Religion.*

An offence against religion is public blasphemy, or the calumniating of a Christian church, or of another authorized religious society; mockery of their doctrines, institutions, or customs, or contempt of the same, or misbehavior (*Unfug*) in church; or, if in other places, of religious assembly, injury to objects destined to the service of religion. In this case, the offender can be condemned to imprisonment of at most three years.

Whoever hinders or disturbs religious worship is punished with imprisonment of from one month to three years.

Whoever takes from the guardianship of those entitled to it the body or part of the same of a deceased person, or disturbs graves or tombs, or dishonors them, is punished with imprisonment of from one month to two years; and when this is done with a view to gain, the interdiction of civic rights is pronounced in addition.

11th. *Offences in regard to Civil Rights.*

Whoever substitutes, or intentionally changes, a child, or in other ways changes or suppresses the fact of the birth, marriage, or death of

* Beseler, "Commentar über das Strafgesetzbuch für die Preussischen Staaten." This is the second commentary that has been referred to in connexion with this code, and a third has appeared within a few days past, by Müller, which gives in detail its history. The celebrated Professor Mittermaïer has treated of this code in the "Archiv des Criminalrechts," which contains in its numbers for the year 1850 a series of articles from his pen on this subject.

a person, (*Personenstand, état civil,*) is punished with hard labor not to exceed ten years.

12th. *Offences against Good Morals.*

Offences against good morals, are bigamy, adultery, incest, bestiality and sodomy, rape, seduction effected through false representations, professional prostitution contrary to police regulations, pimping, seduction of a girl between fourteen and sixteen years, public indecency, the sale, distribution, or propagation of immoral writings, prints, pictures or images.

Bigamy is punished with hard labor, which cannot exceed five years. The same punishment is pronounced against the person who knowingly marries one already married, and the priest or magistrate who performs the ceremony of marriage for them.

Adultery is only punished when divorce ensues on account of such offence, by imprisonment from four weeks to six months, which reaches equally the accomplice. The plaintiff can, during the suit for divorce or the criminal process, desist from the prosecution, in which case the accomplice is also set free.

Incest between parent and child is punished, in the former by hard labor, which cannot exceed five years, and in the latter, after the age of sixteen years, with imprisonment from three months to two years. Incest between parents-in-law and children-in-law, between brothers and sisters, or half-brothers and sisters, is punished with imprisonment from three months to two years; and, when there are aggravating circumstances, with temporary interdiction of the exercise of civil rights. Step-children are exempt from punishment when under sixteen years.

Tutors, ministers of religion, and teachers who are guilty of indecent actions towards those minors who are entrusted to their charge; magistrates who are guilty of the same conduct towards persons against whom they are directing prosecutions, or who are committed to their surveillance, and officers, physicians, or surgeons who are employed in prisons or public hospitals, guilty of the same offence towards those under their charge, are punished with hard labor, not to exceed five years.

Bestiality and sodomy, (*widernatürliche Unzucht,*) are punished with imprisonment from six months to four years, and with temporary interdiction of civic rights.

Rape, (*Nothzucht,*) is a forcible satisfaction of lust on another without will or intelligence, or on a child under fourteen years. If death follows, the punishment is hard labor for life; otherwise, for a term not exceeding twenty years.

The seduction of a female by false representations is punished with hard labor for five years.

A common prostitute, if unlicensed, is punished with imprisonment which cannot exceed six weeks, and, if a foreigner, can be expelled from the kingdom. The judge can order that the person so sentenced be put in a house of correction, (*Arbeitshaus,*) where she remains so long as the local police judge necessary, for a term not exceeding one year.

Pimping, (*Kuppelei,*) or the habitual or professional pandering, whether for gain or not, by mediation, or providing opportunities, is punished with imprisonment for not less than six months, and the being placed under the surveillance of the police. In aggravated circumstances, the imprisonment is changed to hard labor, which can be extended to five years.

The seduction of a child of from fourteen to sixteen years, is punished, on the complaint of the parents or tutor of the child, with imprisonment of from three months to one year.

Public indecency is punished with imprisonment from three months to three years, and, if the judge thinks fit, with temporary interdiction of civic rights.

The sale, distribution, or propagation of indecent writings, prints, or representations, is punished by a fine of from ten to one hundred thalers, or with imprisonment from fourteen days to six months, and the confiscation of the *corpus delicti.*

13th. *Slander and Libel.*

Whoever publicly or by writing insults another, is punished by fine, which can amount to three hundred thalers, or to imprisonment, not to exceed six months. When a person insulted replies immediately with insults, the judge is empowered to pronounce a milder punishment against one or both, or he can acquit them.

Criticisms, blaming scientific or artistic works, warning superiors against their subordinates, and denunciations of official acts, or sentences of a magistrate, and analogous cases, are punishable when it appears from the form or circumstances that there was an intention to do injury (*animus injuriandi.*)

Physicians, and all persons who betray secrets which were confided to them on account of their position, are punished by a fine which can amount to 500 thalers, or imprisonment of at most three months.

Calumny is the asserting or spreading false information concerning another, which may expose the same to the hate or contempt of the public. If the calumny is public, the punishment is imprisonment from one week to one year. When, however, the defendant proves the truth of his assertions, which he has the right to do, by all the means that are admitted for criminal cases, he is not punished, except when it appears from the form or circumstances that he had the intention to do injury. The punishment for libel and calumny is only pronounced on the demand of the injured party, who can renounce his accusation at any moment. This complaint can be instituted by husbands in the name of their wives, and by fathers in the name of their children. In all these cases, the sentence of condemnation is published at the cost of the person condemned.

14th. *Duelling.*

The principals in a duel, and the person who carries the challenge, are punished. The seconds, witnesses, physicians, and surgeons are not punishable, and are not bound to denounce the duel to the authori-

ties.* The punishment for duelling is confinement from two months to twenty years, according to the consequences of the same, and the circumstances of the case. The bearers of the challenge are acquitted when they have earnestly endeavored to prevent the duel.

15th. *Crimes and Misdemeanors against Life.*

An action by which the life of a person is taken is a murder, (*Mord,*) when performed with intent to kill, and with premeditation; when without premeditation, but with intent, it is manslaughter, (*Todtschlag.*) Murder is punished by death, manslaughter by hard labor for life. The last is punished with death when committed on a parent or grand parent, or when committed in order to overcome resistance to the commission of a crime or misdemeanor already commenced, or to escape from being taken in the act of committing a crime or misdemeanor. The punishment is changed to imprisonment of not less than two years, if the crime is committed under the influence of excitement caused by grave insult to the person or to his relations.

A mother who kills her illegitimate child during or immediately after birth, (*Kindesmörderin*) is punished with hard labor from five to twenty years. All others who participate in this crime are punished according to the general rules concerning murder or manslaughter.

A mother who intentionally procures abortion (*Abtreibung der Leibesfrucht*) is punished by hard labor of not more than five years, and the accomplices receive equal punishment.

The exposure of a child under seven years, or an infirm person, or the abandoning of such persons by those who are entrusted with them, is punished with imprisonment of not less than three months, and hard labor of not more than ten years, in case death ensues from it.

Negligence, which has for result the death of another, is punished with imprisonment from two months to two years. When the author of such negligence is bound by his trade or profession to particular care and prudence, he may, besides the above punishment, be deprived of the exercise of such trade or profession.

The interring or removing of a dead body, without notice to the authorities, is punished by a fine of at least 200 thalers, or imprisonment of at most six months. The mother who inters or removes her illegitimate new-born child, without giving notice to the authorities, is punished with imprisonment which can reach two years.

16th. *Corporeal Injuries.*

The code distinguishes between light and severe injuries inflicted on another, (*Körperverletzungen.*) The first are punished by imprisonment of at most two years, and when with premeditation, the imprisonment may be increased to three years. By a severe injury, is meant when

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* A duel without seconds is punished much more severely than one when they are present. The French law has no particular prescriptions concerning duels. Some courts have pronounced punishment in such cases, for murder, others for homicide, and others have pronounced no punishment. The majority of decisions in France show that killing in a duel is regarded as manslaughter.

the ill treatment causes sickness or incapacity to work for more than twenty days, or mutilation, or privation of speech, sight, hearing, generative power, or intelligence. In such cases, hard labor of at most fifteen years can be pronounced against the author, or when the death of the injured person follows, the punishment can be increased to twenty years.

Corporeal injuries, inflicted through negligence, are punished by fine of from 10 to 100 thalers, or imprisonment of at most one year, on the complaint of the injured person; or, in case of a grave injury, on the demand of the public prosecutor.

Whoever undertakes the care of an internal or external malady, or to perform the functions of a midwife, without being legally authorized to do so, for money, or contrary to a prohibition of the police, is punished with a fine of from five to fifty thalers, or imprisonment for at most six months. This punishment is not applied, when, in a case of urgent necessity, the assistance of a duly licensed physician is impossible. These last who, in case of imminent danger, refuse their assistance without sufficient ground, are punished by a fine of from 20 to 500 thalers. The midwife who omits to call in a physician, in case of a dangerous delivery, is punished by a fine of not more than 50 thalers, or imprisonment of not more than three months.

Architects who, in the erection of a building, endanger the lives of persons entering or passing, by negligence or ignorance of the rules of their profession, are punished with imprisonment from six weeks to six months, or a fine of from 50 to 300 thalers. In case of repetition, they may be deprived of the right of exercising their profession.

17th. *Offences against Personal Freedom.*

A crime or misdemeanor against personal freedom, is man-stealing, or the artful or forcible abduction of a person in order to put such person in a helpless condition, or to carry the same into slavery or bondage, or into foreign service on land or sea, (*Menschenraub.*) The punishment for this is hard labor from five to twenty years.

The artful or forcible abduction of a person under sixteen years, for gain or lust, is punished by hard labor from two to fifteen years; when without such intention, on a minor, with imprisonment of not less than one year. When of a woman, for cohabitation or marriage, hard labor from two to ten years; in case of consent of the female, unmarried and a minor, but without the consent of her parents or tutor, with imprisonment from three months to two years.

The sequestration of a person, or the deprivation of personal freedom, is punished with imprisonment from three months to five years; it is changed to hard labor from two to fifteen years when the action has for result grave personal injuries, when the loss of liberty has been for more than a month, or when against a parent or grand parent. The provisional detention of a person, in case of the commission of a crime, or of grounded suspicion of the same, immediately after the commission, (*in flagrante delicto,*) is not regarded as sequestration, as also the confinement of a person on account of insanity.

The compelling, or seeking to compel, to the commission of a crime

or misdemeanor, by threats, in words or writing, is punished by imprisonment for not more than one year.

18th. *Theft and Embezzlement.*

Theft is the taking the personal property of another, with the intention of appropriating the same unjustly. The punishment is imprisonment of not less than one month, and temporary interdiction of the exercise of civil rights.

In case of extenuating circumstances, the imprisonment can be reduced to one week; and, in case of aggravating circumstances, the condemned can be placed under the surveillance of the police.

A more severe punishment is pronounced, (not less than three months' imprisonment,) in the following cases:

When agricultural instruments and animals employed in agriculture, or gathered crops, are stolen from fields, meadows or gardens; when wood, prepared for burning or for building purposes, is stolen from the forest, or from the place of deposit; when a person who serves for wages, or for board, steals in the house, or a workman steals in the shop of the master; lastly, when a tavern keeper, or servant of the same, steals the effects of a lodger, or when the lodger steals while in the house.

The highest punishment, hard labor, not to exceed ten years, and surveillance of the police, is pronounced in the following cases:

When the objects destined to the service of religion are stolen; when theft is committed, either by night, or by two or more persons in an inhabited house; when theft is committed in a building or enclosed place, by means of breaking in, or climbing over, or when false keys are employed to enter; when travelling effects, or objects which are destined to be transported, are stolen on a public street, or in a building of the post or railroad, by cutting away or loosening the objects serving to secure the same, or by the use of false keys; when objects are stolen from a weak-minded person, or child under twelve years; when the thief, or one of the accomplices is armed; when two or more persons co-operate as instigators or participators, who have associated for the continued exercise of robbery or theft; lastly, when objects exposed to loss at a fire or inundation are stolen.

Whoever has already been condemned twice or oftener on account of theft or robbery, is, in case of conviction for simple theft, condemned to hard labor of at most fifteen years, and in case of an aggravated theft, it can reach twenty years. This augmentation of punishment is not applicable when ten years have elapsed since the time when the punishment of the crime or misdemeanor last committed is expiated or remitted.

Embezzlement (*Unterschlagung*) is the alienation, pawning, consumption, or removal of the personal property of another by those to whom the same is entrusted with the obligation of restitution, or by those who have found or accidentally become in possession of the same. Embezzlement to the prejudice of children or spouse is not punished. A theft or embezzlement from parent or grand parent, step parents or step children, brother and sister, adoptive parents, tutors, or guardians, are only prosecuted on the complaint of the injured party.

19th. *Robbery and Extortion.*

A robbery is a theft accompanied by force, or violence exercised by a thief seized immediately after the act, in order to save the stolen objects. It is punished in ordinary cases by hard labor from five to fifteen years, and surveillance of the police; if there are aggravating circumstances, the punishment is from ten to twenty years, or for life. Those which subject the author to the first punishment, are the bearing arms, the co-operation of several persons, as originators or assistants, and the committing the crime on a public place or road.

The severest punishment is incurred when the robber has been already sentenced by a Prussian court on account of this crime; when a person is tortured or mutilated, or deprived of an organ, or deprived by ill treatment of ability to labor for a longer term than twenty days.

Erpressung is the compelling, or the attempt to compel, to an action or omission, by threat, of a crime or misdemeanor, with the intention to derive therefrom advantage for self or another. The punishment is imprisonment for not more than three months, and temporary interdiction of civic rights; surveillance of the police can also be added. The imprisonment is changed to hard labor from two to five years, when the threatened crime is murder, arson, or causing inundation. This offence is regarded as robbery when the menace is accompanied with danger to life or limb, or with violence.

20th. *Receiving Stolen Goods.*

Hehlerei is the purchase, taking in pawn, or secreting of objects known to be stolen, embezzled, or procured by means of another crime or misdemeanor, or the favoring, for gain, of persons who have committed such offences, The penalty is imprisonment of not more than one month; if there are extenuating circumstances, it can be reduced to one week, and temporary interdiction of the exercise of civil rights. The judge can also condemn to the surveillance of the police. The receiving of goods obtained by robbery, or the protection afforded to robbers, is punished by hard labor from two to ten years, and the being placed under the surveillance of the police.

Professional receiving is punished by hard labor from two to fifteen years, which penalty is also pronounced against those who have been condemned, once or oftener, for the same crime by a Prusian court.

21st. *Fraud.*

Betrug is the injury to the property of another, with intent to gain, by leading into error in making false allegations, or disguising, or concealing the truth. The punishment for this crime, and for the attempt, is a fine from 50 to 1,000 thalers, imprisonment from one month to five years, and temporary interdiction of the exercise of civic rights. When there are extenuating circumstances, the penalty can be reduced to one week's imprisonment, or to a fine of five thalers; if there are aggravating circumstances, provided for by the laws, the minimum of imprisonment is three months. The severest aggravation which can be punished by hard labor from two to ten years, and by fine of from 100 to 2,000

thalers, is the setting fire to insured property,* or the wrecking a ship to gain the insurance on it or its cargo.

22d. *Breach of Faith.*

Unfaithfulness (*Untreue*) is punishable, where tutors, guardians, or administrators of charitable institutions cause injury, intentionally, to the persons confided to them. When brokers, and all those persons who have a particular licence from the authorities to carry on their business, knowingly do injury to those whose affairs they have charge of in the business confided to them. The punishment is imprisonment of not less than three months, and temporary interdiction of the exercise of civil rights; in case of its being done for gain, a fine of from 50 to 1,000 thalers is added.

23d. *Counterfeiting Documents.*

Whoever falsifies a document, (*Urkunde,*) or counterfeits one, and makes use of the same to deceive, is punished by hard labor of at most five years, and a fine from 50 to 1,000 thalers.

The same punishment is awarded against him who, contrary to the will of the signer, makes a declaration or obligation over a signature with intent to cause him prejudice, (*Blankett,*) and against him who knowingly makes use of a false or counterfeited document. If there are aggravating circumstances, such as the falsification of public papers, acts or registers, wills, and bills of exchange, the penalty is hard labor from two to ten years, and fine from 100 to 2,000 thalers.

The falsifying or counterfeiting of stamped paper, or postage stamps, is punished by imprisonment from three months to five years.

The falsifying or counterfeiting a passport is punished by imprisonment from one week to three months, and, of an official certificate, by imprisonment from two weeks to six months.

24th. *Bankruptcy.*

Fraudulent bankruptcy is regarded by the laws as the suspension of payment by merchants and tradesmen, ship-owners, and manufacturers, when they have secreted or set aside the whole or a part of their fortune; when they have declared debts and engagements which do not exist; when they have failed to keep their commercial books, with the intention of doing injury to their creditors; or when, for the same purpose, they have secreted or destroyed their books. The punishment is hard labor from two to fifteen years; when there are extenuating circumstances, it is reduced to imprisonment for not less than three months.

Simple bankruptcy is punished with imprisonment not to exceed two years. It consists in extreme negligence in conducting business, and in the manner of living; without, as in fraudulent bankruptcy, the intention to deceive.

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* The Prussian code differs from other codes in the appreciation of this offence, which by them is declared a separate crime—arson—which will be treated of hereafter.

25th. *Punishable selfishness.*

Punishable selfishnes, (*strafbarer Eigennutz*,) includes a long list of offences, of which the principal are: usury, (*Wucher;*) professional pawnbrokery; professional gambling; the keeping gambling houses; the undertaking a lottery without permission of the authorities; fishing in the waters of another; hunting or shooting on the grounds or district of another; lastly, the opening of sealed letters, or documents, without having the right to do so.

In all these various cases, the penalties are imprisonment or fine.

26th. *Damage to another's property.*

Whoever intentionally and unjustly injures or deranges the property of another, is punished with imprisonment, not to exceed two years; and if there are extenuating circumstances, by a fine not to exceed 50 thalers. When there are aggravating circumstances, on account of the nature of the damaged objects, the minimum of the imprisonment is fourteen days, and in some cases, a maximum of two months. When several persons are associated for this purpose, they are punished by hard labor from two to fifteen years.

27th. *Crimes and misdemeanors of a generally dangerous character.*

Crimes and misdemeanors of a generally dangerous character, are: arson; the destruction of buildings by the use of powder, or other explosive substances; the causing an inundation; injuries to railroads, telegraphs, or other means of communication; the poisoning of springs, &c., &c.

In all these cases, if loss of life is a consequence, the punishment of death is pronounced; when not, the penalty is hard labor for life, or for a term of years; when without criminal intention, the punishment is imprisonment.

To this kind of offence belongs the non-fulfilling, in time of war, of an engagement to deliver subsistence for the army, or of provisions for relieving distress, in times of scarcity.

The punishment is imprisonment for not less than six months; and, in cases of simple negligence only, not to exceed two years.

28th. *Crimes and misdemeanors by a public officer.*

Amtsverbrechen is the act of a public officer, who receives a bribe or other advantage, or who stipulates to violate the duties of his office, or to perform an act which he is duly bound to perform gratuitously. In the first case, the punishment is hard labor from two to ten years; and if there are extenuating circumstances, it is imprisonment for not less than six months, and temporary interdiction of civil rights. In the latter case, it is imprisonment of not more than six months, or fine. The officer can be temporarily suspended from his office.

Besides the case of bribery, there are other high grades of abuse of authority; the intentional injustice of a judge; the employing of coersive measures against an accused in penal procedure, in order to pro-

voke a confession or declaration; the execution of a punishment which is contrary to the laws; the misuse, or falsification of public documents, by those who give authenticity to the same. In all other cases, imprisonment alone is pronounced.

PART III.

CONTRAVENTIONS, (UEBERTRETUNGEN.)

This last part of the Prussian code is divided into four chapters. The first treats of the punishment of contraventions in general. The second treats of contravention in respect to the security of the State, and public order. The third, of contraventions in respect to personal security, honor, and freedom; and lastly, the fourth chapter treats of offences of this denomination against property.

Contraventions in general.

I. Only such actions are to be punished as contraventions which are so declared by the laws, or the regulations of the authorities. The legal punishments are:

The police inprisonment, (*polizeiliche Gefängniss-Strafe,*) which consists in simple deprivation of liberty of not less than one day or more than six weeks.

Fine, (*Geldbusse,*) from ten silbergroschen* to fifty thalers, and the confiscation of certain objects. In case of insolvency, the fine is changed to imprisonment; one day counting for from ten silver groschen to two thalers.

The attempt (*Versuch*) at a contravention is not punishable.

The limitation of this offence is in three months, with the exception of the case of insult, which extends to six months.

II. Contraventions in respect to the security of the State, and of public order, are punished by fine or imprisonment. To this class belongs a long list of offences, which consist in actions without criminal intention, which threaten the well-being of the State; such as the secretly collecting of arms or munitions, the founding of certain associations without the assent of the authorities; the refusal of assistance in case of public danger or necessity; the disturbance of Sunday and religious or public holidays; the making indecent noises in the streets; the public ill treatment of animals; lastly the carrying on of games of chance on the public places.

The same punishment is pronounced for beggary, and against the person who compels children to beg; whoever remains in a tavern or place of public amusement longer than is allowed by the laws, after being directed to leave by the proprietor or police officer, is punished by a fine not exceeding five thalers. The landlord is punished with a

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* Twenty-three cents.—Thirty silbergroschen make one thaler.

fine, not to exced twenty thalers, or imprisonment, not to exceed fourteen days, when he does not seek to hinder his guests from keeping late hours.

III. Insult is punished, on the complaint of the person insulted, with a fine, not exceeding fifty thalers, or imprisonment, not exceeding six weeks; in the cases of disturbing security, convenience, cleanliness, and quiet in the public streets or squares; in cases where the danger to public security is great, as in the case of the preparing or sale of poisons or medicaments; the manufacture and having in possession inflammable or explosive substances, the opening of cellars, pits, or cisterns on the public streets without taking the proper precautionary measures; the non-observance of the public regulations respecting the reparation or destruction of dilapidated buildings.

The same punishment is pronounced against the person who enters the dwelling of another without right, and refuses to depart when summoned to do so; him who sets dogs on persons, who throws stones or other hard or foul objects at others.

IV. Whoever, by an action without criminal intention, injures or threatens to injure the property of another is punished with a fine, not exceeding twenty thalers, or imprisonment, not exceeding fourteen days; in particularly aggravating circumstances the maximum of fifty thalers or imprisonment six weeks can be pronounced.

SECOND PART.

HISTORICAL DEVELOPMENT OF PENAL LAW IN GERMANY.

Before the enactment, in 1532, of the celebrated statutes of Charles V, called the *Carolina Criminalis*, the greatest confusion and contradiction in the administration of penal justice existed in Germany.

There were three different systems of penal law: the Germanic law, as given in the *Leges Barbarorum*, the *Sachsen-Speigel*, and other more local provisions; the Roman law, as contained in the *Libri Terribilis* of the Digests and the 18th titulum of the Institutes; and finally, the 5th book of the *Decretalia* of Gregory IX, and the 5th book of the so called *Liber Sextus* of the *Corpus Juris Canonici*, comprising the canonical law.

The courts of justice experienced these defects not only in the material principles of the law, but especially in the mode of criminal procedure, concerning which arose among jurists in later times the greatest controversies.

At about the close of the fifteenth century, numerous petitions having been sent to the Diet asking for the alteration of this state of things, and particularly for the codification of the penal law and procedure, that body resolved in 1498 upon an entire reformation of those laws, and a complete codification of all the statutes that should be retained from former legislation.

This decision was first realized in 1532 by the adoption of the *Carolina Criminalis* at a session of the Diet in Ratisbon.

Before this law penal regulations were issued for provisional use in different parts of the Germanic empire where the necessity of penal legislation was most urgent. For example, in the county of Tyrol, in 1499, penal regulations were decreed by Maximilian I, which were drawn up by the celebrated Frank knight, John of Schwartzenburg.

These were for the most part introduced into the *Carolina Criminalis*. They were not so much devoted to criminal law as to criminal procedure, for, as has been seen, it had the greatest need of reform.

The *Carolina Criminalis* is called in its preface "a simple instruction for unlearned judges, to teach them how to proceed in criminal cases."

So far as regards penal law, it often refers to Roman and Germanic law, but gives, nevertheless, clearer and more precise definitions of offences, and, in respect to grave crimes, determines their punishment.

These punishments are, for the most part, very severe. Capital punishment, which was inflicted in the most frightful manner, is decreed for slight misdemeanors, and even the proceedings of the inquisition and torture are preserved.

Cruel as these regulations may seem to us now, it must, nevertheless, be remembered that the code of which they were a part had to struggle against the anarchy and demoralization of that early period; and that its various provisions, considering the tendencies and necessities of the age, cannot be regarded as too severe.

The *Carolina Criminalis* continued as law during the following centuries, and no German legislation has yet abolished this work of Charles V.

Important modifications, however, were introduced by the judges, who gave a wide and liberal interpretation to the law, and did not abide by such parts of its text as were in contradiction to the opinions and customs of the age.

The published works of certain philosophers of the eighteenth century exercised the greatest influence upon the public opinion of the time, which in its turn influenced the judges, leading to very arbitrary practices in the courts of justice. The text of the *Carolina* was thus replaced, and urgent appeals were made for new criminal laws, more in conformity with the sentiments of humanity and the wants of the age.

The two first philosophers who opposed the penal jurisprudence of this period, on the principles of reason and humanity, were Italians. One of them, Beccaria, in his celebrated work on misdemeanors and punishments, (*Dei delitte e delle pene; Napoli*, 1769.) The other was Filangieri.

The first special criminal law in Germany was promulgated in the year 1751, in Bavaria, under the name of *Codex juris criminalis Bavariae*. In 1768 a penal code was published in Austria, by the Empress Maria Theresa, called *Constitutia criminalis Theresiana*. In 1794 a book of penal laws appeared in Prussia, which formed part of the general code of that kingdom, (*Landrecht.*)

In the present century we find a long list of penal codes in Germany, codification of the criminal law having been carried so far that even the smallest States have penal codes.

In this manner the *Carolina Criminalis*, which have never been repealed by any act of the Diet, have been virtually abolished by new special laws. Indeed, its influence had been comparatively paralyzed before, as has been remarked, by judicial doctrines and practice.

Before making a short review of the German penal codes of the nineteenth century, an observation occurs which is important to the general question of codification.

The small German States, which within the last few years have formed new penal codes, have, for the most part, no particular civil code, the necessity for it never having been so pressing as in the case of criminal law.

The ground for the particular urgency of a penal code lays evidently in this: that the penal laws require the greatest precision and exactness; that every citizen should know the nature and consequences of a punishable action; and that for these reasons the positive penal enactments should be contained in a simple code accessible to every one.

The doctrines of Feuerbach, the most celebrated German criminalist, have exercised a great influence on the penal legislation of Germany during the present century.

His theory was first put in practice in the Bavarian penal code of 1813, which was prepared by him, and was afterwards adopted in many of the German States. The most interesting reforms accomplished by his theory related to the determining and graduation of punishments. He laid down the principle that the punishment should be great in proportion as the temptation to commit the punishable action was great; in other words, the punishment must inflict a greater ill than the criminal would have experienced by not having given way to the temptation, (*physchologische Zwangstheorie.*)

The apparently abstract theory had very practical effects on penal legislation; as, for example, the thief who had a powerful and preponderating temptation to steal, was more severely punished than a parricide, who committed this crime without having the inducements or temptations which influenced the thief.

This theory of punishments, which led in many instances to too severe a punishment, and in others to a punishment altogether too mild, cannot be considered wise or generally practicable; for the legislator cannot in all cases decide upon this question of motive and inducement.

Another pernicious consequence of it is, that the legislator encroaches on the functions of the judge, as the latter is under the obligation to pronounce a certain fixed penalty, without having given due consideration to the individual case and circumstances.

The chief service which Feuerbach has rendered to criminal law does not consist in his theory of punishments, but in his theory of crimes. He has arranged in distinct classes all kinds of criminal actions; distinguished individual categories from each other by fixed definitions; marked strict boundaries to the sphere of every crime; and introduced a language into criminal law which is simple and without ambiguity.

The laws which are merely based on Feuerbach's theory are better in this respect than the Bavarian penal code, which was composed by Feuerbach himself; for they have less the style of a compendium, and

more the language of a law than the more abstract work of a German professor.

This generalization of Feuerbach's conception of penal law gave a great advantage over the Prussian legislation on this subject; which although not giving general definitions contained an infinity of detail, which on account of the great multiplicity of crimes could never be completed.

In the new Prussian penal code which appeared in July, 1851, the authors have sought to remedy the defects above-named. This code, as may have been seen by the analysis which I have given of it, is very remarkable in many respects, and deserves the particular attention of jurists and legislators. In addition of Feuerbach's theory for the definitions of crime, the influence of the French penal code is very evident.

Present condition of penal law in the individual States of Germany.

Among the numerous penal codes in the German States, particular mention may be made of the code of Saxony of the year 1838; of Wurtemburg, of 1839; of Hanover, of 1840; of the Duchy of Brunswick, of the same year; of the Grand Duchy of Hesse, of 1842; and of the Grand Duchy of Baden, of 1845.

These various codes resemble each other in many respects, especially in regard to their definitions of crime, which are based upon the principles of Feuerbach; but, in respect to punishments, they follow independent theories, and leave much to the discretion of the judge.

It is important to observe that these codes give only the essential principles of the law, and say nothing of penal procedure. It is in this that German legislation is least efficient; so that the old system of procedure remains side by side with the new system of law.

The German governments regarded reform in legal proceedings as a political question; and the petitions on this subject from the inhabitants of those States which had no constitutional law were disregarded.

In 1846, however, a system of criminal procedure was promulgated in Prussia, which established new principles on many points, though it was far from recognizing the system of the French code.

According to this new law, which is the most liberal of the kind in Germany, the trial is not public; officers of justice and persons of gentlemanly appearance (*anständige Männer*) only being admitted.

There is no jury; nevertheless, the judges are invested with the powers of a jury as constituted in France; being bound by no law of evidence, but deciding only according to moral conviction (*conviction intime.*)

The most important reformation which this new law introduced into penal procedure in Prussia, was the substitution of oral proceedings, for the long tedious process of proceedings by writings (*schriftliches Verfahren.*) This important reform was preceded by a similar one in Baden, in 1845.

In the year 1848, when so many of the German princes adopted political constitutions, they promised the people also a new system of criminal procedure, based upon the French.

At that time, as for many centuries previous, trials were secret. There was no jury either for civil or criminal cases; but all matters of fact and law were decided in secret sitting by judges appointed by the State.

The proceedings before these judges were so long, that sometimes the accused had to wait years before learning his fate; which was then announced to him, not in court, but in his cell in prison.

Among other reforms demanded in 1848, was the institution of public prosecutors, having the same functions as the magistrates appointed under the French code for prosecuting crimes and misdemeanors.

This *procureur*, as has been shown in treating of the French codes, has the exclusive right to propose to the court the condemnation of a criminal, although he has no part in the decisions of the court.

In Germany, the examining magistrate and prosecutor of the accused was the same judge who finally pronounced the sentence; and however just he might be as a judge, he must sometimus feel in his breast the sentiments of a prosecutor.

A reform in this respect is already realized in part, and will probably be carried out in other States; although, for the most part, the political concessions of 1848 have been withdrawn, and the former condition of things has been restored.

In Austria, where most of the new reforms have been abolished, a new ordinance was promulgated a few days after the *coup d'état* of the 2d December, in France, by which the emperor not only re-established all the former political institutions, as they existed before 1848, but abolished nearly all the reforms in penal procedure. The trials are once more secret, only a few persons being admitted by special permission of the court. The jury is suppressed in all cases, and a public prosecutor instituted only for the higher courts.

In Prussia, and some other of the German States, (Hesse-Darmstadt and Frankfort) there have been debates in the legislative chambers very recently on the subject of the competency of the jury, in trials for political offences and crimes.

In the Prussian chambers, in the sitting of the 11th February, 1852, the competency of the jury for the trial of political offences and those of the press was annulled.

The question was debated on the same day in the legislative assembly of Hesse-Darmstadt, but was not carried, twenty-three members voting against, and twenty-three for. In the same body, on the following day, the question of the influence of the government in the composition of the jury was discussed. The right of preparing the jury-list was given to the government alone; and the body which was entrusted with this duty in 1848 (*Bezirksrath*) was declared to be hereafter incompetent to do the same.

These changes must exercise a great influence on penal legislation, as the difference between a judge deciding, law in hand, and a jury, ignorant of law, deciding on certain fixed questions proposed to them, is very great.

There are numerous commissions which have been appointed in the different States of Germany, whose business it is to devise means to regulate this part of their legislation, and to attempt to harmonize the

doctrinal and scientific principles of a systematic code, with the requirements of daily practice. There are other commissions appointed for the purpose of codification, whose work it is to incorporate into a scientific system the rich materials of practical experience, and the unclassified, unconnected provisions of the law.*

THE PENAL CODE OF BAVARIA.

To complete the idea of the condition of penal legislation in Germany, both as regards penal law and penal procedure, I shall give an analysis of the Bavarian code, which, although far anterior to the Prussian code already given, will serve to show the principal characteristics of the systems of criminal law in force, till quite lately, in Germany, and which are still in vigor in many portions of that country. This code was revised in 1830, but I have preferred giving it as it came from the hands of Feuerbach.†

The penal code (*Strafgesetzbuch*) of Bavaria, which was promulgated in 1813, is divided into two parts; the first treats of crimes and misdemeanors, the second, of criminal procedure.

The theory of Feuerbach is more fully given in this code than in any other. Analysis of the second part will be interesting, as showing the type and theory of the German criminal procedure.

The first part, relating to penal law, is divided into three b oks:

I.—The first book is divided into five chapters, and gives t e general provisions concerning crimes and misdemeanors.

1. The first treats of punishable actions, and their various degrees of punishment.
2. The second treats of the perpetration of crimes, criminal intention, and the authorship of crimes.
3. The third treats of criminal attempt, criminal participation, and crimes resulting from culpable negligence.
4. The fourth treats of the proportioning of the punishment to the crime and of extenuating and aggravating circumstances.
5. The fifth treats of the grounds for remitting punishment.

II.—The second book treats of crimes and their punishments, in detail. It is divided into two parts. The first treats of crimes against individuals, the second of crimes against the state (*privat und Offentliche*, or *Staatsverbrechen.*)

The first part is divided into six chapters:

1. The first treats of crimes against human life.
2. The second treats of personal injuries and maltreatment.
3. The third treats of theft, embezzlement, robbery and extortion.
4. The fourth treats of damages done to property.

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* The most celebrated writers on criminal law in Germany, are Mattermaier, Henke, Waechter, Heffter, Marezoll, Hertzig, Tittmann, Koestlin.

† A *projet* of a new penal code for Bavaria has just been completed, (1854,) and will, probably, be in force before the expiration of the year.

5. The fifth treats of fraud.
6. The sixth treats of unfaithfulness. (*Untreue.*)

The second part contains seven chapters, and treats of high treason, offences against the king or the royal family, and other crimes against the security or existence of the State.

III.—The third book treats of misdemeanors both against persons and the State, and of the punishments which are provided for them. It is unnecessary to enter into their details. A single example, however, will serve to illustrate the theory of Feuerbach.

Theft is punished more severely on account of the greater opportunities and temptations to stealing; which are furnished by the nature of the object itself, or by the offender's peculiar relations to it.

Another peculiarity is, that the police courts can take cognizance of and punish the frivolous and wanton incurring of debts.

To the misdemeanors against individuals belong the lighter offences against the person; and such as theft, embezzlement, personal injuries under certain circumstances, and certain lower grades of unfaithfulness.

To the misdemeanors against the State belong offences compromising the honor of the State; resistance to authorities; offences against public peace; against public credit, and against public property; and lastly, the particular misdemeanors of public officers.

The chief peculiarities of this code are contained in the first book, which gives the general principles concerning both crimes and misdemeanors.

Punishable actions, as in the French *Code Pénal*, are either crimes, misdemeanors, or contraventions.

Crimes are all offences, which, by their nature and gravity, incur the penalties of death, confinement in irons, (*Kettenstrafe,*) hard labor of the first or second degree, (*Zucht* and *Arbeitshaus,*) imprisonment in a fortress, deprivation of public office, or declaration of incapacity for all offices or honors of State or trust.

Misdemeanors are all offences, committed with or without criminal intention, which are punishable with imprisonment, flogging, fine, and other lighter punishments, (*geringeren Uebeln.*)

Contraventions are actions or omissions, which, although not causing injury to the rights of the State or the subject, are prohibited or commanded under certain penalties, because they endanger public order, and compromise public security. Lighter offences, which are referred by particular laws to the examination of the police authorities, who also have the punishment of them, come likewise under the head of contraventions.

From these definitions, it is easy to perceive that the legislator recognizes an offence as punishable only when it is in violation of an essential right of the individual or the State.

The new codes have all abandoned this fundamental principle of the Bavarian code.

The punishment of death is either simple or aggravated. The mode is decapitation. In the first case, the criminal is led to the place of execution, clad in a grey blouse, and bare headed, with a tablet on the back and breast, inscribed with the name of the crime.

In the second case, the criminal, dressed and labelled in the same way, is exposed for half an hour in the pillory.

Confinement in irons is for life, and is accompanied by civil death. The labor of the prisoner is determined by the State. The prisoner is fastened by a chain to a heavy iron ball.

The punishment of hard labor, (*Zuchthausstrafe*,) is either for a definite term of from eight to twenty years, or for a term not fixed by the sentence, in which case, after ten years, on evidence of repentance or improvement, the punishment is remitted.

A judge can never sentence to hard labor *for life*.

The second degree of hard labor, (*Arbeitshausstrafe*,) consists of the prisoner being confined in another and separate establishment, where he is treated in a milder manner, and his punishment is less laborious than in the first.

Imprisonment in a fortress is of three kinds. The first is substituted in particular cases for imprisonment in irons; the second, for hard labor of the first degree; and the third for hard labor of the second degree.

The first and second degrees of this punishment, as well as of other punishments, may be augmented by confinement in dark dungeons, diminution of food, flogging, and exposure in the pillory.

In case of flogging, the number of lashes is named in the sentence, and cannot exceed fifty; and they can only be given on the declaration of a physician that they would not endanger the criminal's life.

Imprisonment for not exceeding two years takes place in a local prison, or in a fortress, where there is no compulsory labor, but where the quantity of food can be diminished.

Whoever causes the condemnation of a criminal to be made a reproach to his relatives may be subjected to a penalty of from eight to fourteen days' imprisonment.

Those persons are considered as authors of a crime who assist in its execution by direct bodily strength or exertion; who render an assistance without which the crime could not have been consummated; or who excite and provoke other persons to its commission.

A complot is different from these cases, and consists in two or more persons joining with another, for a common interest, in the commission of a crime; and who bind themselves, by promises of mutual assistance, to co-operate in its execution.

Participation in the execution of a crime incurs the same penalty as the crime itself, although the ringleaders receive the severest punishment.

The accomplice is he who knowingly and intentionally participates in a crime resolved on by another, whether by words, acts, or missions to act, and even when such participation was not so necessary but the crime could have been committed without it.

The law recognizes and determines three grades of complicity according as the co-operation or participation is of more or less importance in the commission of a crime. The punishment of an accomplice is regulated by that of the perpetrator.

In the third grade of the crime of complicity, we observe one of the peculiarities of the theory of Feuerbach. The persons who are included in this grade, and who are liable to its penalty, are those who fail

to denounce a crime or a misdemeanor, of which they have knowledge, and who, though not public officers, do not hinder or prevent a crime so far as is possible, even by the use of physical force.

Another peculiarity is, that the receiving of stolen goods, or the favoring of the escape of a criminal, is punished as a second degree of complicity.

Criminal attempt consists in having the intention to commit a crime and having done anything in preparation, or towards the perpetration of the same. It is either proximate, distant, or aggravated.

A proximate attempt is when the criminal is present, and is taken at the commencement of the action by which the crime or misdemeanor would have been immediately consummated.

A distant attempt is when the offender has only assisted in certain acts which are regarded as merely preparatory to the crime.

An aggravated attempt is when the attempt constitutes in itself a crime or misdemeanor. The punishment in this case is more severe than the punishment of a proximate attempt, or of the crime independently, even when the punishment for this last is more severe than that laid down for attempt.

Criminal attempt of the two first grades is not punished, as in the French code, with the same penalty which is attached to the crime itself; but it is increased or diminished in proportion as it is distant or proximate to the actual commission of the crime.

The German jurists find the greatest peculiarity of Feuerbach's system to be in his theory as to the meting out of punishments.

When the law has not defined the precise grade of punishment, it must be determined by the judge, always in observance of the following principles: The punishment must be increased in proportion as the reasons for obeying the law are numerous and important; as the obligations violated by the offender are great and serious; as the criminal is in a condition clearly to know his motives for the commission of the crime; as the hindrances to the commission of the crime were great, or as the criminal was instigated by his own impulses, or by external circumstances; as the offender, by the continued practice of bad manners, and the performance of loose actions, has become intractable, *(Verwildert,)* and disposed to crime, and as the lusts and passions manifested in the commission of the crime were dangerous and malicious.

On the other hand, the punishments are decreased when the offender, having an opportunity to commit a greater crime, restrained himself voluntarily to a smaller one; when he takes pains to prevent the consequences of the crime, or voluntarily to repair the injury done; when he voluntarily delivers himself up to justice; when at the first or second examination he confesses his crime; or lastly, when he has led to the detection of other criminals, or furnished means or opportunity for their seizure.

Though the crime is *proven* against the accused, nevertheless, if, in an important matter of fact, *(Thatbestand,)* there is an essential point of the evidence defective, a milder punishment than that prescribed by law is inflicted.

The commission at the same time of several crimes is punished by an accumulation of the penalties of all.

Repetition of a crime or misdemeanor is punished more severely than the original offence. It exists when a person, after having undergone a punishment, repeats an offence similar to that for which he was sentenced.

No punishment is pronounced against children under eight years of age, insane persons, idiots, or persons who from melancholy or other grave mental affection, have lost the use of their judgment; those who cannot judge of the consequences of their actions, nor be sensible that a penalty is attached to them; those who, by reason of weakness caused by old age, have lost the use of their judgment; deaf and dumb persons, so far as they are not regularly instructed in their duties; those who are in incurable ignorance, and have, therefore, regarded their actions as allowable and not criminal; those who have committed a criminal action under the influence of physical force which they could not resist; or of bodily fear, such as menace against life; and, finally, those who have resolved on committing a crime, and have executed it, while in a confused state of mind or senses for which they were not answerable.

No crime exists for defending one's self, nor for those who have assisted in such defence.

The law provides for, and affixes penalties to, those cases where the limits of legitimate defence are exceeded.

In general there is no limitation to punishments. If, however, the criminal has not been prosecuted within a period fixed by the law, and if, meanwhile, he has conducted himself irreproachably, he is declared exempt from punishment.

The special part of this code, given in the second and third books, contains the application of these principles to particular crimes and misdemeanors.

THE CODE OF PENAL PROCEDURE OF BAVARIA.

The system of penal procedure, as contained in the Bavarian code, may be regarded as a type of that practised in the German States. A general outline of it will be given here, as a means of showing more clearly the condition of penal legislation in Germany. The chief points of interest are the following:

1. The civil penal courts (*Civilstrafgerichte*) judge of misdemeanors; the criminal courts judge of crimes. The first are located near the courts of appeal, and are composed of four members of that court, having a president or director, who has no vote in any of the deliberations.

The second consists of a senate of six judges of the court of appeal.

The court of appeals decides concerning misdemeanors in second instance (the highest allowed for this category of offences;) and a high court of appeal (*Oberappellationsgericht*) decides concerning crimes, in case of second appeal.

2. The prosecution is not instituted by a public prosecutor, but by

the judge, who is specially charged, *ex officio*, to prosecute in all cases of crime and misdemeanor. (*Untersuchungsrichter.*)

The proceedings consist of four stages, called general and special inquest, closing examination, and trial. (*General und Special Inquisition, Schluss und Hauptverfahren.*)

The preliminary inquest is first general, and afterwards special. The object of the general inquest is to decide upon the reality of the supposed offence, and to ascertain what are the grounds of suspicion *in objectivo* and *in subjectivo.*

The special inquest commences when sufficient grounds are found for putting the suspected person in accusation. This is only possible when he has made true confession; or when testimony has been given against him by one irreproachable witness; or, in case their testimony agrees, two reproachable witnesses; or when, owing to several indications, there is reason for grave suspicion. (*Indicium proximum.*)

3. In case of a crime punishable by death, chains, or hard labor, the accused is detained in prison previous to the trial.

In case of crimes of lesser grade, when the accused are domiciled in the kingdom, and possess real estate, and have some regular trade, occupation, or office, they are not imprisoned previous to trial, unless they have incurred some criminal punishment before, or, unless for particular reasons, their escape is to be feared; nevertheless, bail must be given, which must be proportioned to the gravity of the punishment attached to their supposed offence, and according to the amount of the damages and costs of court.

4. After terminating the special inquest, the closing examination commences, in which the accused is allowed the services of counsel; and here are supplied the omissions of the preceding inquests. This proceeding terminated, the papers are sent to the proper court to be used at the trial.

5. The kinds of evidence admitted at the trial are: occular demonstration by the judges; opinions of surveyors; confession of the accused; witnesses; documents; coincidence of several circumstances. (*Indicien.*)

6. The proceedings are secret and documentary. The court decides on a report ready by one of their number, appointed by it for that purpose.

The judgment is pronounced by a majority of voices, and declares the accused either guilty or not guilty.

He is only absolved *ab instantia*, when there are too few grounds of suspicion to warrant a sentence, and too many to warrant his being set entirely at liberty.

A person absolved *ab instantia* must give bail, and be placed under the surveillance of the police. He can, also, at any moment, be prosecuted anew.

7. Besides appeal, there is a revision of judgment, which a person declared guilty, or absolved *ab instantia*, can demand, in which case the court which has condemned the accused, decides also the matter of revision.

8. Martial law can be established when a district is particularly menaced by the commission of grave crimes. The court-martial con-

sists of five judges, two assessors, and a recorder. The usual mode of proceeding is abandoned, and the four grades above given, are, at the same trial, united in one.

It will be seen by the above that there is no time fixed for terminating the examinations; and that the trial can last, owing to documentary proceedings, for an indifinite space of time; also, that there is no jury, and that the judges, who have no cognizance of the documents, and who do not hear the witnesses, form their decision on a simple report, and have the right to sentence the prisoner, set him free or keep him in perpetual uncertainty as to his fate, and liable at any moment to a new trial.

There is no public prosecutor. The functions of this officer, and of judge, being united in one person.

THE PENAL CODE OF SAXE-WEIMAR.

The penal code now in force in the grand duchy of Saxe-Weimar dates from the year 1838.

There were no great difficulties to the introduction of this code, as there were no important parliamentary discussions on the subject, it having been founded on the codes of the other German States, which immediately preceded it, and on the Prussian project. It is not without interest to remark, that the code of this State, which numbers the population of a second-rate city of the United States, commences with principles of international law. It proclaims that not only the inhabitants of this grand duchy, but also that the *Saxe-Weimarers* who have, in foreign parts, committed an action which is high treason against the grand duchy, or the ducal family, or on account of an action which is committed without the limits of the State, in order to defraud the laws of the same, are subjected to the proscriptions of this code.

A very original prescription of this body of laws is, that the punishments are pronounced not only on account of violation of the *letter*, but also on account of violation of the *spirit* of the law. All the other laws which have been given, and in fact all existing codes, forbid analogy in the interpretation of penal law, and admit only the strict application of the text. In our statutes, and in England, the same principle is in force, the very important reforms of the past few years which tend to abolish the pedantry of words, having reference alone to criminal procedure, particularly in the form of indictments, and not to penal law.

The following punishments are admissible in Saxe-Weimar:

1st. Death;
2d. Confinement in irons;
3d. Hard labor of first and second degrees;
4th. Confinement in a fortress;
5th. Infamy and degradation;
6th. Flogging;
7th. Imprisonment in a fortress;

8th. Fine.

Concerning the execution of the punishments, the same regulations are observed as in the Bavarian code.

This code is for the most part copied from the Bavarian, but further detail is unnecessary; my object in these few remarks concerning the code of Saxe-Weimar being to show how, in so small a State, a penal code is brought about, and what were its features.

THE PENAL CODE OF BADEN.

This code was promulgated the 6th March, 1845. It is divided in the usual manner into two parts: the first, trials of offences and their punishments in general; the second part treats of individual offences and the penalties of the same.

The division of offences into crimes, misdemeanors, and contraventions, as established in the *code pénal*, and most of the other codes of Europe, is not adopted in that of Baden. They are neither defined nor graduated. The first article merely bears the title "*punishable actions*," and contains the prescription that the commission or omission of an action is only punishable when the law prescribes a penalty for the same.

There are two classes of punishments; criminal and civil (*peinliche und burgerliche Strafe.*)

The criminal punishments are:

1st. Capital punishment;

2d. Hard labor for life;

3d. Hard labor for a term of not less than three nor more than twenty years;

4th. Deprivation of office.

The citizens of Baden who are sentenced to hard labor, and those who are particularly dangerous to public security, may, on coming out of prison, be placed under the surveillance of the police for a term of from one to five years. An individual receiving this punishment cannot leave his house, or place of residence given to him by the authorities, over night, and is subjected to house-searchings at the discretion of the police or judicial authorities.

The civil punishments are:

1st. Confinement in a house of correction (*Arbeitshaus*) or fortification (*Festung*) from six months to two years; (this last punishment is inflicted when the offence was not committed for gain, or from "shameful" motives;)

2d. Imprisonment from four weeks to one year, or of a lower grade, so called (*Amtsgefügniss*) from one day to eight weeks;

3d. Removal from office with the capability of being restored again after three years, (*Dienstentlassung;*)

4th. Loss of license to exercise certain professions;

5th. Fine, not to exceed, as a rule, 1,000 guildens;*
6th. Confiscation of certain objects;
7th. Judicial admonition.

Imprisonment (*Gefägnissstrafe*) can be aggravated in certain grave cases, by solitary confinement of not more than two months duration; *Dunkelarrest* † or confinement in the dark, not to exceed four days; short diet, (*Hungercost*,) of bread and water, or bread and warm gruel, not longer than seven days, which cannot be consecutive; lastly, being put in chains for a period not to exceed four weeks.

This code gives also the punishments which the authorities of the prisons can inflict on refractory prisoners. They can, in all prisons, inflict the punishment of solitary confinement and deprivation or restriction of the comforts or favors which are allowed by the regulations of the prison. In the *Arbeitshaus* and the *Gefägniss*, they can inflict the punishments named above, of confinement in the dark, of short diet, and of deprivation of beds. In the *Zuchthaus* they can put a refractory prisoner in chains.

There are various grades of criminal attempt. An attempt is *beendigt* if all has been accomplished necessary to the consummation of the offence; which, however, has been impeded by some circumstance independent of the will of the criminal—it is *nichtbeendigt* when this is not the case.

The punishment in both cases is less than for the perpetration of the attempted offence, and the penalty for *nichtbeendigt*, is considerably less than for the *beenidgt* attempt.

The originators of an offence are not alone those who have accomplished it by deeds, but those who have decided on, or incited to the same. When the perpetration of the offence does not depend on the influence of the counsellor, however, he is punished less severely than the perpetrator, but receives the same penalty as the accomplice.

An accomplice is he who knowingly facilitates or furthers the offence of another. The punishment for this grade of guilt is less than for the originator or perpetrator; the punishment of death is changed to hard labor for life, or for a term of years; in all other cases the minimum of the punishments inflicted on the ringleader, or the next lower grade of penalty, is incurred.

Aid and comfort to a criminal after the act, is *Begünstigung*. Regard is had in the punishment of the same to the importance and motives of the principal crime, and it is punished with imprisonment or fine, with the exception of those cases in which other punishments are designated by the law. Habitual *Begünstigung* is punished with particular severity, whilst that accorded to near relations incurs no penalty.

The system of aggravating and extenuating circumstances, which is according to Feuerbach's theory, is interesting. The punishment is aggravated in proportion as the reasons for committing the offence were more numerous and important; as the obstacles and dangers in the way of the execution were great; and as the external incentives to the

* The guilden is forty cents.

† The code of Hesse Darmstadt contains also this aggravation of imprisonment. Owing, however, to several grave maladies resulting, according to the certificates of physicians, from this punishment, it is no longer put in force.

offence were small or insignificant; as the offender by his former manner of living had manifested immorality and perversity.

The punishment is mitigated when the offender was not aware of the result of the act or the extent of the punishment of the same; when led to commit the offence either by necessity, persuasion, deceit, seduction, order, or menace; when he was in a state of great mental excitement; when he has led an irreproachable life; when, under the influence of repentance, he has sought to hinder the injurious consequences of the punishable action; when he has himself given information of his offence to the authorities.

When these circumstances occur, a milder punishment than the one fixed by law for the offence is inflicted.

There is no punishment for an offence committed when the exercise of a free will or the knowledge of the penalty of the offence was wanting, or when in ignorance of the facts which make an action punishable, or which increase the penalty of the same.

Children under twelve years old are not held accountable for offences; those from twelve to sixteen years old are only punished when they have acted with discernment, and then with a milder penalty than that inflicted on those of riper years.

Self-defence, in case of imminent danger to one's life, or to one's property, or defence of a near relation whose life is in danger, is not punished when thereby an action is committed which in other cases would receive punishment.

When several offences are committed by the same party, the severest* of the punishments incurred is inflicted, with augmentation in proportion to the nature and number of the offences.

The term of limitation for those offences which incur capital punishment, or hard labor, is twenty years; for other offences, ten years; for those offences which are prosecuted on the demand of the injured party, two years.

THE PRUSSIAN CODE OF PENAL PROCEDURE.

To complete this outline of the penal legislation of Germany, I will give here a sketch of the system of penal procedure for Berlin, promulgated the 17th July, 1846.

The royal proclamation accompanying this code says that it had always been the intention of the king, since his ascension to the throne, to better the condition of criminal procedure, by a more prompt jurisdiction, which should, nevertheless, preserve the dignity of the judge, and more particularly by the introduction of oral proceedings, *(mündliche Verfahren,)* and that, as this comprehensive labor was not yet brought to an end, the advantages of this new law could only be given to the capital, Berlin.

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* *Poena major absorbet minorem.*

The most important improvements over the previous system, in this code for Berlin, are the following:

1st. In the criminal courts of first and second instance, called *Criminalgericht* and *Kammergericht*, is a public prosecutor, whose business it is to seek out offenders and to bring them before the courts of justice. Besides the prosecutor, the president of the police and his officers are empowered to seek out criminals and proofs for the conviction of the guilty.

The duty of the public prosecutor is to see that the legal prescriptions are observed in penal procedure. "He has," says the law, "not only to take care that the guilty do not escape punishment, but also that the guiltless are not prosecuted."

The judges are not bound to the *motion* of the prosecutor, but decide independently, according to their opinion of the facts.

The accusation is made by the public prosecutor, and the courts do not interfere *ex-officio*. The public prosecutor can direct the accusation till the court has resolved on the formal indictment.

2d. The judgment must be proceeded by oral pleadings, in which the public prosecutor and the accused must be heard, the proofs brought forward, and the defence presented.

3d. After these proceedings are brought to a close, the judge declares the accused either guilty or not guilty, or absolves him only from the accusation. In the last case the accusation can be resumed, in so far as it can repose on new facts or proofs, till it expires by limitation.

4th. The courts judging in first instance are competent for those offences which are punished with fine of less than fifty thalers, loss of freedom for six weeks or under, or flogging. In these cases the court consists of one judge-commissioner. In case of grave crimes this court consists of a commission of three members, *(Gerichtsdeputation,)* which decides on an act of indictment which is proposed by the public prosecutor.

For the gravest crimes the oral pleadings must be preceded by a preliminary examination, in which the accused must be heard.

5th. The accused and the prosecutor can appeal against a judgment within ten days. This appeal is announced to the court of first instance.

The court of appeal consists, in case of light offences, of a deputation of three members who belong to the *Criminalsenat* of the *Kammergericht;* in case of grave crimes, of six members; or, when the crime is particularly grave, of eight or ten members.

6th. When no appeal is admissable the accused can always, and the public prosecutor till the limitation of the crime, demand *restitution.** This demand can only be made in two cases: where the judgment is founded on a false document, or on the deposition of a perjured witness. The proceedings on this demand are before that court which received the false document, or the statement of the false witness. When the demand is rejected, as unfounded, an appeal can be made within ten days. When it is declared to be founded, the whole of the pre-

* The *Restitutio in integrum* of the Roman law.

vious proceedings are annulled and a new suit commences, as if no judgment had been passed by a court. In this case the ordinary means of justice are admissable.

7th. Police offences have a particular system of procedure. The president of police has no longer complete jurisdiction in these cases, but the judges of police designated by the *Kammergericht*. A special magistrate *(Polizei-Anwalt)* is charged with the functions of public prosecutor. An appeal is admitted, from the decision of the judge, within ten days, in case new facts come to light after judgment has been pronounced. The appeal is decided on by a deputation, consisting of three members of the *Criminalsenat* of the *Kammergericht*—the same members who sit in judgment in second instance on light offences.

When a public officer informs of a contravention, and affirms to have seen the offence committed, there is a special summary procedure—the punishment being pronounced immediately and communicated to the accused, with notice that he can demand the alteration of the sentence within ten days. *Restitution* can only be demanded when the person condemned opposed the decision. These proceedings, so-called *Mandatsprozess*, are a peculiarity of the system of procedure in Germany, in both criminal and civil cases.

PENAL CODE OF AUSTRIA.

By an impartial patent of 27th May, 1852, a penal code for all the States of the monarchy, with the exception of the military frontiers, was promulgated, to take effect on the 1st September, 1852. With this also appeared a law fixing the competency of the criminal courts in those States of Austria in which the new code of penal procedure of 17th January, 1850, is introduced; a law to determine the competency of those courts which pass judgment on political offences and offences against the emperor; a law determing the competency of the criminal courts for the kingdoms of Hungary, Croatia, Sclavonia, the Servian *Woiwodschaft* and the *Banat;* a law deciding the competency and procedure of the criminal courts for Siebenburgen only; and lastly, a general law on the press for all the States of the empire, with the exception of the military frontiers.

I.—THE PENAL CODE.

This is preceded by a proclamation of the emperor, which lays down the principles for the application of the laws which follow; all anterior laws, customs, and ordinances concerning penal offences, are abolished from the 1st September, 1852, with the exception of the military laws, and, as has been already remarked, the laws for the military frontiers.

From the day when this law goes into force, no crime, misdemeanor or contravention (*Verbrechen, Vergehen, Uebertretung*) can be prosecuted,

other than those laid down in this code; nevertheless, this law, in case of pending prosecution or proceedings, and for all punishable actions committed before the 1st September, is only applied, when the punishments of the new code are not severer than those of the former. All fines laid down in this code are to be reckoned in Austrian guilders.*

The former laws concerning usury remain provisionally in force. As the present code contains no law on the subject of the competency of the courts, it is laid down, that in those States in which the laws of 17th January, 1850, are not introduced, as well as in the incorporated (*Unserern*) Grand Duchy of Cracow, the jurisdiction of crimes and misdemeanors is to be exercised by those courts which, at present, have competency for crimes alone; contraventions are to be judged by those courts which before this had the jurisdiction of grave police offences. (*Schwere Polizei-Uebertretungen.*)

A great difference, both in system and classification, is to be remarked between this and the other codes which have been given. It does not commence with preliminary and general principles, but is divided into two parts, which contain the special laws on punishable actions, and their penalties.

The first part treats of crimes; the second part of misdemeanors and contraventions. It is to be remarked, that the Austrian code has adapted the classification of offences of the French code, although this classification is not recognised by any special article.

PART I.

CRIMES.

This part is divided into twenty-nine chapters, which treat respectively of: crime generally; punishments of crime; aggravating circumstances; application of the aggravating and extenuating circumstances in determining the grade of punishment; different kinds of crimes; crimes of high treason, or against the power of the sovereign or his family, and disturbance of the public peace; sedition and riot; public violence; abuse of office; counterfeiting of public bills of credit; counterfeiting of coins; disturbance of religion; rape, violation, and bestiality; murder and homicide; abortion; abandoning of a child; corporeal injury; duelling; arson; theft and embezzlement; robbery; fraud; bigamy; calumny; aid and comfort to criminals; limitation of crimes and punishments.

Crime generally.

The first thing to be sought for to prove the existence of a crime is criminal intention, *dolus* (*böser Vorsatz;*) it exists, not only when, before

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* The Austrian guilder is one-third more than the German, and is forty-eight cents United States currency.

or during the commission of the crime the injury, (*Uebel,*) which is the consequence of the crime, was intended; but also when, owing to another evil intention, something was undertaken or omitted, in which the injury caused by the same has resulted, or can easily result, as a consequence of the action, (*culpa lata.*) No crime, therefore, exists when the doer is totally deprived of reason, or when he commits the deed in a moment of temporary insanity; when he is in a condition of complete drunkenness, or any other confusion of the senses; when he is under fourteen years old; when through error he cannot see a crime in the action; when the evil consequences have resulted from accident, negligence or ignorance; lastly, when the act resulted from compulsion by superior force, or in the exercise of self-defence. The plea of self-defence is only to be admitted when it is to be supposed, in taking into account the person, time, place, kind of attack or other circumstances, that only the necessary means of defence were used, in order to repel an unjust attack on life, liberty, or property; or, that the bounds of self-defence were exceeded under the influence of intimidation or fear.

No one can plead ignorance of this code.

The immediate criminal is not alone guilty of a crime, but also he, who by command, counsel, instruction, or praise, prepares the offence, or intentionally has rendered assistance towards the execution of the same, or towards removing the obstacles to its commission; lastly, he who has stipulated with the offender beforehand to give him criminal assistance after the deed, or to participate with him in the gain arising therefrom. Whoever *after* the commission of the crime, and without preliminary stipulation, gives assistance to the criminal, or divides the spoils with him, is not equally guilty, but by those acts becomes guilty of another and special crime. When the law on the press is violated, the author, the translator, the publisher, and in case the offending publication is periodical, the editor, and generally all persons who *have co-operated to print or spread* such publication, are guilty of the same crime.

Criminal attempt (*Versuch*) is punishable when the criminal has committed an action leading to the commission of a crime, which crime, however, was hindered by some circumstances independent of the will of the author. The punishment of attempt is, in all cases in which the law establishes no particular exception, the same as for the consummated crime, in which case, nevertheless, those extenuating circumstances allowed in the law are admitted. An attempt exists, also, when a person endeavors to persuade another to a crime which he does not commit.

Crimes of the press, on the part of the author, translator, editor, and publisher, date from the delivering the manuscript to be printed.

No one is answerable for his *thoughts* or internal resolutions (*innerliches Vorhaben*) when no external criminal action is undertaken, or nothing laid down in the laws is omitted.

Punishments of crime.

The punishments of crime are:

1st. Death.

2d. Confinement in a dungeon, (*Anhaltung im Kerker.*)

The punishment of death is executed by hanging, (*mit dem Strange.*)

There are two kinds of dungeon punishments, (*Kerker;*) the first grade is simple *Kerker*, and the second grade is aggravated *Kerker*. The first consists in confinement in a small space, without being put in irons, and in subordination to the regulations introduced for those punishments. In the second grade the criminal is chained by the foot; and conversation with others than his keepers is only allowed under particular and important circumstances. The punishment of the *Kerker* is inflicted either for life or for a term of years. In the last case, from six months to twenty years. The term of punishment commences only from the moment when no appeal from the sentence is possible.*

The punishment of the *Kerker* can be aggravated by diminution of food, deprivation of bed, isolation, (for not longer than one month uninterruptedly,) and solitary confinement in a dark cell, (for not longer than three days uninterruptedly;)

3d. Flogging with rods or whips, (*Stock oder Ruthen.*) The flogging for youths, under eighteen years old, and for *women*, is with the whip; for men, with rods. The operation can only be executed after an opinion of the surgeon on the power of endurance of the criminal. Nevertheless, this punishment can never exceed thirty blows, which cannot be given in public.

Lastly, banishment after the expiration of the term of punishment.

The legal consequences of every punishment on account of crime are, deprivation of all foreign and national decorations;

Loss of all public titles and academical honors;

Exclusion from the responsible publication of a periodical magazine or paper;

Loss of every public office or service;

If a minister of religion, deprivation of titles;

Loss of judicial dignity of office, or profession of notary public, lawyer, attorney, or barrister;

Lastly, loss of all pensions;

The surveillance of the high police is regulated by special laws. The loss of nobility is connected with the punishment of death, and of aggravated *Kerker*, and also incapacity, during the term of punishment, to perform any legal act.

When a criminal has committed different crimes, which are the objects of the same prosecution, he can only be punished for that crime which has for penalty the severest punishment, regard being had, however, to the other crimes.

When an Austrian commits a crime in a foreign land, he is, nevertheless, punished according to the prescriptions of this code; and when he has been already punished where the crime was committed, he receives, if that punishment was less than laid down in the laws of Austria, the additional punishment on his return.

The crime of high treason, or of counterfeiting the obligations, bank notes, or coins of Austria, by a foreigner, receives the punishment laid down in the code, when even committed in another country.

* Even when the condemned makes or will make no appeal.

Aggravating circumstances.

This code has here followed very closely the theory of Feuerbach. The crime is greater in proportion as the preparations to the same were more premeditated; as the injury caused, or the danger connected with, the crime was greater; or more obligations were broken, and less precaution could have been taken against the same.

Besides these general aggravating circumstances there are the following special ones: When several crimes of different natures are committed, or the same crime be repeated; when the criminal has already been punished on account of a similar crime; when he has seduced others to the crime; when he has been the exciter, ringleader, or author of a crime committed by several persons; lastly, when the accused seeks to deceive the judge by making false allegations.

Extenuating circumstances.

These depend upon the person of the criminal or on the nature of the offence. When depending on the person of the criminal, they are as follows: when he is less than twenty years old; when he is of weak intellect or grossly ignorant; when he has led an irreproachable life before the commission of the crime; when he has been induced to commit the crime by another, or has committed the same under the influence of fear, or intimidation; when he has been urged to the commission of the crime by violent mental excitement, "growing out of the ordinary feelings of man;" when he has been tempted, by good opportunity, to the commission of a crime suggested by the imprudence of another; when he has been under the influence of extreme poverty; when he has sought to repair the injury caused by the crime, or to prevent further injurious consequences; when, at the time of its perpetration, he could easily have escaped, or remained undiscovered, and yet has informed against himself, and confessed the crime; when he has led to the detection of other criminals, and has furnished opportunity and means for their seizure; lastly, when he has been imprisoned for a long term on account of unusual delay of the preliminary proceedings for which he was not to blame.

The extenuating circumstances on account of the nature of the crime are the three following: When the contemplated crime is not consummated; when the crime is perpetrated with voluntary abstention from the commission of greater injuries, for which there was opportunity; and, lastly, when the damage resulting from the crime is small, or when the injured person has received full reparation.

Application of aggravating and extenuating circumstances in determining the punishments.

Aggravating circumstances are only taken into account, in so far as they are not accompanied by extenuating circumstances; just as extenuating circumstances are considered only in as far as they are not accompanied by aggravating circumstances.

In case of aggravation, the nature of the punishment provided by the law cannot be altered, nor the *maximum* penalty increased.

There is no aggravation of the punishment of death, or of imprisonment for life.

In case of extenuating circumstances, for the crimes of which the duration of punishment is not fixed by law at more than five years, the *Kerker* can be modified to a milder grade, and the legal duration of the term of imprisonment can be reduced to less than six months. This mitigation can even be pronounced in favor of a guiltless family, when by a longer duration of the punishment it might experience serious diminution of its means of subsistence.

Different kinds of crimes.

Crimes affect either the common security, in the unity of the State and in the public confidence, or they affect the security of the individual in his person or in his property, liberty, or other rights.

From these general definitions, the Austrian legislator has deduced the following thirty-nine crimes:

1. High treason;
2. Personal offences against the sovereign or his family;
3. Disturbance of the public peace;
4. Sedition;
5. Riot;
6. Public violence *(öffentliche Gewalthätigkeit)* against the public authorities;
7. Public disturbance of societies or assemblies authorized by the government;
8. Open violence against public officers;
9. Open violence by forcible invasion of another's property;
10. Open violence or attacks upon property;
11. Open violence by malicious actions, or omissions, involving others in serious danger;
12. Open violence by malicious damages of, or interfering with, the State telegraph;
13. Open violence by kidnapping;
14. Open violence by illegitimate restriction of personal freedom;
15. Open violence by treating a man as a slave;
16. Open violence by abduction;
17. Bribery;
18. Dangerous menaces;
19. Abuse of public office;
20. Counterfeiting of public securities, bonds, or bank notes;
21. Counterfeiting of coins;
22. Disturbance of religion;
23. Rape;
24. Violation of the person;
25. Other crimes against chastity;
26. Murder;
27. Homicide;
28. Abortion;
29. Abandoning a child;
30. Severe corporeal injuries;

31. Duelling;
32. Arson;
33. Theft;
34. Embezzlement;
35. Robbery;
36. Fraud;
37. Bigamy;
38. Slander;
39. Aid and comfort to a criminal.

Without entering into the details of these numerous categories of crimes, it is well to remark the following peculiarities:

High treason.

The crime of high treason is committed when any one injures or endangers the person of the Emperor, in body, health, or freedom;

When a violent change in the form of government is attempted;

When the separation of a part of the empire, or when an insurrection or civil war is aimed at.

High treason is committed when these actions are directed against the existence, integrity, or security of the constitution of the German confederation. The punishment for these crimes is death, which is executed upon the authors, ringleaders, and accomplices of the same; and which is also incurred in case of an attack on the person of the Emperor, when the result sought for is not attained. The intentional omission to inform of a conspiracy, for this object, is punished with aggravated *Kerker* from five to ten years, unless the information was withheld by reason of near relationship to the criminal.

Whoever has become concerned in an association of persons guilty of high treason, but who, nevertheless, through penitence, informs against the members of the same, and exposes their statutes, intentions, and undertakings, at a time when they are still secret, and when the injury can be prevented, is not punished; and his secrecy is not violated.

Offences against the Sovereign.

Offences against the sovereign are committed in cases of personal insult, public invectives, defamation or derision, by prints or writings, or pictorial representations. The punishment in these cases is aggravated *Kerker* from one to five years. When these offences are committed against any other members of the imperial house, the punishment is simple *Kerker* from one to five years.

Disturbance of the public peace.

The crime of disturbance of the public peace is committed when a person openly, or in presence of several persons, or in print, or by propagated writings, or pictorial representations, provokes to contempt or hatred against the person of the Emperor, the unity of the empire, the form of government, or the administration of the State;

The provoking, in like manner, to disobedience, resistance, or in-

surrection against the laws, ordinances, sentences of the courts, or orders of other public authorities;

The refusal to pay taxes;

Where it is sought to induce to participation in these actions, or to take part in the same in any manner. The punishment of these crimes is aggravated *Kerker* from one to five years.

The same punishment is inflicted when the action which constitutes high treason is undertaken against any State of the German confederacy, or the sovereign of the same; or against another foreign State, or its chief, when, by law, or by particular conventions, this reciprocity is guaranteed and legally published in the empire of Austria. In this last case, when there are aggravating circumstances, the punishment of aggravated *Kerker* from five to ten years can be inflicted.

Whoever seeks to discover circumstances in the military defence of the State, or in the army, with the intention of giving information of the same to the enemy; or whoever, in time of peace, discovers and betrays the operations which the State has made for its security, is punished as a spy, according to special military laws.

Sedition and Riot.

Sedition is the uniting of several persons with the intention of offering resistance to the authorities. The criminal, in such cases, is equally guilty, whether he takes part in the conspiracy from the beginning or ulteriorly. The punishment is *Kerker*, which can reach twenty years. When, by such a conspiracy, resistance is made to the authorities which requires extraordinary measures to restore peace and good order, it is called *riot*. When, in this case, martial law is proclaimed, the punishment of death is pronounced against the rioters; in other cases the ringleaders and those exciting to the riot are punished with aggravated *Kerker* from ten to twenty years, and this punishment is also applied in case of a great degree of malice and danger to life. The other rioters are punished with aggravated *Kerker* from one to five years, and, when there are aggravating circumstances, from five to ten years.

Counterfeiting.

The crime of counterfeiting the bonds of the State, or other public securities, or bank notes, is punished, for principals and accomplices, with aggravated *Kerker* from ten to twenty years. The counterfeiting of coins is punished with aggravated *Kerker* from five to ten years, and, when there is particular danger or injury, from ten to twenty years. When, nevertheless, the counterfeiting was obvious to every one, the punishment is from one to five years.

Crimes against Religion.

Among the cases of crimes against religion are the inducing a Christian to renounce his religion, and the spreading doctrines contrary to the Christian religion. The punishment for these offences is aggravated *Kerker* from one to five years, and, when there are aggravating circumstances, from five to ten years.

Bigamy.

The punishment of bigamy is simple *Kerker* from one to five years.

Extinction of Crimes and Punishments.

A crime is extinguished:

1st. By the death of the criminal;

2d. By his having undergone the punishment of the same, with the reservation of the further consequences which have been before mentioned;

3d. By pardon;

4th. By limitation.

The limitation for crimes punishable with *Kerker* for life takes place after twenty years; for crimes punishable with *Kerker* from ten to twenty years, after ten years; for all other crimes, after five years. The limitation is only admitted when the criminal no longer possesses any advantage from his crime; when he has, as far as possible, made restitution; when he has not fled from the country; and, lastly, when during the period of limitation he has committed no new crimes which have death for penalty.

After a lapse of twenty years aggravated *Kerker* from ten to twenty years only can be pronounced.

PART II.

Misdemeanors and Contraventions.

The punishments for these offences are:

Fine;

Confiscation of certain objects;

Loss of certain rights and privileges;

Imprisonment;

Arrest;

Flogging;

Banishment from certain places;

Banishment from one of the crown-lands of the empire;

Banishment from the monarchy.

The punishment of imprisonment is of two grades: by the first the prisoner is confined in a prison without being put in irons, in which case he can provide his own food, and can choose the labor in which he is to be employed; the imprisonment of the second grade is called aggravated, (*strenger Arrest.*)

The prisoner in this case is not put in irons, but is only subjected to the ordinary regulations of the prison concerning food and labor.

Besides these two grades of imprisonment there is a so-called house arrest, (*Haus-Arrest,*) which consists in the obligation, on the part of the person so condemned, not to leave his house under any pretext, under

penalty of expiating the remainder of his term of *Haus-Arrest* in a public prison. The court can order a sentry to be placed before the house. The *Arrest* is from twenty-four hours to six months.

Flogging of youths under eighteen years, and women, is inflicted with whips; of others, with rods. The number of the blows cannot exceed twenty. (It is to be remembered that this is for misdemeanors and contraventions.)

Banishment from the monarchy can only be pronounced against foreigners. Banishment from a town or State is pronounced for a fixed or uncertain time.

Imprisonment can be aggravated by diminution of food; hard labor; deprivation of bedding, not oftener than twice a week; isolation, not longer than fifteen days; solitary confinement in a dark cell, not longer than twenty-four hours. Flogging is only permitted in case of repetition of offences.

In general a penalty provided by the law cannot be changed—with the exception that when the fine is beyond the resources of the person condemned, or when, by the duration of the imprisonment, the property of the prisoner or of his family can receive serious injury, in the first case the fine can be changed to a proportional imprisonment; in the second case the term of the imprisonment can be reduced to less than the *minimum* term.

Circumstances which aggravate a Misdemeanor or a Contravention.

These are:
Continuation of the punishable action for a long period;
Repetition;
Serious danger to others resulting from the act;
Damage caused by the same;
Relationship between the guilty person and the one injured;
Seduction of youth or other honest persons;
Giving pernicious example to one's family;
Causing public scandal;
The making preparations for the criminal action, or removing obstacles to the execution of the same;
Authorship or ringleadership of a punishable action committed by several persons;
Committing of several misdemeanors or contraventions of different kinds;
Deceiving the judge by false statements on the part of the accused;
And, lastly, misdemeanors or contraventions committed against public decency, by a well educated or "accomplished" person.

Circumstances which extenuate a Crime or Misdemeanor.

These are:
Youth;
Weakness of intellect, and neglected education;
Former good behavior;
Seduction;
Fright, or false idea of dignity;

Violent excitement of mind;
Extreme poverty;
Non-consummation of the action;
Taking less advantage than might have been taken from the action;
The voluntary abstention from causing greater damage;
Reparation of the injury done;
Voluntarily bringing to light of the deed, and exposing the accomplices to the same.

When several of these extenuating circumstances occur for the same misdemeanor or contravention, and when there is reason to anticipate an improvement of the guilty person, the imprisonment can be mitigated and the time diminished.

Misdemeanors and contraventions are either against public society, public establishments, measures for public safety, or the functions of public officers, or against the security of individuals, in life, health, body, property, honor, and reputation, or other rights; and, lastly, against public decency.

1. *Misdemeanors and contraventions against public order.*

These are:

Tumult, *(Auflauf,)* the punishment for which is imprisonment from one to six months;

Participation in secret or prohibited societies, and concealment of the names of members of societies allowed by law—the punishment for which is, for the founders, aggravated imprisonment from three months to one year—for those who assist at the meetings, or have relations with the society, imprisonment from one to three months. (Foreigners in such cases are more severely punished, and after expiation of their punishment, are banished from all the States of the monarchy;)

Contempt of the acts of the authorities, and instigation against State or town authorities, or against particular organs of the government, or witnesses, or appraisers *(Sachverständigen,)*—the punishment of which is *Arrest* from one to six months, and, in particular cases, banishment;

Exciting to hostilities against nationalities, religious associations and corporations—the punishment of which is aggravated *Arrest* from three to six months;

Insults to a legally recognized church or religious society—the punishment for which is aggravated *Arrest* from one to six months;

Favoring a religious sect forbidden by the State—the punishment of which is *Arrest* from one to three months;

Public profanation by words or writings of the institutions of marriage, public property, or approbation of illegal or immoral actions—the punishment for which is *Arrest* from one month to one year, and in certain cases, banishment;

Profanation of graves, or opening the same, taking away or ill-treating the bodies, or spoliation of either—the punishment of which is *Arrest* from one month to six months; (in case of spoliation, the punishment for theft is inflicted;)

Aid and comfort to a person guilty of a misdemeanor or contravention—the punishment for which is *Arrest* from eight days to three months;

Propagation of false and disquieting intelligence or prophecies—the punishment for which is aggravated *Arrest* from one to three months;

Illegal betrayal of confidence *(gesetzwidrige Verlautbarungen)*—the punishment for which is *Arrest* from one to three months;

Collections or subscriptions to frustrate the legal consequences of a punishable action*—the punishment for which is *Arrest* from fifteen days to three months.

2. *Misdemeanors and contraventions against public establishments, and in opposition to measures which concern public security.*

These are:

The inducing an officer to abuse of his authority;

Injury by words or deeds to a person having a public character, or engaged in a service protected by the State;

Interference in the execution of the public service, defacing of publicly posted ordinances and other govermental acts;

Breaking of official seals;

Disturbance of a public illumination;

Damaging bridges, sluices, dams, or other works on streets, roads, or streams;

Destruction or damaging of warnings or signals established in order to prevent accident;

Non-observance of the regulations for reporting to the police the arrival of strangers;

Imitation of public notes of credit and of money, without criminal intention;

Possession of a printing press without the authorization of the government;

And the unauthorized manufacture of official seals.

3. *Misdemeanors and contraventions in interference with the duties of a public officer.*

These are:

Injury committed by the officer in the exercise of his duty;

Usurpation of the character of a public officer, or the illegal wearing of a uniform, or foreign or national decoration.

4. *Misdemeanors and contraventions against the security of life.*

Every action or omission which by its natural consequences can endanger the life, health, or corporeal safety of others, when a grave personal injury has followed the same, is punished with *Arrest* from one to six months; and, when death results therefrom, with *Arrest* from six months to one year.

5. *Misdemeanors and contraventions against the health.*

These are:

Non-observance of the laws respecting quarantines and pest-houses;

*When, for example, a subscription is made to defray the fine, damages, restitution of lost caution money, &c., to which a person may have been condemned.

The pollution of springs and reservoirs;
Sale of the meat of animals not inspected by the police;
Falsification of liquors in a manner dangerous to health.

6. *Other contraventions against personal security.*

These are:
Voluntary mutilation, in order to escape military service;
Ill-treatment of children by their parents, wards, or teachers;
Of servants or apprentices by their masters;
Encumbering the streets by night;
Imprudent driving or riding.

7. *Misdemeanors and contraventions against the security of property.*

These are:
Non-observance of the regulations concerning the prevention of fires, or the sale of gunpowder, or other inflamable objects;
Keeping secret a fire which has broken out;
Thefts and embezzlements when not punished as crimes;
Misdemeanors against literary or artistic property;
The malicious injury, of a lower grade, to the property of another;
And, lastly, bankruptcy without fraud.

8. *Misdemeanors and contraventions against honor.*

These are:
False accusation of a crime, misdemeanor, or contravention, or dishonorable action;
The publication of shameful accounts of private or family life, even when true;
Public insult or maltreatment;
Reproach on account of a condemnation to punishment;
Betraying, by physicians or apothecaries, the secrets of the sick

9. *Misdemeanors and contraventions against public decency.*

These are:
Incest between step-parents and their children;
Adultery;
Dishonoring, by an inmate of the house, of the daughter, or relations of the head of the family;
Seduction by a maid servant of the son, not of full age, of the master;
Seduction of a person under promise of marriage;
Contracting an illegal marriage without a dispensation;
Professional prostitution of a married woman, and profiting by the same, on the part of the husband;
Pandering;
The publication or circulation of indecent pictures or prints;
Begging;
Drunkenness;
And, lastly, playing forbidden games of hazard.

Extinction of Misdemeanors and Contraventions.

For those misdemeanors and contraventions which have for maximum punishment *arrest* of the first degree, without aggravation, or a fine not exceeding fifty guilders, the time of limitation is three months; when *arrest* of the first degree, with aggravation, or a fine not exceeding two hundred guilders, it is six months; and for all other misdemeanors and contraventions, as well as all cases where loss of rights and privileges are included in the punishment, the period of limitation is one year.

II.

Decree concerning the competency of criminal courts, and the criminal procedure in cases of high treason, and offences against the sovereign, in those States in which the code of penal procedure, of the 17th January, 1850, is in force.

From the day of publication of this decree, the tribunals called *Landgerichte*,* established in the capital of the "Crown lands," where the first administrative officer, called *Statthalter*, resides, have jurisdiction in cases of the above mentioned crimes.

The preliminary examination is brought before a tribunal, formed from the *Landgerichte*, and called *Bezirks-Collegialgerichte*.

By this law, the jury trial in these cases is abolished.

It is proper to call to mind, here, that in the law of January 17, 1850, above mentioned, the jury was only permitted for political crimes. (Since the introduction of the jury in criminal courts in Austria, they have only exercised their functions in affairs of the press.)

III.

Decree fixing the competency of the criminal courts in the kingdoms of Hungary, Croatia, and Sclavonia; Servian, "Woiwodschaft," and the "Banat."

By this decree, the competency of the courts is declared, not only for political, but also for all other crimes. There is no jury.

The penal criminal courts are:

The *Landgerichte*, for grave cases;

The *Bezirks-Collegialgerichte*, of the first class, for misdemeanors;

And, lastly, the *Bezirksgerichte*, the only court in which there is but one judge for contraventions.

IV.

Decree concerning the competency and procedure in Siebenburgen.

The *Landsgerichte* take cognizance of crimes and misdemeanors; the so-called *Bezirks-Einzelngerichte*, which, as the name signifies, has but one judge, are competent in cases of contravention.

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* Analagous to our county courts.

Concerning procedure, the decree has established that the respective regulations of the penal code of 1803, before treated of, shall remain in force.

V.

General law of the press, for all the States of the empire, with the exception of the military frontiers.

In order to issue a periodical publication, an authorization of the police authorities must be obtained. This authorization is necessary for the proprietor, editor, publisher, and printer.

Caution-money must be deposited, which, in cities having more than 60,000 inhabitants, is 10,000 guilders. In cities having between 30,000 and 60,000 inhabitants, 7,000 guilders. In all other cities or towns, 5,000 guilders.

If the publication appears less than three times a week, the caution-money is reduced one-half.

When a publication constantly pursues a course in opposition to the throne, the monarchical government, political unity, the integrity of the empire, the unity of religion, and to public decency and good order, the same can, after two written warnings, be suspended for three months. The suspension for a longer period, and the withdrawal of authorization, can only be pronounced by the president of the police. The non-observance of the regulations of the press is punished with fine and *arrest*.

The persons who co-operate in the editorship, publication, printing, or propagation, are all responsible.

The *Bezirks-Collegialgerichte* have jurisdiction over offences of the press in those States in which the code of penal procedure of the 17th of January, 1850, is in force; for all other States the *Collegial-Strafgerichte* is the competent tribunal.

The term of limitation of all offences of the press is six months.

THIRD PART.

PROGRESS OF THE CODIFICATION OF PENAL LAWS IN THE VARIOUS EUROPEAN STATES.

After having given the history of codification in France and Germany, it will not be without interest to trace the progress of other States of Europe in respect to penal legislation, although their laws are less developed in this respect than in the two countries just named. It will serve at least to show that the tendency to codify penal laws has always been greater than to codify civil laws, and that most of the European States now possess penal codes.

The elements in which the laws have their origin, and the development of the great principles which are at the foundation of penal legis-

lation, will only be given in this sketch; for, so far as the details are concerned, the most important provisions of the European codes have been borrowed from the French.

SWITZERLAND.

In Switzerland there are numerous penal codes which have been promulgated within the last few years by particular cantons.

The history of codification here commences with its independence of France, the laws being in their origin partly French and partly German, *(Carolina Criminalis.)*

The best codes among those which nearly every canton possesses are: In the canton of Lucerne, the code of 1836; in Turgau, of 1841, (this code is copied from that of Baden;) in Zurich, of 1835; in Vaud, of 1843; in Basle, of 1821; in Berne, of 1843. The oldest codes of Switzerland as those of Argau, of 1804; and the two codes of Saint Gallen; the *Code Correctionnel* of 1800, and the *Code Criminel* of 1817; lastly, that of Tessin, of 1816.

These codes are founded, for the most part, on the penal code of France, with modifications of the German jurists. Those of the last ten years are almost literally taken from the German codes.

Most of the cantons have also codified their system of penal procedure. Owing to the political organization of these small republics, this system is extremely simple, without being more liberal than the French; the jury, for example, did not exist before the year 1842. The code of procedure of the canton of Vaud is the same as that of France, with the exception of the jury. In other cantons publicity of trial is limited, as in Zurich, Lucerne, Berne, and Turgau, the public being only admitted into the courts to hear the judgment. Single judges take the place of the *colleges* which exist in the courts of France. The punishments are milder, the penalty of degradation being almost unknown.

THE ITALIAN STATES.

In Italy a number of penal codes have been promulgated within the past few years.

TUSCANY.

In Tuscany a project of a new penal code is prepared and published.

The reports on the first book, *(Rapporto del libro primo del Projetto de Codici dei delitti e delle Coro pene; Firenze*, 1850,) and on the second,

(*Rapporto del libro secondo; Firenze*, 1851,) were made by a commission, in which the most celebrated Italian jurists took part.

In this project it is worthy of remark that the influence exercised by the earlier Italian philosophers, and more especially the author of the celebrated work, "*Dei delitti e delle pene*," (Beccaria,) is particularly visible.

It is remarkable for the clearness and the simplicity of its system of punishments—for the abolition of capital punishment, for the gradations of imprisonment, for its theory of restricted isolation, and for its modifications of infamous punishments.

In case of criminal attempts and complicity, the punishments are regulated in proportion to the participation and the degree of criminal intention, and the material results of the same.

As regards extenuating circumstances, the theory of the French revised penal code of the year 1832 is adopted, by which, in these cases, the judge can reduce the punishment below the *minimum* laid down in the law.

The definitions of crimes and their modifications are precise and clear.

THE ROMAN STATES.

A similar report of penal law in Italy is that for the Roman States of the year 1847. The present pope had instituted a commission for this purpose, in which the celebrated jurist Juliani took part.

This project has very great similarity with the Tuscan. The principal points of difference are, that the punishment of death is maintained, and can even be aggravated, and is pronounced in numerous cases, as, for example, infanticide, &c., &c.

The punishment of the galleys, and of hard labor, which are introduced in this project, do not find a place in the Tuscan code.

In case of extenuating circumstances the *minimum* of the legal punishments cannot be diminished; and, lastly, the discretion of the judge is limited, as the *minimum* of punishments is in general very high.

However great these differences may be in the systems of punishment, nevertheless, in the other portions of this project, the greatest analogy exists with the Tuscan.

THE PENAL CODE OF SARDINIA.

The penal legislation of this State is based on the French *code pénal*. In 1839 the penal code now in force in Sardinia was promulgated, the code of civil laws having been in force since 1837. The object of its authors was, says the king, in the proclamation which accompanies it,

"the composition of a penal code which should be equal for all, and based on certain principles which should furnish the magistrate the rules suitable for his guidance in the application of the punishments; in according to him, nevertheless, a discretionary power needed in numerous circumstances which the law cannot provide for."

Like the *Code Pénal* of France, a preliminary chapter precedes the first book, which treats of punishments and general rules for their execution.

The second book treats of crimes and misdemeanors.

The third book treats of contraventions and their punishments.

It is in the system of punishments that it differs most from the French code, the penalties of civil death and ignominy not being retained; the interdiction of holding a public office being the only degrading punishment. There are two new kinds of correctional punishments, the *Confino* and local exile. There is also a simple detention for offenders of tender years, or having little discernment, *(Ergastolo.)*

The *Confino* consists in the obligation imposed on the delinquent to dwell in a designated commune, distant one and a half *myriametres* at least from the place of the commission of the misdemeanor, or from the commune where the injured party resides.

By local exile, is understood the banishment from the commune in which the person resides, for a distance of three *myriametres* from the commune where the offence was committed, and from the domicil of the injured party.

There is in this code a special category of accessory punishments, not to be found in the French code; they are, the pillory; the apology, the interdiction, or suspension of the exercise of an employment or profession, business or art; the surveillance of the police; the submission and the admonition.

The apology consists in the avowal of his culpability made by the delinquent before the judge, and the praying for forgiveness, and the promising not to commit another offence.

The submission consists in the promise made before the judge either not to commit again the action for which he is to be punished, or to conform himself to what has been prescribed to him.

By the admonition is understood the censure of the judge pronounced against a person, on account of illegal actions, words, or writings, and the warning that in case of repetition he will incur the severest punishment laid down in the law.

There are some modifications of the French law in regard to *complicity* and *attempt*.

The perpetrators and the accomplices, without whose co-operation the offence could not have been committed, receive the same punishment; whilst the other accomplices incur penalties two or three degrees lighter.

The *attempt* does not receive the same punishment as the consummated offence, but the punishment is diminished from two to three degrees according as the execution was more or less distant. This principle is observed for crimes and *misdemeanors*.

When several crimes or misdemeanors are committed by the same

person, the principle is observed of accumulating all the punishments when possible.

It is a peculiarity of this code, that it admits of no limitation for a large number of crimes, such as high treason, parricide, poisoning, homicide in certain cases, robbery accompanied by murder, and arson. When however, an individual guilty of any of these crimes, excepting the two first, is arrested twenty years after the commission of the same, the punishment for it is diminished by one degree. There is no limitation after condemnation to death, or hard labor for life.

These are the principal points of difference between the penal codes of Sardinia and of France. The special part resembles too nearly the French code to require an analysis of it.

PENAL CODE OF RUSSIA.

In Russia the oldest collection of penal laws is contained in the "*Prawda Russkaja*" of the year 1020. This law continued in force till the general code, which was promulgated in 1649, by Alexis Michaelovitch, and called the "*Uloschenie.*" As but a small portion of this code was devoted to penal law, and that portion consisting of most arbitrary prescriptions, a commission was named, about the beginning of the year 1700, to prepare radical reformation of criminal law, which, under Peter the Great, was employed with great activity on this work, but has, however, but just brought its labors to an end.

The present emperor promulgated on the 1st of May, 1846, the existing penal code. The spirit of this code may be seen by the following extract from the imperial proclamation that announced its promulgation. "It was necessary to introduce order and clearness in the laws, in order to guarantee the security and rights of my well-beloved subjects. For this reason We have caused general laws to be prepared, by which operation, without leaving the fundamental cases of the national legislation, the existing laws are completed and brought into conformity with the social condition of the people, and the exigencies of usage; so that all infractions may be specified in a more precise and satisfactory manner than is done in the existing laws, without omitting their different modifications or their aggravating and attenuating circumstances; in short, that each misdemeanor shall have a fixed penalty or repression analogous to its nature, and proportioned to its culpability, in order to interdict, as far as is possible, arbitrariness in the judgment, and to place the criminal under the direct action of the law alone.

"The penal code has been discussed and amended in a special committee, composed of the minister of justice, the senators and attorney general, rectified after observations from all the other ministries and administration, and finally examined by a commission taken from the council of the empire, preparatory to being brought definitively before the general assembly."

This code, called "code of capital and correctional punishments," holds the middle ground between a systematic code, and a simple revised collection of the laws and statutes, *(Svote,)* which had heretofore existed.

It is divided into chapters. In the first chapter of this code, which treats of general principles, the co-operation of the German jurists who were entrusted by the emperor with the labor is very evident.

The system of punishments, which, as the emperor expressed it, must be in conformity to the customs and intelligence of the population, is characteristic, and will be referred to later.

The second chapter is devoted to offences against religion.

The third chapter treats of high treason and political crimes.

The fourth chapter treats of resistance against the constituted authorities.

The fifth treats of prevarication of public functionaries.

The sixth treats of contraventions against the regulations concerning the collection of taxes, and the military service.

The seventh chapter treats of contraventions and transgressions against public order and the general weal.

The eighth treats of contraventions and misdemeanors against life, health, honor, and individual freedom.

The ninth treats of contraventions against the fundamental principles and laws of family.

The tenth treats of contraventions and misdemeanors against property.

Punishments.

These are either capital or correctional—capital punishments are those which admit of no possibility of amendment, or of recovering the former social position. They are either privileged or non-privileged. The first are only applied to the higher classes of subjects.

1st. The *privileged* capital punishments are death, hard labor, "colonizing" in Siberia, and colonizing beyond the Caucasus.

2d. For the *non-privileged* class, the first and fourth puhishments are adopted equally; but the second and third punishments are aggravated by flogging and branding.

The correctional punishments for the privileged classes are—

1st. Temporary local exile in Siberia—for the non-privileged classes, temporary incorporation in a disciplinary regiment;

2d. For the privileged classes, temporary local exile to other parts than Siberia; for the non-privileged, confinement in a prison, with compulsory labor.

The third punishment is confinement in a fortress.

The fourth, imprisonment in a house of correction.

The fifth, imprisonment in a jail.

The sixth, arrest for a short term.

The seventh, reprimand by the judge, and fine.

These punishments admit of various gradations—a celebrated Russian jurist* makes out from this code no less than forty-one kinds of punishment.

* Thiss, councillor of state.

Consequences of Punishments.

These are, either civil death, which affects not only the criminal, but also his family; deprivation of particular privileged rights belonging to the condemned, according to the class to which he belongs; lastly, loss of rights, which can only be executed at a late period, such as the right to be elector or elected. Besides these, there are certain accessory punishments, which can in every case be inflicted in connexion with the principal punishments, religious expiation, confiscation, publication of the sentence, banishment, surveillance of the police, and lastly, solicitation for pardon.

By an imperial ukase of the month of April, 1846, the punishment of the knout was abolished and replaced by the whip. Thirty lashes count as ten blows of the knout, and ten to twenty blows of the knout are replaced by fifty lashes.

The great rigor of this penal system lays in the power given the judge to accumulate various punishments for the same case.

Criminal Procedure.

This code contains nothing respecting criminal procedure or the organization of the courts. The systems in force in Russia are those instituted by Catherine II. Any modifications which may have been made since her time are rather in the form than the spirit of the law.

A criminal court exists in the capital of every province, which is composed of a president, named by the nobility; of a counsellor, named by the government; of four other counsellors or assessors, of whom two are named by the nobles, two by the burghers.* There is also a public prosecutor, who is charged to see to the regularity of the procedure, and who depends on the minister of justice.

In the districts is a tribunal of first instance, which judges both civil and criminal affairs. It is composed of a president and two assessors, named by the nobles. A substitute (*Striaptchi*) takes the place of the *procureur*.

There is also a tribunal of police in every district, (*Zemsky Sond,*) which, nevertheless, gives no definite judgment, but is charged with the inquest of cases, and in general with the execution of the ordinances of the penal courts.

This court consists of the chief of police, (*Ispravnik,*) named by the nobles, and of two commissioners, who formerly were named by the peasants, but are now named by the nobles.

The criminal courts of the provinces decide without appeal on all those persons who can be decapitated if sentenced to death. When the governor of a province make no opposition to the sentence, it is excuted; in case of opposition, it is brought before the senate. This power of the criminal courts of the provinces is greater than that of the civil courts, which only judge in last instance in affairs of over five hundred roubles, and an appeal is always admitted to the senate when the cause in litigation exceeds that amount.

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* The accused is a noble, the four are named by the nobles.

When the person condemned to death is a noble, the sentence can only be executed when confirmed by the senate, the council of state, and the emperor. In this case, the procedure is as follows: the case goes from the tribunal of first instance to the section on civil affairs, where the same is examined with the co-operation of the public prosecutor. It then goes before the *plenum* of the senate, in which the minister of justice gives his opinion, after having consulted a special commission, consisting of some jurists and the prosecutor of the senate. The case then goes before the Council of State, where it is first examined by the proper committee, and then by the general assembly.

After, in this manner, seven stages of jurisdiction are passed, the affair is laid before the emperor for final action.

The procedure is documentary, the right of defence not recognised, but the accused can present a petition to the court through a sort of agent, who has not the consideration or position of counsel. This petition is not necessary, but facultative only, and the accused can even be sentenced, without having personally appeared before the court, after having been examined by the police court of the district.

THE PENAL CODE OF TURKEY.

Another absolute State, Turkey, has also a code which was promulgated before the one just spoken of. It is one of the most curious that exists, containing in fourteen small articles all the dispositions of penal law for that country. It depends upon a kind of constitution or charter called "*Hatti Sheriff*." The present sultan accords in this act equality before the law, without any particular parliamentary right.

The code, which is the continuation of it, commences with the recognition of the equality of all before the law. Besides this there are no general principles laid down, the fourteen articles containing fourteen special cases of punishable actions with their penalties.

Article 1 treats of capital crimes;
Article 2. Of high treason;
Article 3. Of libel;
Article 4. Of theft;
Articles 5 and 6. Of bribery;
Article 7. Of infidelity of officers and agents of government;
Article 8. Of refusal of imposts;
Article 9. Of assault;
Article 10. Of want of respect to the government and its agents;
Article 11. Of highway robbery and violence;
Article 12 Of conduct of masters towards their subordinates;

Article 13 gives exemplary punishments of superior officers of state who are guilty of abuse of their functions, and forbids their b[illegible]ncerned in other business;

Article 14 forms the conclusion of the code, and contains [illegible]im that all subjects are equal before the law.

This code distinguishes two kinds of offences, those of words and those of deeds.

He who excites by words to revolt is punished with death;

He who by words or deeds injures another, is judged by the council of justice in Constantinople, and the local councils in the provinces, and punished with imprisonment, of long or short duration.

Theft is punished "because his Highness the Sultan has abstained from stealing." The punishment of theft is restitution of the stolen object, exile for a year, and, when the thief is a functionary of the government, removal from office.

The accepting a bribe by a public officer is forbidden, because, as the law adds, "all officers are sufficiently remunerated." The punishment is removal from office and hard labor for three years. If the officer is employed by the government, he is sentenced to the galleys; and, if an officer of finance, is punished with five years at hard labor.

The persons who are charged with the receipts and payments of the empire must render an account yearly, which must be revised by the council of justice. In case of a deficit, the officer is compelled to refund the same, and loses his office.

There are three kinds of authority: justice, exercised by the court, *Imans;* police, exercised by the *Mochirs*, charged with the preservation of good order; and the authority of the *Mouhassits*, charged to levy the imposts and to send them, at proper periods, to the minister of finance at Constantinople. These three authorities must harmonise with each other. In case of discord "the one in the wrong shall be punished."

Those who refuse to pay the taxes on their property, are punished with imprisonment; those who resist with weapons are punished with hard labor for three years; if a wound is caused thereby, with hard labor for five years, and to payment of the costs of healing the person; if he dies, capital punishment is inflicted.

He who attacks another with weapons is punished with hard labor for a year; if a wound is given, the penalty is hard labor for three years, and if death follows capital punishment is inflicted.

Robbery is punished with seven years hard labor.

Immodesty and insubordination are punished with "a penalty corresponding to the offence."

Certain high officers, like the *Mouhassits*, the *Hakims*, and the military governors, receive "exemplary punishments" when guilty of infraction of these laws.

This code is, as will have been observed, for officers of the government rather than for individual subjects. As may be imagined, the old usages and system of punishment continue in force with it. The whole substance of it has been given.

THE PENAL CODE OF BELGIUM.

In Belgium, the French penal codes are in vigor; nevertheless, a bill for a new system of penal laws is now pending before the chambers.

In 1848, a commission was named by the minister of justice, which was charged with the preparation of a new penal code. In the following year a commission was named for revising the code of penal procedure. The first named commission has prepared a project, consisting of two books, the one general, the other special, which was laid before the chambers, and a commission named by them made a report on the same, in the sitting of the 2d of July, 1851. The discussion was adjourned to the next session, when the amended project was adopted. A report on the same has just been laid before the senate, (24th of March, 1852,) prepared by the commission named by that body, which proposes some unimportant modifications.

These reports, which include only the general principles of criminal law, being the first book, differ from the French code, in respect to the principles of the punishments and their effects, and also in respect to criminal attempts, repetition, and accumulation of offences and crimes.

The *peine afflictive et infamante* is abolished.

The penalties of transportation, branding, general confiscation, pillory, banishment, civic degradation, and mutilation, in case of parricide, are abolished.

Punishment of death is abolished for political offences, imprisonment in a fortress for twenty years taking its place.

Punishments.

The following are the punishments proposed: death; hard labor for life, or for a term of from ten to fifteen, or fifteen to twenty years; imprisonment in a fortress (*détention*) from five to ten or from ten to fifteen years; confinement from five to ten years.

These four penalties are regarded as criminal punishments (*peines criminelles.*)

The punishments which are not *peines criminelles*, are: confinement for at least eight days, and for police offences not more than seven days; fine, for crimes and misdemeanors, at least twenty-six francs; and for contraventions, from one to twenty-five francs; the special confiscation of objects which have been used in the commission of an offence or have been produced by the same.

Punishments which are common to correctional and criminal offences, are: interdiction of certain civil and political rights, and the special surveillance of the police, the effects of which are entirely analogous to those of the French code of 1832.

The last modification of this report in the system of punishments, is the introduction of the cellular system for those condemned to hard labor and confinement in prisons, called *maisons de force* and *maisons de réclusion.*

Attempt.

An attempt, according to these reports, exists when the "resolution to commit a crime or misdemeanor has been manifested by any external acts, which form a commencement of execution of the crime or misdemeanor, and which have only been supended, or failed in their effect, owing to circumstances independent of the will of the author."

It is seen by this, that the law, unlike nearly all other systems, recognizes only one kind of attempt, and makes no difference between those which are direct or indirect attempts.

The Belgian law, unlike the French, does not inflict the penalty of the consummated offence, but with the "punishment immediately inferior to that inflicted for the crime itself." Nevertheless, for misdemeanors, the rule of the French code is observed, the punishment being inflicted only in cases specially laid down in the law.

Accumulation of Different Offences.

In respect to accumulation of different offences, the Belgian legislation has introduced the principle of the Roman law, that the greater punishment suspends the lesser, *(pœne major absorbet minorem,)* nevertheless, this principle is only applicable to crimes; for in cases of several contraventions, the punishment is pronounced for each; in case of cumulation of misdemeanors, with one or more contraventions, the fine is paid for each, and the punishment of correctional confinement absorbs that of police imprisonment. In case of several misdemeanors, the punishments are inflicted for each; nevertheless, without exceeding the double of the maximum of the severest penalty. When, however, a crime, and one or several misdemeanors or contraventions, are committed, the punishment for the crime alone is inflicted.

The report to the senate proposes, as an amendment to this, that the punishment pronounced for several crimes can be increased for five years over the ordinary term of punishment, when one of these crimes has for penalty hard labor, or confinement or *réclusion.* By "severest penalty" is understood that of which the duration is the longest; when they are for the same term, that of hard labor and reclusion are regarded as severer than confinement in a fortress.

Complicity.

Touching *complicity,* there are some important changes. The accomplice to a crime being punished with a penalty immediately inferior to the punishment which would have been pronounced if he were the perpetrator of the same. The punishment for complicity to a misdemeanor can never exceed two-thirds of the punishment of the perpetrator. The following, however, are considered as accomplices to a crime or misdemeanor: those who have given instructions to commit the same; those who have procured weapons, instruments, or other means which have served for the offence, knowing that they were to serve for the same; those who knowingly have aided or assisted the author or authors of the crime or misdemeanor in the actions which have prepared, or facilitated, or consummated the deed.

Repetition of Offences.

Concerning repetition (*récidive*) there are but few modifications from the French system. The punishment for the repetition of an offence is pronounced in case of a previous criminal or correctional punishment. Whoever has been condemned to a criminal punishment, or to a correctional imprisonment of more than six months, and commits afterwards a misdemeanor, can be punished by a penalty double to the maximum of the punishment of the misdemeanor. He can also be condemned to surveillance of the police from five to ten years.

THE PENAL LAWS OF HOLLAND.

In Holland the French *Code Pénal* is also adopted, and is still in force; nevertheless, action has been taken in the legislative bodies on this subject, which will soon lead to some reformations.

In 1839, the first book of a new penal code was accepted by the legislative chambers; it was not promulgated. The most important dispositions of this part of a code which fixed the nature of offences and the kinds of punishments, is the recognition of the Auburn penitentiary system, of separation of the prisoners at night, and working in common and in silence by day.

In 1843 the *Stats Généraux* discussed the second book—the special portion of the code. On this occasion, the question of a penitentiary system was again brought up; and by a new resolution the system of solitary confinement was adopted. On account of this important decision, the first part, (the law of 1839,) was repealed, and a new commission named, in order to review the bill of 1839 on the bases of the new penitentiary system. In 1846 this was laid before the chambers and adopted. The second, or special book, will soon be laid before the assembly.

A new code of penal procedure has been in force since 1839; it is grounded for the most part on the French code of *instruction criminelle*.

PENAL LAWS OF DENMARK AND SWEDEN.

In Demark there exist no particular codification of penal laws. There is a collection of laws published in the year 1683, by Christina V., called "*Dankselov*," which repealed an earlier compilation, called "*Jutsche-Lov*," introduced by Waldemir II, in 1241.

Denmark holds the lowest rank among the European States in regard to the codification of penal laws.

Sweden is in a similar condition, there being no separate codification of penal laws, but a compilation of statutes published in 1734.

PENAL LAWS OF GREECE.

Greece has a new penal code, promulgated in 1834. Governed by a Bavarian prince, the principles of Feuerbach found ready access here; those of the French penal code are also very generally recognized. On account of this union of German and French regulations, the different punishments are very severe, and the laws are not distinguished by those milder principles which are accepted in the modern criminal laws of Germany, in contradiction to Feuerbach's system.

The French code of criminal procedure was introduced in this country in 1834.

PENAL LAWS OF PORTUGAL.

The first collection of penal laws in Portugal was published under Alphonse V, in 1481; it was based on the Spanish compilation of laws, called *Las Siete Partidas.* Other compilations followed during the reigns of Philippe II and Emmanuel, (1777.) This last, with many edicts and statutes of later dates, form the basis of the actual penal legislation of this country.

The French code of penal procedure was introduced in 1837.

THE PENAL CODE OF SPAIN.

Spain has had a penal code since the year 1848. Before that time the penal legislation in this country was in a very confused state. The oldest monument of Spanish jurisprudence is the so called "*Fuero Juzgo,*" of the 8th century. This was followed by a compilation published in the year 1265—"*Las Siete Partidas,*" and in 1556, a new collection of Spanish laws was given out, entitled "*Recopilacion de las Leyes de Espana.*" This new penal code contains the principles laid down in these compilations, expressed carefully and laconically; the last compilation of the year 1808 being more particularly the basis of it.

The circumstances which aggravate or extenuate a crime are specially enumerated in this code, which is a peculiarity of it worthy of particular remark—the aggravating circumstances depend generally on grounds personal to the criminal. The judge, when these occur, can condemn to a punishment *equal to* the maximum, but not over, as in the French code.

Circumstances which Aggravate an Offence.

These are the following: when the offender is an ascendant, descendant, brother, or sister, or of the same grade of relationship by marriage, or spouse of the injured person; when the offence has been committed in consequence of bribe, promise, or recompense; when with premeditation, craft, fraud, or disguise; when with abuse of power or trust, or employment of means to render the injured person helpless; when with usurpation of the character of a public officer, if in order to commit another offence; when committed on the occasion of a fire, shipwreck or other calamity; when with the help of armed men, or of those who can assure impunity for the time being; when by night, or in isolated places; when with offence against the authorities or their residence, or in a house of worship, or consecrated place; when with contempt for the consideration due to the injured persons, on account of their dignities, age, or sex, or in their house; when by means of force, false keys, or escalade, or with prohibited weapons. Lastly, circumstances analogous to the above named are included in this category.

Extenuating Circumstances.

These are the following: when the guilty person is under eighteen years of age; when he had not the intention to cause *all* the evil which he has produced; when he was provoked or menaced by the injured party; when he avenges an injury or insult to him or his relations; when in a state of inebriation which is not habitual to him, and which does not date from before the project to commit the offence; when in a state of anger or great mental excitement.

Cases where no Punishment Occurs.

From these cases are to be distinguished those in which there is no punishment.

Are not punished: children under nine years of age; children between the ages of nine and fifteen years, who have acted without discernment; those who are attacked in their honor, property, or relations, and defend the same. The condition in this last case is, that the attack be unprovoked, and that the limits of defence be not exceeded;* those who are excited to the same by an irresistible power peculiar to themselves, or by an invincible fear of a great injury; and whoever performs a duty or executes a legal order.

Punishments.

The punishments of this code are:
Death;
Loss of liberty;
Degradation;
Fine.

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* This condition was established in the old Roman law; a very significative expression contains this idea: "*moderamen inculpatae tutelae.*"

The endeavor to render the punishments divisible, according to the theory of Bentham, and, where the nature of the punishment allows, to establish as many grades as possible, is characteristic to this code.

Capital punishment is executed in public on a day which is neither a feast-day of the church nor of the nation. The criminal is clad in a black mantle, and drawn in a cart to the place of execution, accompanied by a public crier, who repeats the sentence in a loud voice; the manner of execution is by the *garotte*, or strangulation by means of the tightening of an iron band, which passes round the neck; it is aggravated for the parricide and for the regicide; in the last case the criminal is mounted on an ass, and led to the place of execution; he is clad in a yellow mantle and cap, both spotted with red. The execution of the regicide takes place at the same hour of the day as the commission of the crime. After the execution, the body is exposed till one hour before nightfall.* The body is given to the family, but not to the wife of the criminal, if she is with child,—nor, in such case, is the sentence even communicated to her.

The fine must correspond to the means of the person condemned. In case of insolvability one *duro* (dollar) counts as one day of imprisonment.

Attempt.

Criminal attempt is a direct commencement of execution, by external acts, the realization of which is hindered by causes independent of the will of the author; the punishment is two degrees inferior to that of the perpetrator.

Complicity.

Accomplices are those who co-operate in the execution of a punishable action, by acts simultaneous or anterior to the offence; and those who give asylum to a criminal, or co-operation to his flight, when he is not a relation. In these last two cases an exemption is admitted in favor of near relatives of the criminal. The punishment of the accomplice is one grade lighter than that of the principal offender.

Political Crimes.

By an ordinance of the month of April, 1852, the provisions of the penal code concerning political crimes, and concerning the competency of courts for the trial of offences of the press, were altered.

The jury is abolished for all kinds of political offences, and the correctional courts decide on the same in *first instance*, and the royal court of appeals in *second instance*. Exceptionally, a jury decide in affairs of the press, but it is a newly organized jury, which is composed of the notables, and those paying the greatest taxes.

Misdemeanors against the king are punished with imprisonment from one to six years, and with fine of from 20,000 to 60,000 reals. The

* Morino, who, as is well known, made an attempt on the life of the queen, in February, 1852, was the first person in Spain who incurred this penalty; he was executed in the manner described above.

person condemned for the same is declared incapable of holding office, or of wearing a decoration.

A misdemeanor against the royal family is punished with imprisonment from six months to two years, and fine from 10,000 to 30,000 reals, and with temporary suppression of functions, honors, and decorations.

Misdemeanors against the security of the State, or public order, are punished with imprisonment from one month to three years, and with fine from 5,000 to 25,000 reals.

Laws concerning the Press.

This decree contains, besides, new provisions concerning the press, and the conditions required to become an editor. He must be twenty-five years old, domiciled for one year in the place where the journal is published, in full possession of all civil and political rights, and pay 2,000 reals, or in the provinces a smaller sum, direct taxes. Besides, the editor must deposit caution money, which, in Madrid, must be 120,000 reals, and in the provinces proportionally lower.

A last regulation of this decree is, that misdemeanors against the king, the royal family, religion, and the security of the State, and against foreign sovereigns, shall be judged by the supreme court, which consists of at least nine members.

CONCLUSION.

Having thus given the history and present condition, more or less developed, of penal legislation in the principal countries of continental Europe, it remains to pass in review some of its marked features and distinctive points of interest.

While much that has been given can be of little practical use in the United States, and is only matter of curious detail, there remains, nevertheless, much to remark that is interesting and instructive.

The first thing that strikes the attention in the study of the penal legislation of Europe, is the tendency to codification, of which the result has been to give, in a precise and laconic form, in plain and ordinary language, within reach of the understanding and resources of every citizen, the definitions of actions that call for punishment, and the punishment fixed for every forbidden act.

The difficulty of administering laws which dated centuries back, and which were intended for a totally different state of society and stage of civilization, of adapting to the wants of the times the crude and undigested mass of edicts, ordinances, and statutes which each succeeding reign had added to their legislation, and the continual and, in this condition of the laws, necessary encroachments of the judge in interpretation of the law on the functions of the legislator—these difficulties, of which one sees in England, at this day, ample proof, have caused most of the governments of Europe to endeavor to introduce order and regu-

larity in this legislative chaos, by reducing to a system, in conformity with the wants and condition of the people and the spirit of the age, the vast collection of laws and usages which in these countries had served rather to perplex than to simplify the course of justice.

The condition of law in England—and I refer to England as showing to what our country is tending in respect to our laws—in comparison to those States of Europe, France for example, which have codes, shows very strikingly the disadvantages attending the administration of justice in those countries which have no *precise, written* authority to guide the judge or to inform the people; the extreme technicality and irregularity of the law, the unnecessary difficulties which attend the obtaining of justice, the expense or tedious length of litigation, the uncertainty of issue, and the delay of decision, are well known to all. The business of the judges seems rather to discover, not how the evil which has occurred may best be remedied, but in what manner it is probable that, in a very different state of society, the matter would have been ordered; and their great rule to be, that whatsoever has been done by the preceding judges should be done by succeeding ones.

Owing to this long-continued system of having special enactments for everything, the multitude of laws added to the English statute book is almost incredible,* and a simple manual for a justice of the peace† contains one hundred times the number of pages employed to express all the laws of the penal code of France.

The initiative of this great measure of codification is, as all the world knows, due to France. Not one of the least of the great reforms with which the revolution endowed, not France alone, but the world, perhaps the greatest, was the formation of its codes.

I have given the codes relating to criminal law in France in detail, and at the head of this work, because, in the first place, in what regards penal law, it is, historically speaking, the first great system of laws in which, at least partially, the spirit of modern civilization is recognised; and in what concerns the procedure, it is the first liberal work, and stands, in this respect, at the head of all.

The French penal law forms, too, a central point for criminal law; for, as respects codification, it has long been regarded as the completest, the most systematic, and, at the same time, the simplest; all the principles of penal law are, besides, better brought within the categories of the penal code. Hence, having been given with some precision, great detail in respect to others of which mention has been made, and which are more or less founded upon it, become unnecessary.

The criminal law of France has had the most marked influence on the many codes which have sprung into existence during this century. Nearly all have observed the division of offences of the French code, not so much, however, to give a definition of crimes by this division, as to fix the competency of the courts of criminal justice. While, however, France still stands at the head of Europe in the liberality of its system of procedure, other States have, it must be admitted, improved upon its code of penal law.

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* Ten thousand acts were passed during the reign of George III. alone.
† Burns' Justice.

The tendency to give definitions which shall include all circumstances, leaving as little as possible to the appreciation of the judge, and the preponderance of infamous punishments, are, perhaps, among the most striking features of the codes which have been given, or of which mention has been made in the preceding pages.

As regards punishment of loss of liberty, it will have been observed that there are more numerous gradations than in our own laws, and that there is great difference of opinion on the subject of the penitentiary system, which, in several States, is still a pending question.

The influence of aggravating and extenuating circumstances is worthy of special attention. In France it has become of more importance since the year 1832, when it was decided to diminish the severity of the punishments without altering the system of penalties established by the code. In some codes no mention is made of them; in others they have a subordinate importance. In Spain alone the circumstances which aggravate or extenuate an offence are given with precision. The theories of Feuerbach on this subject, as given in the codes of Bavaria and Baden, are worthy of particular attention.

The punishments inflicted by the French penal code are more severe than in most of the modern codes of civilized Europe; and the more humane provisions concerning the punishments of criminal attempts, complicity, &c., of these codes cannot but be considered as improvements on the rigorous prescriptions of the *code pénal*, where the attempt is punished with the same penalty as the consummated crime, and all those who participate in an offence are commonly punished without any regard to the grade of co-operation which, in many States, as we have seen, is a subject of special consideration in deciding on the punishment.

In penal procedure France stands at the head of continental Europe, as has before been remarked. While, however, it may be called the most perfect system existing, it cannot be said to have the merit of simplicity, and in liberality is far behind that of the United States and of England, where the penal procedure is intimately connected with the national, moral, and religious opinions of the people. In England it is eminently traditional in its character, and is the result of the national conviction, while that of France emanated purely from governmental authority.

Political obstacles have prevented the introduction of the judicial institutions of France into other countries, in most of which the proceedings are by writing, the trial secret, and the jury is seldom competent, and almost never so in respect to political crimes.

Among the peculiarities of this system of procedure, it may be remarked that there is no grand jury, but in its place an examining magistrate, clothed with extraordinary and despotic powers; that personal freedom and the inviolability of the domicil are not secure against the arbitrariness of this officer, on whose will alone it depends to imprison an individual suspected of guilt, or to search his house; that the preliminary examination is secret, and no counsel for the defendant admitted; that in most of the European States there is at each court of justice an officer specially appointed by government for the prosecution of offences which have generally a public character, the prosecution of

which does not depend on the will of the injured party; the functions of this officer being to demand the institution of judicial proceedings against the offender, in which the examining magistrate interposes to explain, during the trial, the ground on which the complaint rests; and, lastly, to see to the execution of the judgment.

It will have been observed that the jury decide only in the exceptional courts, and are not competent for misdemeanors; the majority of judgments emanating from a countless body of judicial officers. In France even, the jury are no longer competent for offences of the press, they have no law of evidence, but decide according to moral conviction, as do the judges in those States in which the Prussian code of procedure is adopted.

The decision of the jury is by a *majority* of voices, they do not answer *guilty* or *not guilty*, but admit or deny certain facts which form the elements of a legal offence, and, at the same time, decide concerning aggravating circumstances, while the judge decides on the point of extenuating circumstances. It is also worthy of remark that the questions for the jury to decide are formed by the judge *after* having heard the testimony.

A great want of confidence in the testimony of witnesses is also to be observed in their system of procedure; certain classes of persons are not allowed to bear witness, either on account of their relationship to one of the parties, or on account of their antecedents; the witnesses are heard *separately*, and the questions can only be put to them through the judge.

The counsel for the prisoner has the last word in the French courts, and in those where the French code of penal procedure has been adopted.

Special police courts exist in all the States of Europe, which give judgment in contraventions, the characteristic of this grade of offence being that the violation of the law is punished rather than the criminal intention.

In many States the courts have three *instances*, in others two. In those States having this last number, there is a court of cassation, which is not, properly speaking, a court of appeal, but decides only in case of material or formal violation of the law, as in England a writ of error is brought before the House of Lords. Appeal can only be made from the decision of police and correctional courts.

Many other points worthy of attention might be enumerated, but they will have been observed in perusing the preceding pages. Now that the question of the revision of the penal laws of the United States has been brought before our legislative bodies, the course pursued by other States, in the formation of their codes and systems of criminal law, and the results arrived at, may well merit the attention of our legislators.

SUPPLEMENT.

[No. 51.] LEGATION OF THE UNITED STATES,
Paris, December 15, 1853.

SIR: On the 25th of May, 1852, I made to the department, and at the instance of the then Secretary of State, the late Daniel Webster, a communication on the different systems of penal law and procedure in continental Europe.

I have now the honor to forward you a supplemental Report, containing an analysis of a code of penal procedure for Austria, promulgated on the 29th July last, and of a project of a new code of penal procedure for Saxony.

I have the honor to be, sir, your most obedient servant,
H. S. SANFORD.

Hon. WILLIAM L. MARCY,
Secretary of State.

CODE OF PENAL PROCEDURE OF AUSTRIA.

A provisional law of penal procedure was promulgated on the 14th of September, 1852, in execution of an imperial decree of the 31st of December, 1850, and the definitive code for the Austrian empire, of which I shall proceed to give an analysis, was promulgated by imperial patent of the 29th July, 1853, but the date of its entering in force is not yet fixed. This code is interesting, not only as giving a complete system of penal procedure, but also as presenting a tolerably exact picture of penal procedure and the method of proceeding in the criminal courts of Germany. It is for all the criminal courts of the empire, with the exception of courts martial, and it is to be applicable to all cases commenced, but not terminated, before its entering in force.

It consists of four hundred and thirty-six articles, and is divided into twenty chapters, viz:

1. General regulations concerning the nature of punishments and prosecutions.
2. Criminal magistrates, and their competency.
3. Sphere of the public prosecutor, and his relations to the courts in general.
4. Individual complainants.
5. Competency of the criminal courts.

6. Grounds of incapacity and challenging of judges and public prosecutors.
7. Preliminary examinations concerning crimes and misdemeanors.
8. Deliberation and decision of the courts on the result of their preliminary examination.
9. Appeal from the above decision.
10. Trial.
11. Evidence.
12. Judgment.
13. Appeal, and other recourses against the same.
14. Execution of sentences of the courts.
15. Costs.
16. Judgments, in so far as they relate to individual claims.
17. Renewal of criminal suits.
18. Procedure with respect to the absent, (*contumax.*)
19. Procedure under martial law, (*Standesrecht.*)
20. Procedure in case of lesser offences, (*Uebertretungen.*)

1. *General regulations, &c.*

This chapter provides that no sentence of punishment can be pronounced except by a regular criminal court, and in accordance with the forms laid down in this code.

Offences are, in general, prosecuted by a public prosecutor. The rule is laid down that the judge must, from the commencement, take into consideration not only the circumstances against, but those in exculpation of the criminal; a criminal judgment has no legal effect in a civil case, and *vice versa*, except when the validity of a marriage is in question, which is decided by a civil or ecclesiastical court, and which must be recognised by a criminal court.

2. *Criminal magistrates, &c.*

The jurisdiction in first instance is exercised, first by district (*Bezirk*) officers and tribunals, with a single judicial officer (*Einzelnrichter;*) second by courts of first instance which judge in council. The district court is charged with the examination, decision, and carrying into execution of the judgments of cases which are laid down in the penal code as contraventions (*Uebertretungen.*) The appeal from these courts, is to the superior court of the province, (*Oberlandes,*) and in highest instance, to the supreme court (*oberster Gerichsthof.*)

The following courts are competent for the preliminary examination of crimes and misdemeanors:

For political crimes, the court of the province (*Landesgericht,*) where the highest administrative functionary resides;

For other crimes and misdemeanors, every *Landes* and *Kreis* court is competent for a district to be hereafter determined;

Those *Bezirk* or district courts which shall be declared competent, by future laws, to make examinations, have the same jurisdiction in this respect as the *Landes* courts.*

* The courts are divided according to their local jurisdiction into *Oberstelandesgerichtshof*, the highest; *Landgericht*, *Kreisgericht*, and *Bezirksgericht*.

The preliminary examination is directed by an examining magistrate, who is named by the president of the court, from among the judges. The court itself decides upon the results of this examination, and directs the definitive procedure, (called *mündliche Schulessverhandlung*.)

Every court of first instance is competent to sit in judgment in this *Schlussverfahren*, and in all cases of crimes or misdemeanors committed within its district, with the exception of political offences, which are judged by the *Landesgericht* established in the chief town or district.

The tribunals of the first instance are composed of a president, two judges, and a clerk; four judges must sit, however, on those cases incurring capital punishment, or hard labor (*kerker Strafe*) for more than five years.

Appeal is made from the court of first instance to the superior court called *Oberlandesgericht* or *Obergericht Banaltafeln*.) It consists of a president, four judges, and a clerk; eight judges must sit on political cases, or when punishment of death may be pronounced. Appeal from this court is made to the superior court, or *Oberstergerichtshof*. It is composed of a president, six judges, and a clerk.

In those cases in which eight judges sit in the superior court, ten must sit in the supreme court. Decisions are made by a majority of voices, the president having a casting vote.

3. *Sphere of the public prosecutor, &c.*

A public prosecutor, called *Staatsanwalt*, which, for distinction sake, will be called district attorney, is attached to every court of first instance, and an attorney general, or *Oberstaatsanwalt* to every superior court. His functions are as follows:

1. He must inform the examining magistrate of every crime and misdemeanor which comes to his knowledge in his district and demand prosecution of the same;
2. He must aid and verify the proceedings of the examining magistrate in the exercise of his functions;
3. At the close of the preliminary examinations, he must demand indictment before a court of justice, which decides if the charges are sufficient to justify proceedings before the criminal court;
4. He represents on trial (*mündliche Schlussverfahren*) the authority of the law and public security;
5. In certain cases laid down in the law, he has the right to appeal from the decisions of the judges;
6. He inspects the prisons, and makes reports to the district attorney, to the attorney general, and to the minister of justice, concerning them, as well as the general results of the labor of the criminal courts.

4. *Individual complainants.*

In general, all crimes and misdemeanors are prosecuted by the attorney of the State; in certain cases, however, indicated in the penal code, such, for example, as libel, the prosecution is made at the option, and only on demand of the injured person. In such cases, he lays a complaint before the public prosecutor, who, if it is in his judgment founded,

joins with the complainant; if he refuses, the complainant can prosecute without him before the court.

5. *Competency of the different courts.*

As a general rule, the court of the district where the offence is committed is competent to sit in judgment on crimes and misdemeanors. If committed in different districts, that court is competent which first tries the case.

If complaint is made before a criminal court in whose district the criminal is apprehended, such court is competent to try the case, provided that the prosecution has not commenced before the court of the district where the offence was committed, (*forum deprehensionis.*)

When an Austrian subject commits a crime or misdemeanor in another country, even when it is not punishable by the laws of that country, that Austrian criminal court is competent in the case in whose district the offender resides, (*forum domicilii;*) §44; nevertheless, when a criminal is delivered up on demand of extradition, that court is competent which has demanded the same.

6. *Grounds of incapacity, and challenging of judges and public prosecutors.*

The judge who has received injury to his person or property by the criminal act to be tried, or who is connected to the 4th degree by blood or marriage with the criminal, is not competent to sit in judgment in such cases. Judges who have served as witnesses, or as counsel of the public prosecutor on previous examinations or trials of the case, or who have acted in the preliminary examination, cannot sit on the final trial. The judge is in duty bound to communicate immediately to the president such grounds of incapacity, if they exist, and to abstain from all participation in the trial.

The accused can challenge any member of the court, or the clerk, on grounds of suspicion of wanting in impartiality. When a member of the court is challenged the president decides on the admissibility of the challenge; if the president is challenged, the superior court decides thereon; and when the president of the superior court is challenged, then the president of the supreme court decides thereon. The authority which decides upon the exclusion of the officer challenged must immediately designate another to take his place. An appeal can be made against a decision upon a challenge; it has, however, no suspensive effect on the trial.

The public prosecutor can also be challenged on the same grounds as the judges. The attorney general decides on the challenge of a district attorney, and the minister of justice on the challenge of the attorney general.

7. *Preliminary examination concerning crimes and misdemeanors.*

The preliminary examination is to discover with precision the facts of the case; to seek out the offender and his accomplice; to collect the grounds of suspicion or proofs, as well as the means of justification of

the accused; and particularly all the facts that are necessary for an indictment. The court of preliminary examination, which is carried on with the assistance of the public prosecutor, must proceed in accordance with the regulations laid down in the law, excepting in case of a *flagrante delicto* when it has an illimited power. The examining magistrate acts in the name of the court of examination. He must give a regular report every fourteen days to the court of first instance, in presence of the public prosecutor, who can object to his measures, the court deciding thereon. The principal object of the preliminary examination is the establishment of the facts, and all circumstances which go to show in how far the act was committed, with mal-intent or by imprudence; with what aggravating or extenuating circumstances it was committed; what persons have knowledge of the same, and how great damage is occasioned by the act.

The examining magistrate acts in presence of two witnesses, (*Gerichtszeugen;*) in other words, two men of age and of good reputation, who make oath that they will give strict attention to the proceedings, that they will verify the records, and that they will preserve strict secrecy. It is the duty of every citizen to act in this capacity when summoned so to serve, excepting only priests, spiritual leaders of religious societies and corporations,* public officers, physicians, and particularly all persons whose business will not admit of interruption, such as railroad officers, &c., &c.

All public officers are bound to inform the examining magistrate of all punishable acts of which they are directly or indirectly cognizant. All individuals have the right, but all are not in duty bound, to inform against any misdemeanor or crime which can be prosecuted before the tribunals. It is the duty of the examining magistrate to examine all persons whom he supposes to have knowledge of the offence committed. When there are traces left in the place where it was committed, he must go thither and make personal examination.

When technical or professional information is necessary, professional men, surveyors, (*Sachverstandige,*) are called in; as, for example, in case of doubt as to the mental capacity of the accused, two physicians must testify concerning the same; in case of forgery, or alteration of a writing, or bond of credit, men of experience in finance and in writing must be called in.

When there is a well grounded suspicion that a person suspected of crime is in a particular house, or that it conceals an object of importance connected with the same, the house or person can be searched. This search can only be directed by the examining magistrate, who must, in his search-warrant, state the motives for the same. Nevertheless, a house may be searched without such search-warrant, by any police officer, in cases where delay would endanger the ends of justice on which any of the police authorities decide. House-searching must be conducted with due regard to the property in the house, as well as to public tranquility, and with observance of decency and decorum. In extreme cases only, concerning which the police decide, house-searching may be made by night. When it is *convenient* (*thunlich*, §107)

* Religious societies or corporations can only be constituted with the permission of the State.

to the police officer, he must invite the owner of the house, or a member of his family, or another proprietor, or any neighbor, to assist at the search, who must sign the report made of the same. The same regulations are in force for the opening and examination of letters and papers.

The public prosecutor has, equally with the examining magistrate the right to detain all letters at the post office directed to a suspected person.

The examining magistrate summonses to give evidence as witnesses those persons who, in his opinion, have any knowledge that can enlighten the affair. Priests cannot be asked to testify in reference to what is entrusted to them in confidence, whether in confession or otherwise. The same rule is observed with regard to public officers, in so far as they are not dispensed by their duty to their superiors in office. Near relatives, and the counsel of the accused, are in like manner dispensed from testifying.

Every witness must appear when summoned before the court. On the first refusal to appear he is fined; on the next refusal it is directed that he be brought by the police before the court, in which case he can be condemned to prison.

The witnesses are examined separately and apart by the examining magistrate, but not in the presence of the accused nor upon oath; the examining magistrate directing the witness to give the whole truth, and to conceal nothing, in order that, if required, he may affirm it on oath. This magistrate can question the witness concerning all facts connected with the case, but only after he has recounted what he knows on the subject. It is expressly forbidden him to make *suggestive* questions, or such questions as present to the witness facts which would be first established by his answer. After the witness has finished his deposition, the examining magistrate can, if he wishes, put him upon oath. This oath cannot be administered to those who themselves are suspected in reference to the case in question, or to those who are under examination concerning other offences, or who have been already punished for perjury, and who are not yet fourteen years old, or who are enemies of the accused, and, in case the testimony is adverse to him, those who are supposed to be wanting in sufficient memory or judgment.

No person can be put in accusation where there are no grounds of suspicion indicated specially by the law. The law distinguishes between *direct* and *indirect* grounds of suspicion, (*Nährere*, and *Entferntere Verdächtsgrunde.*)

The *direct*, and at the same time general, grounds of suspicion are as follows:

1st. When a person possessed at the time of the commission of the offence the instrument or means by which it was committed;

2d. When a person has been in suspicious correspondence with other persons, or when his own writings allow of a conclusion that he has participated in the offence;

3d. When a person has endeavored to induce another to commit the offence, or has asked counsel of another concerning its execution;

4th. When he has shown an intention to commit an offence by threats

or allegations, written or spoken, or has manifested a violent passion against the person so injured;

5th. When a person is described by a witness as having a resemblance to the criminal, either in form, weapons, clothes, or other particular signs;

6th. When he has made an attempt, or has exercised himself in acts which have connexion with the offence;

7th. When he was present at the place where, and at the time when, the offence was committed, or where an object belonging to him is found there;

8th. When articles are found in his house, or in another place of deposit, known to be his, which the injured person possessed at the time of the offence;

9th. When indications of the offence are found on his person or clothes;

10th. When he has fled or concealed himself immediately after the commission or public knowledge of the offence, without having another motive;

11th. When he has removed or concealed trace of the offence, or sought to put obstacles in the way of the examination.

The special direct grounds of suspicion are:

1st. In case of political crime, correspondence of a suspicious nature, or suspicious secret meetings, or secret procuring of weapons;

2d. In case of infanticide, or abortion, when the woman had shortly before given birth to a child, and it cannot be produced;

3d. In case of offence of which the motive is gain; when an increase in means of existence or property is observed immediately after the commission of the offence, and when he has sold under the real value articles of value which are like the *corpus delicti*, and whose worth is not in accordance with his pecuniary means;

4th. In case of usury, when he has made pecuniary obligations of a character so obscure and incomplete, or double meaning, that the amount of the capital and of the interest does not precisely appear; when it contains a false fact; when, in case of a considerable loan, the money is not delivered in presence of credible witnesses; when, in a deed of purchase, the kind, quantity, or price of the object is not plainly expressed; when, in accordance with the known means of the debtor, it is not probable that he can have received such a sum.

The law lays down still other grounds of *direct* suspicion:

1st. A confession of a person, when it does not contain the conditions concerning evidence which are laid down by the laws of Austria;

2d. The deposition of a single witness, on oath, when it relates directly to the offence;

3d. The deposition of two witnesses not upon oath;

4th. The assertions of those persons injured by the offence, and who, on account of the near approach of death, cannot be heard before a court of justice when the name of a person is given by the sufferer;

5th. The deposition of an accomplice who has confessed his own offence.

When a person accuses himself to an officer of justice, a *direct* ground of suspicion only exists, when this self-accusation is connected

with circumstances which confirm the same, and when he affirms it, moreover, on oath.

Information received anonymously is only taken notice of when one of the grounds of suspicion already named are contained in such communication.

Indirect grounds of suspicion are:

Bad reputation;

Want of profession and of fixed domicile;

Intimate relations with suspicious persons;

Mendacious pretexts and contradictions;

Confused and hesitating testimony in examination;

Or "stuttering, crying, sobbing, or change of color."

Any proof of the *direct* grounds of suspicion herein named, is sufficient to give reason for a writ which directs a special examination. As regards the indirect grounds of suspicion, a coincidence of several of them must exist to cause an examination to be directed.

He, against whom such grounds of suspicion exists, is invited to appear before the examining magistrate, and when he fails to appear, without sufficient excuse therefor, a writ is issued to compel his presence. Such a writ can be issued at the commencement of the examination, when the suspected criminal is hidden, in flight, or has made preparation for the same, or when he has no domicile in the place where he is; when he is seized in *flagrante delicto;* lastly, when it is to be feared, on account of the nature of the case, that the examination will be rendered more difficult, owing to connivance of the suspected person with accomplices, or witnesses, or by destruction of the traces of the offence.

After the accused is brought before the magistrate, he can be put in arrest, on an order of the examining magistrate, or on demand of the public prosecutor. He must, in that case, be immediately interrogated by the police, or the tribunal of the district. When no ground for further proceedings is found to exist, he must be immediately set at liberty. In the contrary case, he must be delivered to the court of examination within twenty-four hours, and must be examined in its name by the examining magistrate, within twenty-four hours after.

When the accused remains suspected of the offence, after the examination, the writ of imprisonment, properly speaking, *(Untersuchungshaft,)* can then be issued against him. This must be issued in case of a crime which has for punishment at least five years' imprisonment and hard labor, or when the punishable act has excited great public indignation, or when it is to be feared that the trial will be made more difficult on account of connivance, or other reasons, or, lastly, when the accused is a vagabond, has a bad reputation, or has made himself suspicious on any ground. In this last case, the writ must state the motives for issuing it, and be communicated to the accused on his arrest, or within twenty-four hours after.

The arrest must be made with due precaution that the accused may not escape, but with all possible respect for his honor and person; more especially when he has a good reputation. Nevertheless, forcible means are permitted in case of resistance, or attempt at flight. After he is arrested, a report of the same must be made to the examining

magistrate, in which the person and clothes of the accused are exactly described. Moreover, they must be throughly searched; and all papers, writings, money, weapons, or instruments, or articles which give suspicion of a punishable act, must be taken away and preserved.

When, during the examination, the grounds of suspicion are done away with, the examining magistrate can set the prisoner at liberty; but upon the condition that he does not absent himself from his place of residence without the consent of the examining magistrate.

The prison for the accused must have sufficient light and air, and at least room enough for the prisoner "to move in." The prisoners must, so far as is possible, be confined apart. When this is impossible, the companionship of persons of different sexes, or of participation in the same offence, must be avoided; or the association of those who are accused of misdemeanors with those accused of crime. Youthful prisoners are separated from grown persons. The prisoners can have accorded to him, by permission of the president, accustomed comforts and occupations which conform to his position and means, in so far as they do not disturb the order of the prisoner, or endanger his security. No prisoner, however, is permitted to have money in his possession. He is only chained when he has attempted to escape, or when there are no other means for his security, or when there is danger from his violence, more particularly to the person of the jailor.

An exact register is kept of all prisoners, which contains the following indications: the number of the prisoners; the day of imprisonment; the name of the officer who has arrested him; his surname and christian name; the number of his cell; and the special measures to be taken on account of him; remarks concerning his conduct; the date when, and the grounds for which, he leaves the prison.

The presidents of the examining court of first instance are bound to visit the prisons from time to time, and at least once a month. They inquire of the prisoners, and apart from the jailors, concerning their care and treatment, and concerning those regulations which are in the interest of discipline, security, order, and cleanliness. The chief political authority of the province or territory is bound to visit the prison in his official journeys. This chapter closes with provisions touching the examination of the accused.

Every examination must be conducted with observance of decency and moderation. Before the commencement the accused must be invited to answer the questions which may be addressed to him, clearly and truthfully. After he has given his name, age, religion, domicile, profession, social relations, (*Verhältnissen,*) and all other facts which are important for the prosecution, the judge designates, in a general manner, the crime or misdemeanor of which he is accused, in order to give the accused an opportunity to relate all details. The questions to be put to the accused must be clear, logical, and in simple language. No question can embrace more than one fact, suggestive questions being avoided.

When the accused answers with cunning, and either denies the accusation or affirms to be ignorant of the facts which are charged against him, the judge must make known to him, with "increasing energy," that a lie in presence of the evidence will not avail. Nevertheless, the

judge is not allowed to promise, or to threaten, or to employ forcible means, or any artificial trick, even when well meant, in order to induce him to a confession. The accused cannot be forced to make a quick reply; nevertheless, when through fright or anxiety he loses his presence of mind, and it is evident that this fear results from "internal consciousness of the offence," the judge must, with "decent earnestness," insist on his stating the truth, (§179.)

A record is made of all examinations, containing all the questions and replies; which last must conform, as near as possible, to the words of the accused, who can dictate his replies, if he desires it, to the clerk.

Before closing the examination, the accused must be again questioned; and it must be remarked to him, that three days' time for reflection (*Bedenkzeit*) will be given to him, if he demands it.

8. *Deliberation and decision of the courts on the result of their preliminary examination.*

The examining magistrate communicates to the court the minutes concerning the affair; the president then names a referee and communicates the same to the public prosecutor, who must give a written opinion to the court, which then deliberates on the report of the referee upon the question, if a prosecution shall be commenced. The court decides, either that the preliminary examination shall be continued no further, or that the accused shall be set at liberty, or that he shall be put in accusation.

A decision of the kind first named, called *Einstellungsbeschluss*, is made when the requisites of a punishable act do not exist: or when there are circumstances which do away with its criminality; or when the trial has been commenced or continued without the demand of the injured party; or when the public prosecutor or the private complainant have desisted from further proceedings; and, lastly, when no real ground of suspicion of the commission of a crime or misdemeanor is found to exist.

The *Ablassungsbeschluss* setting the prisoner at liberty, is given when, in the examination concerning a crime or misdemeanor, one of the first cases already named occurs, or that the grounds of suspicion are removed.

The last, or *Anklagebeschluss*, (putting the prisoner in accusation) is made when sufficient charges are established to fix upon an individual an accusation of a well-defined crime or misdemeanor.

The *Anklagebeschluss* must contain the surname and christian name of the accused, the designation of the crime or misdemeanor which forms the object of the accusation, and the law in accordance with which such offence is to be punished. It must state whether the accused is to be left at liberty or be kept in prison. It must notify to him that he has the right of appeal against this decision. The witnesses who are to testify must be named in the document, and all the reasons for this decision must be indicated therein.

9. *Appeal from the above decision.*

The public prosecutor, the complainant, and the accused have the right to appeal to the *Oberlandesgericht* against any of the above-mentioned decisions of the court of examination, and the appeal suspends further action till decided. It must be declared within twenty-four hours after the communication of the decision; and, at latest, the grounds of the same must be given within eight days. After the papers of the case have been received by the above named court of appeal the president names a referee, who lays before the court a summary statement of the case. The decision of this court is definitive when it confirms the decision of the court of examination; when, however, it is contrary to the same another appeal can be brought before the supreme court.

10. *Trial.*

The accused must be notified, immediately after having received communication of the *Anklagebeschluss*, that he has the right to choose a counsel to defend him on the trial. In all cases where a crime is tried of which the punishment is death, or hard labor of at least five years, the accused must have counsel given him by the court when he makes choice of none. The superior court gives, at the commencement of each year, a list of the counsel in criminal cases of its district. This list contains the names of all lawyers who practise in its district; jurists who have passed their examination as judge, lawyer, or notary,* as well as public teachers of law, are permitted to act as counsel on their demand.

The accused can confer with his counsel alone; neither, however, can examine the minutes of the preliminary examination, except in presence of an officer of justice. If the accused is in prison he must, immediately after the indictment has received legal sanction, be examined by a member of the court before which he is to be tried, who must take particular care to ask him if he has anything to add to the decision of the court of examination.

In cases punishable by death, or hard labor for more than five years, the public prosecutor must present an indictment within eight days to the court; or, if there is an unusually prolonged examination, this delay may be extended to fourteen days. This indictment (*Anklageschrift*) must contain, in concise terms, the charge and the proof, and also a list of the witnesses. It is communicated to the accused and to his counsel.

In all other cases, punishable with a less penalty, the public prosecutor must bring the accusation orally before the court, and only communicate by writing a list of the witnesses, of which the accused is also notified.

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*Austrians who practice the law professionally must have an academical examination after having gone through the appointed course of studies. After that they must, in order to obtain the right to enter upon public service, pass a government examination, (*Staatsexamen*,) candidates for judges, lawyers, and notaries having each a separate examination, lawyers being in Austria regarded as public officers.

The president of the court decides upon the day for the trial immediately after having received the indictment or the list of witnesses. In cases punishable with death or five years' hard labor the accused must be allowed a delay of at least eight days, and in all other cases a delay of at least three days from the day of summons. This is communicated to him, if he is arrested, by a member of the court; if at liberty, by a written notification. The witnesses must be summoned at least three days before the day of trial.

When the accused or his counsel believes that, in the interest of the defence, a new fact should be established, or that, apart from the witnesses and surveyors already named, others are necessary, they must notify the same to the court at least twenty-four hours before the trial. The court decides on the same after hearing the public prosecutor. When new facts of importance are established in consequence of this supplementary examination which, at the time of the preliminary examination, would have influenced otherwise the decision of that court, the court has to make a new decision.

The president and the members of the court, the clerk, the public prosecutor or complainant, and the counsel of the accused, in cases where he is named by the court, must be present at the trial. The president of the court can add to the bench, in cases which will probably be of long duration, one or two additional judges.

A limited number of spectators are admitted to the trial. All members of the legal profession who are inscribed as counsel on the lists of the district, of which mention has already been made, the superior officers of administration and of the police, the public teachers of law and *political economy*,* the injured parties, and confidential persons, not exceeding five in number, who are proposed by the accused or the complainant for this privilege, and against whom the court has no objection. The court can also admit "gentlemanly persons, full grown, and of masculine sex." Nevertheless, it can order the session to be secret, for reasons of decency, and out of regard for the shame of the complainant or witnesses, for public safety and propriety, or on the common demand of the complainant and accused. In these cases, all the above named spectators, with the exception of the five "confidential" persons, are shut out.

The president directs the procedure; he examines the accused and the witnesses, and directs the order in which the minutes of the preliminary examination shall be read. It is his duty to preserve order in the court; he is the guardian of its dignity. He has the right to warn, or, if necessary, to expel those spectators who disturb the court by giving signs of approval or of disapprobation, or in any other manner. When any one opposes himself to his orders he can send him to prison without appeal, for not more than eight days, or a criminal prosecution can be directed against the person.

The trial commences with the calling of the case by the clerk. The accused appears free from bonds; but, if under arrest, he is accompanied by a guard. The *corpus delicti* must be brought into court before the commencement of the procedure.

* There are no professors of political economy in the public institutions of Austria.

After the case is called, the president must remind the parties "that every person appearing before the court must conduct himself with the reverence and moderation which is due to it, and, in particular, that the duty of the counsel of the parties is only to serve the cause of truth and justice; that, while it is allowable to avail themselves of all that is necessary for the defence of their clients they should avoid all that is contrary to their consciences or the laws."

The names of the witnesses are then called; they are reminded of the importance of the oath, and are then sent to the room reserved for them.

The accused is now asked his surname and his christian name, age, profession, religion, place of birth, and of residence. He is informed that he must follow with attention the proceedings of the court. The clerk then reads the decision of the court of examination, and the public prosecutor developes the charges and the proofs. The accused is now asked by the president to relate truly all details concerning the act with which he is charged. If he renews a confession which he has already made before the examining magistrate, or if he makes a new confession, witnesses are only examined in case the public prosecutor or the accused expressly demand it, or when it appears indispensably necessary to the court.

The accused has the right, during the trial, to communicate with his counsel. It is not permitted him, however, to advise with him in regard to his answer, before replying to questions addressed to him.

The witnesses are called in to testify in turn, and all witnesses are strictly forbidden to come into court before having given their testimony before it. The president has the right to cause the accused to leave the court during the examination of a witness or an accomplice. He must, however, be informed of what is important in the testimony so given. The testimony of witnesses made before the court of examination, and who are unable to appear at the trial, are read by the clerk from the minutes. The president is empowered to summons and, if necessary, to compel the presence of those persons who have not yet testified, and from whose testimony any new proofs may be obtained. Not only the president, but also the other members of the court, and the public prosecutor, as well as the private prosecutor and the accused, have the right to question the witnesses.

The trial once commenced, can only be interrupted in so far as the president finds it necessary for repose or refreshment. An adjournment can be ordered by the court; if the accused is sick in a manner to prevent his attendance, when he does not consent to the continuation of the trial without his presence; if he consents to the same, the declarations made by him in the preliminary examination are read before the court; if the court esteem it necessary to examine into new facts, or such which were not sufficiently cleared up by the examining magistrate.

The prosecution is quashed when the public prosecutor desists, on the permission of the minister of justice; or when the complainant renounces the prosecution, which can only be made upon his demand.

As soon as the case is sufficiently established by witnesses, to arrive at a thorough knowledge of the same, the examinations are ended; and

the public prosecutor and the counsel of the accused make their final arguments, and the court retire to deliberate.

11. *Evidence.*

The judge must weigh carefully the collected evidence. Only what is legally *proven* can be accepted. The judge does not decide its acceptance in accordance with his convictions, but he must confine himself strictly to the evidence specially enumerated in the laws, viz:

Occular evidence of the judge;
Opinion of surveyors (*Sachverständiger;*)
Confession of the accused;
Testimony of witnesses;
Documents or writings;
The coincidence of several incomplete proofs or grounds of suspicion (*Zusammengesetzte Beweis.*)

1. The occular evidence of the judge can only be taken as proof, when made in legal form.

2. The opinions of surveyors must also be made in legal form.

3. The confession of the accused can only serve as legal evidence against him, when it is made in a clear and precise manner; when he is in free possession of his faculties; when made upon his own circumstantial statement; and not upon affirmative or negative answers to questions; when it is in accordance with the other facts of the case. If he recalls a confession previously made, it does not lose its weight as evidence, excepting when he brings forward a credible motive for having given a previous false confession, or such circumstances as cause doubts of its truth.

4. As a general rule two witnesses suffice for proof; they must have testified in complete liberty; their testimony must contain clearly and precisely the account of the circumstance which is to be proved; it must be, upon his own observation, made with due care (*erforderliche Besonnenheit*) and not on hearsay. The testimony must be on oath, and there must, besides, be no grounded suspicion against its veracity, neither on account of the person of the witness, nor the nature of the testimony, nor on account of other facts of the case.

By exception, the testimony of a single witness suffices in the following cases: The testimony of him against whom the punishable act was committed, can serve, in the absence of other evidence, as proof of the nature of the same; the estimation of damage resulting from the offence can be established by the testimony of the injured person, or of him in whose possession the damaged article is found; when an offence is often repeated, or is continued through a long period of time, or disconnected. The single cases of a repetition, or the individual acts, which, taken together, go to constitute an offence, can be taken as proved upon the testimony of a single witness; when a document or writing contains the punishable act; as, for example, a libel; an altered or counterfeited document, or a written invitation to the commission of a crime. The writing can be received as legal proof when it has emanated from the accused. If the authenticity of the same is contested, it must be *proven*. The testimony of public officers taken in the sphere

of their competency is legal proof, when no damage or advantage is to be expected, or other grounded suspicion against the veracity of the testimony exists.

Every fact can be taken as proved, when there is coincidence in two incomplete depositions; when several grounds of suspicion against the accused coincide, they are only taken in consideration when the act is proven with all the circumstances which make it punishable; when the necessary number of grounds of suspicion, which have been before spoken of, (§ 138 to 140,) fall together, (*zusammentreffen;*) lastly, when such a close relation exists between the grounds of suspicion and other circumstances of the law and in connexion with the accused, that there can be no doubt of the commission by him. In general, the coincidence of three grounds of suspicion named in the law suffice to establish proof.

The law determines the legal force of the evidence, but has decided that it shall not be taken disconnectedly with the whole case. If, for example, the impartiality of a witness is placed in doubt, his testimony must be rejected. The judge is not bound to condemn when one or more of the legal forms of evidence exist, if, after an attentive examination of the whole case, he is not himself convinced of the guilt.

12. *Judgment.*

A sentence of punishment (*Strafurtheil*) must contain the legal designation of the crime, misdemeanor, or contravention of which the accused has been declared guilty; the indication of the laws which are applied in the case, and the punishment which is pronounced; and, lastly, the decision concerning the costs and damages.

Capital punishment can only be pronounced when the crime is either confessed by the criminal, or proved by sworn witnesses; and when, also, the punishable act is fully proved in itself, without reference to the person. When these proofs cannot be established, the punishment of death must be changed to hard labor for from ten to twenty years; or, in case of aggravating circumstances, for life. If the criminal was not twenty years old at the time of the commission of the crime, punishment of death is changed to imprisonment with hard labor from ten to twenty years. If very important and preponderating extenuating circumstances exist, the court has the power to reduce hard labor for life to ten years, and hard labor from ten to twenty years to five years, and to reduce that of from five to ten years to two years duration.

If, in the opinion of the court, no legal proof of the guilt is established, but nevertheless all the grounds of suspicion are not entirely destroyed, the judgment is pronounced with the declaration that the accused is set free on account of the insufficiency (*Unzulänglichkeit*) of the proof, (§ 287.)

When, on the other side, all grounds of suspicion are entirely removed; or when the act which forms the object of the trial does not contain the elements of a crime or misdemeanor; or, lastly, when the accused appears to be wanting in complete intelligence, it is declared in the judgment that then he is not guilty, he is to be acquitted.

In the following cases the trial is ended, without judgment, by the

decree called *Ablassungsbeschluss:* when the crime or misdemeanor is extinguished by limitations; when prosecution has been begun or continued without the consent of the complainant in those cases in which the prosecutor is not allowed law on the demand of the injured person; when the public prosecutor desists from prosecution in the name of the minister of justice.

Immediately after the finding of the court, the judgment is read to the accused by the president, in presence of the whole court; the grounds of decision are given summarily therein; the laws upon which it rests cited; and the accused is informed of his right of appeal.

The judgment of the court must be recorded by the clerk within twenty-four hours thereafter; a copy of the same, signed by the president, clerk, the public prosecutor, and the complainant, must be communicated to the person condemned.

13. *Appeal,* (*Berufung.*)

Appeal can be made against every judgment in first instance, to the superior courts, (*Oberlandesgericht,*) either on account of non-observance of essential formalities, or on account of the contents (*Inhalt*) of the judgment; that is, if the offence of which he is accused is declared punishable by the court of first instance illegally; if it expires by limitation; or, if a law which is not applicable to the case is applied; if a fact is taken as certain, which has not been legally proved; if the limits prescribed by law for fixing the punishment have not been observed; and, lastly, if the decision is contrary to law in respect to the damages or costs.

Appeal can be made not only by the condemned person, but by the public prosecutor; the complainant; by the husband or wife; by those connected in right line, ascending or descending; or by the guardian of the condemned; lastly, by the heirs of the complainant.

When the superior court has confirmed the judgment of the court of first instance, no further appeal can be made by any person. When, on the other hand, it has not confirmed the judgment, the person judged can appeal to the supreme court, (*höchster Gerichtshof.*)

Appeal must be made within twenty-four hours from the day when the judgment is communicated in writing to the accused, by the court of first instance; and the ground of the same must be given within eight days.

The supreme court has the right, in case of the coincidence of preponderating and very important extenuating circumstances, to reduce the penalty of hard labor for life to five years; and that of hard labor from ten to twenty, to three years; and that of from five to ten years, to one year.

The supreme court has the power to change the punishment of imprisonment in its different gradations, and can even change to a fine the highest grade of punishment of hard labor.

14. *Execution of sentences of the court.*

When a prisoner is declared not guilty, or acquitted on account of insufficiency of proofs, or when the decree called *Ablassungsbeschluss* is issued, he is immediately set at liberty.

Every judgment by which the accused is set free on account of insufficiency of proof, must be communicated to the police of the place where he lives.

If the court is of the opinion that the immediate setting at liberty of a person so acquitted, or the liberty of a prisoner after the expiration of his punishment would be dangerous to the public security, it must communicate the same to the superior court, which addresses the same to the superior administration of the province.

Every sentence of punishment is put in execution by the court of first instance, which has pronounced the sentence, and without the intervention of the public prosecutor.

When, by the immediate execution of a sentence depriving the convict of liberty not extending beyond six months, the means of subsistence of the guiltless family would be destroyed, it can be deferred for a short time, if there is no fear of his escape. This prorogation is given by the superior courts.

15. *Costs.*

The condemned persons must pay the following costs: The expenses for writs and of witnesses, &c.; the fees of the witnesses; fees of counsel; the expenses of his board during his remaining in arrest; and the travelling expenses of the officers of the court; and the expenses of putting the sentence into execution. Nevertheless, these costs can only be demanded in so far as the means of subsistence for himself, or his family, would not be thereby imperilled, and in so far as the rights of the injured party for damages are not interfered with.

The fees of the counsel are fixed by the court. The counsel named by the courts to defend the interests of poor persons on trial receive no fees.

16. *Judgments, in so far as they relate to individual claims.*

The court fixes the amount of the damages in the same judgment in which the punishment is given. In cases of high treason, or any other political crimes, the criminal is sentenced not only to reparation of the immediate or indirect injuries resulting from the crime, but also to payment of all costs incurred for the suppression of the criminal undertaking, or for the re-establishment of public order and security, rendering it impossible to fix the damages at the time a civil action is brought for the same.

17. *Renewal of criminal suits.*

If the prosecution, on account of a crime or misdemeanor, is ended by the decision before spoken of, (*Einstellungsbeschluss,*) the prosecution can be renewed, on account of circumstances which were not taken into

consideration, if the time for limitation has not expired. (See § 227 to 232 of penal code.)

If an *Ablassungsbeschluss* is given in a case of crime or misdemeanor, on the ground that the elements of crime or misdemeanor are wanting, or because facts were established which destroyed the criminal character of the act, or because the grounds of suspicion against the accused were done away with, a new trial can be ordered, when new circumstances or proofs are discovered, which are sufficient in themselves, or which come in connexion with other already existing grounds of suspicion or evidence.

If an accused has been acquitted, or declared not guilty, on account of insufficiency of proof, a new prosecution is only permitted on such new evidence as gives ground for the belief that it will cause the conviction of the accused.

A new trial, after sentence of punishment even, can be directed, if new and important evidence offers, and if hard labor for a term of years has been applied instead of capital punishment, or hard labor for life; or if the criminal has been condemned to hard labor for five years or under, instead of for ten years; or lastly, if an act which constitutes a crime has been tried as a misdemeanor or contravention, or if a misdemeanor has been tried as a contravention. The court which has given the first sentence sits in judgment generally on the new trial.

18. *Procedure with respect to the absent,* (*Contumax.*)

If the absent person charged with a crime or misdemeanor does not present himself before the court, notwithstanding the summons publicly made, (*Steckbrief,*) it is the duty of the court of examination to indict him, if sufficient motives exist. This indictment is published in case of a crime. If, notwithstanding all researches, the accused cannot be taken, the prosecution is generally suspended till he can be arrested. If, however, a crime has created great sensation, or if the omission of punishment excites fear of injurious consequences, and if there is no doubt as to the crime or the person of the criminal, he can, by exception, be condemned *in contumacien.* In general, a time of delay is given him to return. If he does not appear within this period, the final trial is proceeded with within a month at latest. In such case the accused receives counsel from the court; and, in general, the same rules are observed as when he is present.

19. *Procedure under Martial Law.*

Procedure by court-martial (*standrechtliches Verfahren*) can be adopted, either when treasonable tendencies are manifested in a particularly threatening and dangerous manner, or when, in case of riots, martial law is proclaimed by the chief administrative magistrate of the district, (*Landeschef,*) who must consult thereon the presidents of the superior court. It can also be proclaimed by the minister of the interior, with the consent of the minister of justice, in cases where murder, robbery, arson, or destruction of property, occurs in an unusual degree in one or more districts.

After the court-martial is opened, the court of first instance is alone competent to pass judgment on the cases which have caused these exceptional measures in its district.

The characteristic feature of the court-martial is, that the procedure from commencement to end is in presence of the full court, and without preliminary examination or sitting in accusation. If the accused is declared guilty, he is in every case sentenced to death. When, however, after several executions, in the opinion of the court, terror has been caused, capital punishment can be replaced by hard labor for from five to twenty years. No appeal is admitted against a sentence of this court, and petition for pardon does not suspend its execution, which takes place within two hours after the sentence is pronounced. A respite of an additional hour can be granted, but only on the prayer of the condemned, to be enabled to prepare for death.

20. *Procedure in the case of lesser offences.*

The same rules are in force for proceedings against contraventions as against crimes and misdemeanors, in so far as the law has not laid down special modifications, which, it may be remarked, are very numerous. Contraventions are examined and tried by a judge who is a member of the tribunal of first instance, and without the presence of a prosecuting attorney. The form of procedure is of the most summary kind, and must be terminated, if possible, in one sitting. The witnesses are not generally sworn, and only affirm, in giving the hand to the judge, to speak the truth.

Appeal can be made to the superior court; and when its decision is against that of the court of first instance it can be appealed up to the supreme court.

A new trial can only be directed in the event that new evidence is produced after the accused has been acquitted, or set at liberty on account of insufficiency of proof, or he has been condemned for a contravention, and can prove later his innocence.

The district courts are in duty bound to make, every quarter, a statistical table of contraventions which have been informed of and judged.

The chief characteristics of this Code are as follows:

1. Every offence is prosecuted by an officer named by the State, and the trial depends, by exception only, upon the injured party.

2. A special court of examination takes the place of a grand jury for indictments.

3. There are three instances or degrees of criminal jurisdiction: *Landesgericht*, *Oberlandesgericht*, and *Oberstegerichthof*. The *Oberste*, or supreme court, decides even in the case where the superior court has come to a different decision than the *Landesgericht*.

4. The trial is always conducted orally in superior courts. In the higher courts there is a mixed procedure, documentary and oral.

5. The trial can be secret at the will of the president, and publicity is very much restricted in ordinary cases.

6. There is no jury in any case.

7. The law details very minutely all grounds of suspicion in the

evidence. The judge is not in duty bound to base his decision upon the legal proofs, but to give it in accordance with his convictions.

8. There are three kinds of acquittal: The simple and complete acquittal; the setting at liberty on account of insufficiency of proof, (*absolutio ab instantia*;) and the so-called *Ablassungsbeschluss*. The effects of these judgments, as has been already shown, are different.

9. The sentence is put in execution by the judge of the inferior courts, which is a very marked difference from the practice in the criminal courts of France, and most others of Europe.

10. A new trial, in many instances which have been given, can be directed against a suspected person after he has been acquitted or sentenced.

11. There is a civil court-martial (*Standrecht*) which, as a general rule, only pronounces capital punishments.

12. The superior and supreme courts have great latitude in the application of the punishments.

13. The defence of the prisoner is more definitely guaranteed than in most other European codes; and even those who are tried in their absence, *in contumacien*, have a counsel allotted to them.

PROJECT OF A NEW CODE OF PENAL PROCEDURE FOR SAXONY.

In 1836 the Saxon government proposed to the Chambers a system of penal procedure, which was adopted by them on the 13th of March, 1838. Great opposition has been manifested to it from the commencement, and particularly since the revolution of 1848. On this account, the government appointed in that year a commission, which, after having been often renewed, has just put forth a project, some details of which are not without interest.

The following are some of its provisions:

1. The same principles are observed as in the Austrian code in respect to prosecution and preliminary examination.

2. The trial is oral.

3. It is public; only grown persons, however, are admitted. It can be in secret on account of reasons of decency or danger for the public peace.

4. There is no jury.

5. The grounds of suspicion and evidence are not specially determined in the law. The judge passes judgment in accordance with his best belief, but must state the reasons for his judgment.

6. There are three degrees of criminal jurisdiction, called *Bezirksgericht*, *Appellationsgericht*, and *Oberappellationsgericht*.

There are four kinds of appeals against a judgment: *Nichtigkeitsbeschwerde; Berufung; Einspruck; Appel.*

MEMOIR

ON THE

ADMINISTRATIVE CHANGES IN FRANCE,

SINCE

THE REVOLUTION OF 1848.

No. 48.] LEGATION OF THE UNITED STATES,
Paris, December 8, 1853.

SIR: I have the honor to transmit to you, herewith, a memoir which I have prepared on the administrative changes in France since the revolution of 1848 to the close of the last session of the *Corps Legislatif*, accompanied by details concerning the principal departments of administration of this country.

Other and more pressing occupations have prevented my giving this document the completeness which I had intended, but I will no longer delay communicating it to you, believing that it will be found, nevertheless, to contain information of interest to you which may be useful to the department.

I have the honor to be, sir, your most obedient servant,

H. S. SANFORD.

Hon. WILLIAM L. MARCY,
Secretary of State.

I.

THE PUBLIC POWERS IN 1847, 1848, AND 1852.

The first session of the legislative body of the *French Empire* was terminated on the 28th of May last, and the new system may now be considered as established. It differs in too many points from all the preceding governments not to be found worthy of deep investigation, not with regard to its political bearings—these are too well known—but with regard to the consequences resulting from its establishment in the direction of the affairs of the country.

The changes introduced into the government and administration of France by recent political events have been of the deepest moment.

On the first of January, 1848, this country was governed by a constitutional king. On the 1st of January, 1849, a sovereign assembly gave laws to a Republic, and limited the prerogatives of the executive power and of the president. On the first of January, 1852, this powerful assembly had disappeared, and the president exercised a dictatorship which none durst control; and on the 1st of January, 1853, the eagle once more surmounted the standards of imperial France. It were needless to state that these divers changes consisted only in a change of name. Each government, arising from every successive revolution, was animated by a different spirit, and of necessity created an administration according to its own image.

Government of 1830.

The King, who reigned by virtue of the charter of 1830, shared his powers with two chambers—the one elective, the other appointed for life.

The former was composed of four hundred and thirty deputies, elected every five years by the inhabitants paying a certain amount of taxes. To be an elector, it was necessary to pay two hundred francs in direct taxes; and to become a deputy, it was requisite to pay five hundred francs annually.

The deputies every year named their president, vice presidents, and secretaries; their persons were inviolable during the session, and they were not liable to prosecution for opinions expressed in the chambers. Their functions were also honorary.

No laws could be made without the concurrence of the three political powers—the King, the Chamber of peers, and the Chamber of deputies.

Every member of the two chambers, as well as the government, could originate bills; and all laws were discussed indiscriminately in the first place in either chamber, except the budget of taxes, which (as in England) was required to be presented before the chamber of deputies.

The King, or the executive power, was represented in the chambers by the ministers, who were, however, required to be members, although they were most always chosen from amongst the members thereof.

The constitutional king was inviolable, his ministers only being responsible. They could be arraigned by the deputies, and could be judged only by the Chamber of peers. They governed as long as they held the majority; but when in minority, the king, either in virtue of his right, dissolved the chambers, and appealed to the country, which decided either by electing fresh members, or returning the same, or the ministers simply resigned their functions.

Constitution of 1848.

The republican constitution of 1848 replaced the two chambers of the constitutional monarchy by one sole assembly, and the King by a President, elected for four years. Every Frenchman twenty-one years of age became an elector, without any condition of fortune, and at twenty-five was eligible to the presidency. The President of the republic was elected by the whole of the citizens. He was responsible, as well as his ministers, chosen entirely by his own will. The ministers supported the views and bills of the government, either personally or through the medium of special commissions. Every representative had the right of initiative in presenting laws and bills for discussion, and likewise received a grant of twenty-five francs a day. The President had not the right of dissolving the national assembly, but his *veto* could suspend it for a certain period. He could grant pardons, but only after having consulted the Council of State, elected by the National Assembly.

Constitution of January 14, 1852.

The constitution of the 14th of January, 1852, in imitation of that of an. VIII, maintains the Republic and appoints a *responsible* chief, elected for ten years. This chief, who preserved the title of *President*, governs through the medium of the ministers, the council of state, the senate,

and the Legislative body. Like the constitutional king, he commands the forces of the State, can declare war and make peace, negotiate commercial treaties, sanction and promulgate the laws. He has also the right of granting pardons, and, moreover, according to article eight of the constitution, he alone can present laws for discussion. The ministers do not form a council, being no longer united, but each being personally responsible for his own respective acts, and that only to the chief of the State.

The Senate alone can impeach the ministers, and not the Legislative body, as hitherto.

The Legislative body (*Corps Legislatif*) is composed of deputies elected by universal suffrage, at the rate of one deputy for every 35,000 electors, every elector being eligible. They are appointed for six years, and (according to article 37) receive no salaries. They cannot present laws, (not having the right of initiative,) but vote or reject those presented by the government. The deputies can present amendments, but they cannot be discussed by the Legislative body until they have been allowed by the council of state. The tribune is abolished, the deputies speak from their places, and the journals cannot publish the debates, but only a summary approved by the president of the Legislative body. The president and vice president are named, for one year, by the President of the Republic, and the sittings are public.

In addition to this elective assembly is the Senate, composed of the cardinals, marshals, admirals, and other persons of note appointed by the chief of the State. The senators, the number of which cannot exceed 150, are *immovable* and elected for life. Their duties are gratuitous; but the president of the republic can, by reasons of services rendered to the State, or their position as regards fortune, grant them a personal indemnity, which cannot exceed 30,000 francs. According to article 25, *the Senate is the guardian of the fundamental pact, and of the public liberties.* No law can be promulgated without having been previously submitted to it. It has the right of rejecting all laws contrary to the constitution, to religion, to morals, to liberty of worship, and individual liberty, contrary to the principle of equality of all the citizens before the law, the inviolability of property, and of the immovability of the magistracy. The Senate interprets the legal bearings of the articles of the constitution, and can alone propose modifications therein. In case of the legislative body being dissolved, the Senate, in the interim, is appointed by the chief of the State to provide for the carrying on the government. It is to the Senate, and not to the Legislative body, that all petitions must be addressed by the citizens. The public are not admitted to the sittings of the Senate, and the journals are not allowed to publish the debates.

The Council of State, whose duties will be referred to at a future period, draws up the bills to be presented by the government, as well as the rules and regulations for the public administration. It is appointed to support the discussion of these bills, in the name of the government, not only before the senate, but before the Legislative assembly. The councillors appointed to address these bodies in the name of the government are named by the president of the republic.

The constitution, as may be seen in the preamble, had foreseen, and

provided for the case of its being modified. "A constitution," said the Emperor, addressing the council of state, "is the work of time; too much latitude cannot be given for ameliorations. Therefore the present constitution has fixed nothing but what it was impossible to leave in a state of uncertainty. It has not enclosed within an unapproachable circle the destinies of a great people; but has left open a sufficient latitude, in case of any important crisis, to propose other means of safety than the sad and disastrous expedient of revolution."

It has already been stated that it is the senate alone which can propose any change in the constitution. If the proposition is adopted by the executive power, it is made into a law by the *senatus consulte.* Nevertheless, an appeal to universal suffrage is necessary whenever the modifications proposed attack the fundamental basis of the constitution as laid down in the proclamation of the 2d December, 1851.*

It is well known that, in the same year, 1852, the senate was called to act upon this right, and to propose a modification to the constitution of the 14th January. When the electoral committees had, by the vote of the 20th and 21st November previous, given their sanction to the *senatus consultum* of the 7th November, and re-established the empire by 7,824,189 votes out of 8,140,660 voters, it was necessary to establish the fundamental pact on the same footing and in accordance with the new form of government.

Thus, the *Senatus Consultum* of the 25th December, 1852, acting on the interpretation and modification of the constitution of 14th January, 1852, abrogated the articles which limit the duration of the functions of the chief of the State and which preserve the title of the President of the Republic. It also (article 3) confers on the Emperor the right of modifying the customs' duties whenever engaged so to do by commercial treaties, without being obliged to consult the legislative body. The Emperor can ordain or authorize all works of public utility, railroads, canals, &c., but in order to grant a subsidy, he must consult the legislative body, which still continues to vote the taxes. The budget, also, is still brought forward, with its different administrative subdivisions into chapters and articles, but is voted *for each separate Ministry*, so that the government possesses the right of modifying the repartition of the credits in the different ministerial departments.† The deputies receive a monthly indemnity of 2,500 francs, and *all* the senators a settlement of 30,000 francs each per annum.

It is evident that every change in the constitution has produced a greater or less variety of modifications in the organization of the administration. An analysis of them will naturally be found in the fol-

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* The following are its principal features:

1st. A responsible chief appointed for ten years.

2d. Ministers dependant upon the executive power alone.

3d. A council of state, composed of the most distinguished men, to prepare the laws and maintain their discussion before the legislative body.

4th. A legislative body to discuss and vote the laws, appointed by universal suffrage and by ballot.

5th. A second assembly, composed from all the principal men in the kingdom, a preponderating power, and as a guardian to the fundamental pact and the liberties of the public.—(See the *Bulletin de Lois* for the year 1851, page 989.)

† For an explanation, see the chapter on the finances.

lowing details, under each respective branch of the public service. But before going into these details, I shall proceed to give a general view of the administration of France, and to show its peculiar characteristics.

Centralization.

Notwithstanding the attacks to which the system of administration designated by the title of *centralization* has been exposed, it still enjoys general favor in France. Even its adversaries render justice to the principle, and acknowledge the utility of the whole, while they only attack its abuses.

The administration of France, in fact, has had the rare advantage of being formed at a time when all was swept away that could stand in the way of laying out completely its different parts, and uniting them together in a logical order of ideas. The national assembly of 1789 formed the original bases, and succeeding governments, whatever may have been their difference, have only had to develope and even strengthen the principles already laid down by their predecessors.

This administrative centralization may be defined as a system of organization which makes all the public powers of the kingdom diverge from a common and single centre. It is a hierarchy of public men and government officers, having at their head the chief of the State, whether under the title of King, President, or Emperor, whom they represent, and of whom they are the agents, from the highest down to the lowest officers of the State.

Ministers.

The officers the nearest in connexion with the chief of the State—those whom he consults, and to whom he directly transmits his orders—are the ministers. Under the constitutional regime, previous to the year 1848, they were responsible before the chambers; but, as the king could not put in execution any public act without being countersigned by a minister, the will of the latter necessarily limited that of the king.

The constitution of 1852 makes the ministers responsible only to the head of the State, and consequently removes all difficulties to the execution of his will, so that a minister, in fulfilling his orders, can incur no reproach.

The number of ministers has not always been the same. During the latter years of the government of July, and during the Republic of 1848, there existed nine ministerial departments, namely:

The minister of Justice, and, previous to 1848, of Public Worship;
The minister of Foreign Affairs;
The minister of War;
The minister of the Naval Department and the Colonies;
The minister of the Interior;
The minister of Public Works;
The minister of Agriculture and Commerce;
The minister of Public Instruction, and, since 1848, of Worship;
The minister of Finance.

By decree of the 25th June, 1852, the minister of Agriculture and Commerce was united to that of the Interior, and the Police placed under the direction of a separate minister; in addition to which a ministry of State was appointed.

The ministry of General Police was suppressed, however, by a decree dated 21st June last, and the ministry of Agriculture and Commerce (united with that of Public Works) re-established on the 24th of the same month, so that there exist at the present moment nine different ministers.

Duties of the different Ministers.

The duties of the different ministers are clearly defined, so that no confusion or serious dispute can arise. They exercise these duties, or the powers conferred upon them, either through the medium of special agents appertaining to each respective department, or of the local officers representing the central authorities, and who are, consequently, at the disposal of all the ministers.

Local Functionaries.

These local functionaries are the prefects of the 86 departments, the sub-prefects of the 363 arrondissements,* and the mayors of the 36,835 communes.

Special Agents of Government.

Among these special agents must be reckoned, for the minister of Justice, the solicitors and attorneys general; for the minister of Public Works, the engineers; for the Naval Department, the maritime prefects; for the ministry of Public Instruction, the rectors of academies and inspectors; and for the Financial Department, the directors, receivers, comptrollers, tax-gatherers, custom-house officers, and other agents. Many of these officers are under the control of a council, whose advice is in some cases obligatory; in others it is optional.

These different officers and councils naturally possess different powers, according to their rank, and to the extent, nature, and manner in which they are displayed.

Acts of the Government.

The chief of the State, whether, King, President, or Emperor, being the head of the executive power, all the acts of the administration emanate from him, as possessing the greatest and most general authority. The acts of the royal authority, and even those of the president of the republic were founded:

1st. On the report of a single minister;
2d. On a declaration of the council of state;
3d. In a council of ministers.

* There are but 277 sub-prefectures, the prefects themselves officiating personally over one arrondissement each.

Since the constitution of the 14th January, 1852, the ministers alone no longer constitute a council, and consequently no act of the imperial government need be decided upon in a *Council of ministers.*

From the chief of the State emanate, on the report of a minister, two distinct kinds of acts:

1st. Certain discretional matters, such as appointments, rewards, &c., which generally relate to individuals; and

2d. Those acts which relate to the measures necessary for the public service.

Many measures of this latter class are first submitted to the deliberation of the Council of State as a matter of form, and its opinion adopted or not, at the discretion of the chief of the State. On the other hand, there are a great number of acts for which the law requires that the Council of State should be consulted, and sometimes even with the stipulation that its opinion be followed. They consist principally in the laws relating to the *public administration;* that is to say, the laws made by the legislative powers. But there are other measures, legislative in character, yet requiring a minuteness of detail in execution, and a certain local knowledge, which in France are not considered to belong to large assemblies. In these cases, legislative power is conferred upon the administration, on the condition only of presenting its measures for deliberation to an assembly of men accustomed to the discussion of the various details, and sufficiently numerous to elicit a variety of important opinions without falling into the inconvenience of more numerous assemblies. These regulations for public administration are examined in a regular methodical manner, and finally, after deliberation by the Council of State, are published in the *Bulletin des Lois.*

There are other acts within the royal or imperial authority, which must by law be deliberated in the Council of State; such as those relating to the naturalization of foreigners, changes of name, the erection of public or private places of worship, &c.

The acts of the administration which, under the charter of 1830, the royal authority submitted to the Council of ministers, were—

1st. The granting of supplementary credits, required by the ministers in the absence of the Chambers.—(Law of the 24th April, 1853.)

2d. The maintaining in active service on the *Etat-major* (general staff) of the army, to the age of sixty-eight, all lieutenant generals aged sixty-five years.—(Law of the 4th August, 1839.)

3d. The revoking councillors of States, and *maitres de requêtes* on ordinary service.—(Law of 19th July, 1845.)

4th. The decision of all questions in dispute not conformable to the opinion of the Council of State.

Ministers.

Immediately after the power of the Chief of the State comes that of his ministers, the particular duties of each minister are defined by the name of his department. One is charged with the administration of the interior of the kingdom, another with the war department, a third with the finances, and so forth. But they, notwithstanding, all posses general powers. For example, no payments can be made without the au-

thority of a minister.* The ministers appoint and remove all officers under their direction; they possess the right of consulting the Council of State; they have power over citizens within limits defined by the law, to enforce the due execution of the service required by their respective departments; their authority extends over the whole kingdom.

Prefects.

The authority of the prefect, (*Préfect*) on the other hand, is limited to his particular Department, in which he represents the superior au thority or the government. He is under the orders of all the ministers, and is frequently only an organ for transmission or notification, and for general superintendence. Under their direction, he is, besides, the guardian of public authorityin his department, names and revokes the inferior agents under him, and acts with the authority of command over persons and things within his jurisdiction. According to the terms of the tenth article of the Code of criminal procedure, the prefects in the Departments, and the Prefect of Police at Paris, can oblige and require the officers of judicial police to prepare and to produce the acts necessary to prove the existence of crimes and misdemeanors To fulfil these various duties the Prefect acts alone, aided by a council of prefecture, to which a further reference will be made hereafter.

The Prefect not only represents the superior authority, he also represents the interests of the Department. He authorizes the outlay of funds voted by the Council general; he manages the property belonging to the Department; directs the public works, and commences or carries on proceedings in his name before the tribunals; an appeal, however, can always be made against his decision to the competent minister.

Sub-Prefects.

The Sub-Prefect (*sous-Préfect*) is the head of an *arrondissement*, of which there are from three to seven in each Department.† His office is a medium between the prefect and the mayor. He is generally the organ for the transmission of information and superintendence; but, in a few cases, he has the right to give commands.

The *arrondissement* is composed of a certain number of cantons, of which there exist 2,847 in France. The canton is not exactly an administrative division, notwithstanding there are some officers whose duties are limited according to the extent of the canton, the *juges de paix*, or justices of the peace, for example. But as they are not administrators, the subject will be referred to when treating on the judicial organization of France. Each canton comprises several communes.‡

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* They are the *ordonnateurs* (directors) of the expenses—and the authority to pay away money is called an *ordonnancement*, or order on the treasury.

† There are three hundred and sixty-three *arrondissements* in France, or, on an average, upwards of four to each Department.

‡ The number of communes is 36,835.

Mayors.

At the head of each commune is a Mayor (*Maire.*) In France they belong both to the judicial and administrative class. They are the officers of judicial police, (see Code of Criminal Procedure, article 8,) judges in cases of simple police, (idem articles 140 and 166 to 171,) and they represent the attorney and solicitor general before the tribunals of simple police.—(Article 149.)

As officers belonging to the administration the Mayors are the representatives of the law and the executive power, for the due execution of whatever relates to the public service in the commune. They are equally the medium of transmission, notification, information, supervision, and control, and are, besides, invested with the authority to command, principally in all matters relating to the municipal police; this is in order to ensure the safety, convenience, and freedom of travel over the public roads of the commune, as well as the tranquility and sanitary well-being of the inhabitants. For these various purposes the Mayor has the power to issue *arrêtés* or *circulaires*,* which are subject, however, to be reformed, or annulled, by the superior authorities, but have, nevertheless, a provisional force. Permanent measures alone require the approbation of the prefect before they can be put in execution. This approbation its considered as granted, when the Prefect has not, within a month from is receipt by the Sous-Prefect,† returned an answer to the *arrêté* of the Mayor.

The Mayor is also authorized to call in the assistance of the military whenever he judges it necessary for the maintenance of tranquility.

He also represents the special interests of the commune, in respect to the State, as well as those of the inhabitants and public establishments of the commune.

All orders for the payment of moneys by the municipal council are made through him, and he administers the property of the commune, and directs the public works; he commences and carries on, in the name of the commune, all law proceedings before the judicial and administrative authorities, and exercises a sort of *officious* guardianship over individuals inhabiting his commune.

The Mayor keeps the registers of births, marriages, and deaths,‡ (*état civil,*) and represents the authorities in all civil marriages.

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* The King exercised his authority of a *royal ordonnance;* the President of the Republic, or the Emperor, by a *decret;* the Minister, Prefects, Sous-Prefects, and Mayors, by *arrêtés* (*circulaires;*) the Prefect of Police, by an *ordonnance de police.* The superior tribunals pronounce *arrêts;* the lesser tribunals pronounce *jugements*, and the presidents of tribunals give *ordonnances.*

† Who is required to deliver a regular receipt for the same.

‡ Every child must be presented, within three days after its birth, to the Mayor, for registry; the declaration must be made by the father, under penalties, and if there is no father, by the mother or physician, or other persons who have been present at the birth, with two witnesses. The certificate of birth contains the day, hour, and place of birth, the sex, christian name, the surnames and christian names, professions, and domicile, of the parents and witnesses.

For marriages, the publication, and all other necessary formalities, are made by the mayor, who performs the ceremony in presence of four witnesses, and enregisters the same with all the details.

In case of death, declaration is made of the same by two witnesses, and after personal *constatation*, or by deputy of the same, authorization for burial is granted by him, and the same duly enregistered.

Deputy Mayors.

In case of hindrance, the Mayor is represented by his deputy, (*adjoint*,) whose functions, as well as those of the Mayor, are gratuitous. He alone exercises acts of the judicial police which are devolved upon the Mayor, and which he always confides to the deputy.

From the preceding remarks it will be observed that all commands from the chief of the State pass from the minister to the prefect, and from him to the sub-prefect and mayor, before they reach the citizens affected by them.

Councils.

A generally established principle in France is, that the active duties should be fulfilled by a single person, and not by a number of individuals. Without this unity of action, rapidity is impossible; independently of which there is no responsibility. But in order to enable them the more efficaciously to carry out the views of government, the law, and divers ordinances, or decrees, have established a number of *councils*, whose advice may or must be required, although it does not follow that these functionaries are thereby obliged to follow it. For instance, the mayors are assisted by the municipal council, the sub-prefect by the arrondissement council, the prefect by the council of the prefecture, and the council general. Every minister, even, relies on the different councils, each having a special object in view, and to some of which I shall refer at a future period. Whilst, to sum up all, the government itself is enlightened by the Council of State.

There exists, also, another organization, at once administrative and judicial, the study of which offers peculiar interest: the *administration contentieuse*, (or of disputed claims.) This division is the fundamental principle of the entire judicial and administrative institutions of France. The judge is liable to criminal punishment when he does not refuse to sit in judgment on administrative cases.*

Contentieux, (*Disputed Claims.*)

The acts of the administration, however enlightened be the functionaries who execute them, and the councils by whom they have been previously discussed, come into collision, notwithstanding, in many cases, with the views and interests of the public.

Justice, equity, and prudence required that a means should be provided for receiving their claims on the subject. These claims may be of two kinds: In the first instance, of citizens complaining that the acts

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The Mayor must give a certified copy of any of the above acts of the *état civil*, on demand. These registers are kept in duplicate, and are numbered and signed on each page, before they are filled, by the president of the tribunal of first instance, and are closed at the end of each year, and one copy deposited at the office of the clerk of the court, (*greffe du tribunal*,) and the other in the archives of the commune. The only legal proof of birth, marriage, or death, is by means of these registers.—(Code Civil, articles 34 to 102.)

* The deciding on the competency of the courts in these questions is the subject of daily controversies. See Cormenin—*Questions du Droit Administratif.* Macarel—*Sur les Conflits de Competence.*

of the administration have wounded their interests and blasted their hopes; and secondly, that they have infringed on their rights.

In the former case they apply to the government in the name of equity, and await the reform of the act hurtful to their interests, by an act of benevolence on its part.

In the second case, it is in the name of the law they speak, and justice which they claim.

Claims of this second kind are followed up by the means of which we are treating; a real lawsuit takes place between the government representing society, or the general interest, on the one hand, and the individual whose rights are attacked, on the other.

The principles adopted in France relative to the separation of the different powers, does not allow the matter to be brought before the judicial authorities; but it has been imagined that the authority called upon to judge in the question ought not to belong to the hierarchy of the agents from whence proceeded the incriminating act, and that the decision should have the same force as the judgments of the tribunals. The members of this tribunal may then be considered, and in general are so, as administrative tribunals.

These tribunals are: The councils of prefecture, which decide in most cases of administrative discussion, and against whose decision an appeal can be made to the Council of State; and in matters of finance to the *cour des comptes*, (court of accounts.)

Next to these, are the various commissions for public works; the councils of revision, for recruiting the army; the *conseil de recensement*, for the national guard; the academic councils, and those of the various faculties—law, medicine, &c., &c. In fact, this is considered, and with reason, one of the most difficult as well as most delicate questions on public law; so that I can make but a slight reference to it.

In the preceding remarks only a slight sketch of the French admintration has been given. To comprehend the different modifications which the various successive governments in France have, within the last few years, introduced into the government of the country, it is necessary to enter further into detail. The Council of State being, at the present moment, in the first rank in the administrative hierarchy, I shall proceed to give a sketch of this department, and subsequently of each ministerial department in succession, in order to embrace the whole of the important public functions exercised in France.

II.

THE COUNCIL OF STATE.*

Condition on the outbreak of the revolution of 1848.

On the outbreak of the revolution of 1848, the Council of State was regulated according to the royal ordinance of the 20th September, 1839, and the decrees of 11th June and 22d July, 1806. In accordance with which, it was composed of the ministers, councillors of State, the *maitres de requêtes*, (masters of requests,) auditors, and a secretary general, having the rank and title of a *maitre de requêtes*. The minister of justice (the keeper of the seals) was president, and a councillor of State, appointed by the King, vice-president.

Composition.

The councillors of State were on *ordinary* and extraordinary service. The ordinary service was composed of thirty councillors of State, thirty masters of requests, and eighty auditors.

Independently of the members of the ordinary service, twenty councillors of State, belonging to the extraordinary service, could be authorized to take part in the deliberations. The duties of councillor of State and *maitre de requêtes*, on ordinary service, were incompatible with all other functions. The king had the power of conferring the title of Councillor of State, or *maitre de requêtes*, on extraordinary service, on any person he thought worthy of that honor.

In order to examine the various disputed questions presented for discussion, the Council of State was divided into five different committees, namely:

Denomination.

The committee of legislation, (corresponding to the ministers of foreign affairs and of justice;)

The committee for the war and naval department;

The committee for the interior and public instruction;

The committee of commerce, agriculture, and public works; and

The committee on finance.—(See article 15th of the ordinance of 20th September, 1839.)

A sixth committee, composed of four councillors of State, six *maitres de requêtes* and twelve auditors, chosen from among the members of the preceding committee, was charged with the examination of all disputed claims, (*affaires contentieuses.*)

These various committees, after deliberation, drew up a report on the various bills and government measures, as well as ordinances, which the ministers thought proper to lay before them, and which report was laid before the general Council of State, under the ordinary forms.†

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* See appendix.

† That is to say, they were preceded by the preamble "*The council of state being heard.*"

All important reports were drawn up by the councillors of State and the *masters of requests*, those of minor note by the auditors. The ministers presided over the committee attached to their respective departments; and the keeper of the seals, or the vice-president, presided over the deliberations of the general assembly of the Council of State, (or the whole of the members of the different committees in one body.) Thus all matters were discussed and decided upon in the general assembly, although all had not been previously prepared in a special committee.

Government bills.

All government bills were, in the first place, submitted to the Council of State, but it is well known that on this point, previous to the year 1848, its intervention was not obligatory. It was not the same, however, with matters concerning the government regulations. It results from the article sixteen of the royal ordinance of the 20th September, 1839, that the regulations of the *public administration*, required by a great number of laws, should be deliberated on by the Council of State. This deliberation being notified by the formula—"*The Council of State being heard.*"

The rules and regulations of the public administration are equally obligatory as the laws themselves, with this difference, that the legislative power alone can modify a law, whilst a *regulation* (*reglement*) can be modified by the executive power, in the same form, however, as previously established.

Decisions respecting disputes concerning the different attributions of the government departments, &c.

Among the other duties of the Council of State may be reckoned, in the first place, the preparation of all decisions respecting disputes concerning the different functions of the government departments.

The separation of the judicial and administrative powers is considered, in France, as one of the most valuable conquests of the revolution of 1789, and the legislation, as well as the government, in practice, have studied to keep up this separation.

It is to the Council of State, or, as is generally stated, the chief of the State *surrounded by his council*, that belonged, and still belongs, the right of holding the balance* between the two powers. The matters in dispute are regulated by the royal ordinance of 1st June, 1828, issued in accordance with the views of a commission, of which the illustrious Portales was president. The following are the remarks made by the celebrated Cuvier, who formed one of the committee, on the subject:

"Le conflit est le moyen accordé au pouvoir amovible et responsable pour se défendre contre les invasions du pouvoir inamovable et irresponsable. Les affaires judiciaires en France, seul pays connu où il en soit ainsi, etant entièrement confiées à des corps collectifs et inamovi-

* The constitution of 1848 had established a *tribunal des conflits*, or tribunal for disputed points, composed of four councillors of State and four councillors of the court of cassation, presided over by the minister of justice; but this tribunal has been since suppressed.

bles, la *cessation* qui, comme avant la revolution, appartenait au conseil du roi, ayant été elle-même attribuée à un corps de ce genre, (à la cour de cassation,) il était rigoureusement nécessaire, si l'on voulait conserver un governement responsable, d'enlever soigneusement aux tribunaux toutes les matières administratives, c'est à dire, tout ce qui a rapport au governement général, à la police, à l'exercise des droits qui appartiennent à la communanté comme telle; ces matières etant, par leur nature, l'objet de l'ambition, des individus et des corps, parcequ'ils donnent plus d'autorité, plus de credit, et plus de moyens de favoriser ses creatures, l'autorité judiciaire a une tendance naturelle à s'en emparer, et chacun se souvient que dans l'ancien régime les parlemens s'en étaient emparés en grande partie, et ils étaient sans cesse en guerre à ce sujet avec le gouvernement. Le gouvernement avait cependant alors une defense qu'il n'a plus, l'arme de la cessation, dont il est dépouille aujourd'hui.

"L'assemblée constituante, composée d'hommes qui avaient été témoins de ces débats, s'aperçu promptement qui si elle n'y portait pas remède, le pouvoir lagislatif lui même serait anéanti, car il n'aurait aucun moyen d'arrêter les autorités judiciaires, ni de les faire répondre de leurs actes; quelque impartiale que puisse être la cour de cassation, elle appartient à l'ordre judiciaire. Elle est composée des mêmes elements, et, en matières d'attributions, elle a les mêmes intèrêts; enfin, et surtout, il n'y a aucun moyen de réformer ses arrêts; la disposition qui donnait au roi, sous la responsibilité de ses ministres, le droit de juger les conflits, etait donc une conséquence mathématique de l'établissement du gouvernement représentatif. Admettons, en effet, une disposition contraire; insensiblement les tribunaux jugeront les questions administratives, ils s'empareront de la police, ils entraveront le gouvernement, ils finiront par faire des lois par leurs arrêts. Sans cesse les ministres auront à dire qu'ils ne peuvent répondre d'opérations dans lesquelles leur action n'est pas libre; et que pourrait faire le corps legislatif? Il sera toujours muet devant ses arrêts. Au contraire, que le gouvernement abusé des conflits, qu'il enlève les citoyens à leurs juges naturels; qu'ils intervertissent les jurisdictions; ces ministres peuvent, à chaque instant être appelés à en répondre devant les chambres. Il y à l'abus de ce remède, un autre remède toujours prêt.

"Ce n'est donc pas seulement la loi positive, c'est la raison, c'est la nature des choses qui veut que le jugement des conflits appartienne au gouvernement; qu'on les régle de manière à ne pas choquer sans necessité les tribunaux, à ne point trainer mal à propos les citoyens devant l'autorité administrative dans les matières judiciaires."

It results from the preceding remarks that the tribunals, on the other hand, "cannot raise a discussion against the encroachments of the administration." This point has been decided by the Council of State in several circumstances.

Impeachment of agents of government.

Another important function of the Council of State, and which has a certain analogy with the *conflits*, is that "no agent of the government, except the minister, can be arraigned for facts resulting from his office,

except in virtue of a decision of the Council of State; and in this case the trial takes place before the ordinary tribunals."—(Law of 22 Frimaire, an. VIII.)

As to the other duties of the Council of State, to avoid repetition they will be referred to at a future period.

Changes introduced by the revolution of 1848, *with respect to the appointment of the councillors of State.*

Previous to 1848 the councillors of State were appointed by the King, who could not remove them except by a decision of the Council of ministers. The constitution of 1848 entirely changed the Council of State, its members being elected for six years by the National Assembly, which alone could revoke them on the proposition of the President of the Republic.

Modifications introduced by the constitution of 1852, *with respect to the appointment of councillors of State.*

By the constitution of 1852 the organization and functions of the Council of State were again modified, and the councillors appointed by the President of the Republic himself, and subsequently by the Emperor, who has reserved to himself an unlimited right of revocation.

Attributions in 1848.

The constitution of 1848 also required (§ 75) that the *conseil d'état* should be consulted not only on the government bills but on those which the National Assembly sent in to be examined.

The Council of State prepared the rules and regulations for the public administration, and framed those which the National Assembly had specially delegated it so to do. It was at the same time charged with a certain control and superintendence over the different government officers; gave judgment in cases of discussion; it decided, on the demand of the ministers, every difficulty which arose between them; in a word, it exercised also the powers appertaining to the Council of State in virtue of all previous laws not abrogated.

Composition in 1848.

The Council of State was composed (law of 15th and 17th January, and 3d March, 1849*) of the Vice-President of the Republic as president; forty councillors of State, elected by the national assembly; twenty-four masters of requests, appointed by the President of the Republic and proposed by the Council of State; and twenty-four auditors, elected and chosen by competition.

The ministers had a seat in the council and the right of speech when they required it.

* It is but one single law. Under the republic every law was thrice discussed and voted and the three dates given.

The Council of State was divided into three sections: 1st. The section of administration; 2d. The section of legislation; 3d. The section of administrative discussion, (*contentieux.*)

The councillors of State of each section elected their president by secret ballot, and the president of the legislative section fufilled the functions of vice-president of the Council of State united in general sittings. The office of councillor of State in extraordinary service did not formerly exist.

Present organization.

The present organization of the Council of State differs very materially from the above.

Conformably with the decrees or organic laws of 25th and 30th January, 1852, and the imperial decree of 31st December, 1852, the Council of State is composed of a president; from forty to fifty councillors on ordinary service; of, at the utmost, fifteen councillors on ordinary service, *hors section;* of councillors on extraordinary service, the number of which cannot exceed twenty; of forty masters of requests and forty auditors, each divided into two classes; and of a secretary general, having the rank and bearing the title of master of requests. The ministers hold rank, and have a seat and deliberative voice in the council.

The duties of councillor of State on ordinary service are incompatible with any other functions or office. The councillors of State on ordinary service, *hors sections*, on the contrary, are chosen from among persons filling the higher public offices.

Sections.

The Council of State is divided into six sections, viz:
The section of legislation, justice, and foreign affairs;
The section for litigious affairs;
The section for the interior, public instruction, and worship;
The section of public works, agriculture, and commerce;
The section of war and the marine;
And the section of finances.

This division may be modified by a decree of the Emperor. Each section is presided over by a councillor of State on ordinary service, with the title of president of the section. All matters for discussion are at first drawn up by a reporter, who must be, for new bills, a councillor of State; other matters may be reported on by a master of requests or an auditor, according to their importance. No decision, however, can be taken, except in a general assembly of all the sections united.

At present no law can be made unless the Council of State has decided and adopted it in a general assembly.

The councillors of State also argue and support the different bills presented by the government before the legislative body and the senate, every section being appointed to prepare those which relate to matters within the jurisdiction of the various ministerial departments to which they correspond.

It may not be uninteresting to produce the text of article 13th of the

Decree of the 30th January, 1852, which enumerates the list of various matters which must necessarily be brought before the general Assembly of the council of State. It is as follows:

Article 13 *of decree of the* 30*th January.*

Must be laid before the general assembly of the Council of State:

All bills and projects of rules and regulations of the public administration;

All projects of decress having for object:

1st. The registry of the bulls and other acts of the Holy See; *

2d. Recourse for abuses;

3d. The permission to establish religious congregations, and the verification of their statutes;

4th. Prizes taken at sea;

5th. The concessions of portions of the domains of the State and of mines, whether in France or in Algeria;

6th. The authorization or creation of establishments of public utility, whether founded by the departments, the communes, or private individuals;

7th. The establishment of departmental roads, digging canals, or laying down branch railroads, which may be authorized by a decree of the executive power;

8th. Concessions for draining;

9th. The creation of tribunals of commerce, and councils of *prud'hommes*, the establishment or the proroguing of temporary chambers in the courts of justice and tribunals;†

10th. The authorization to commence proceedings against the agents of governments;

11th. Naturalizations, the revocation and modification of permissions granted to foreigners to establish their residence in France;

12th. The authorization granted to establishments of public utility, to ecclesiastical establishments and religious congregations, and the communes and departments of France to accept gifts and legacies, not exceeding fifty thousand francs in value;

13th. The permission to establish joint stock companies, *tontines*, discount banks, and other establishments of a similar nature;

14th. The establishment of bridges, with or without levying tolls thereon;

15th. The closing of dangerous, inconvenient, or unhealthy establishments, and their suppression in the cases provided for in the decree of the 15th October, 1810;‡

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* The law of the 18th Germmal, year X, (celebrated under the title of *articles organiques*,) article 1st, says: "No bull, even relating to private persons only, can be received into France, published, or otherwise put into excution, without the authority of the government."

† The tribunals are divided into *Chambers;* when the accumulation of suits or causes requires it, a temporary chamber is created, in order to expedite the trials.

‡ The different establishments, (mills, manufactories, &c.,) dangerous or inconvenient for the neighbors, are divided into three classes, according to the degree of danger they present. These establishments require a special permission or authorization, subject to various conditions.

16th. The tariffs for the burial dues in communes containing upwards of fifty thousand inhabitants;

17th. The fixing or suppressing of the tariffs of toll duties, and modifying the same;

18th. The fixing pensions for the public officers of the departments and communes;

19th. All matters which, not included in the above, after being examined by one of the sections, are sent up to the general assembly by order of the President of the Republic, (or of the Emperor;)

20th. All matters which, by reason of their importance, the presidents of each section, (of his own accord,) or at the request of the section, may judge worthy of being sent for examination before the said general assembly, as well as all matters which the government may require it to deliberate upon.

Tribunal on "conflits."

The legislature, on the basis of the constitution of the 4th November, 1848, had established a *tribunal des conflits*, consisting of an equal number of councillors of State, and councillors of the court of Cassation, (who are judges.) The organic law of the 25th January, 1852, (article 17,) attributes this office to the Council of State, and confers the previous examination of matters in dispute to the *section des contentieux*, which is composed of six councillors of State and a certain number of *masters of requests* and auditors. When a question has been prepared in this section, that is to say, when it has been discussed, and a report made thereon, in the name of the section, it is laid before the deliberating assembly of the Council of State on disputed claims. This assembly consists only of the members of the section of disputed claims, (*contentieux*,) and two councillors, elected for two years, from each of the five other sections, making in all sixteen members.

This assembly acts as a tribunal to judge in all matters in dispute between two jurisdictions, or between private individuals and the administration; its sittings are public; the advocates of the respective parties are admitted and allowed to offer verbal remarks on the subject, but not to argue.* A government commissioner (a *master of requests*, appointed for that purpose) gives his opinion, and explains the motives thereof, and the assembly pronounces its decision, which is promulgated by a decree.

Salaries.

Under the empire, the councillors of State received a salary of 25,000 francs, and the presidents of each section 30,000 francs. Under the restoration the salary was 16,000 francs; from 1830 to 1851 it was 12,000 francs for the councillors, and 15,000 francs for the presidents; and since the new constitution, 25,000 francs for the councillors, 35,000 francs for the presidents of sections, and 100,000 francs with a residence, for the president of the Council of State.

* There is a distinct class, limited in number, of councillors for the Council of State, who equally and exclusively undertake causes before the court of Cassation, where they argue. This office is obtained by purchase.

Having thus given an outline of the organization of the council of State, which, to a certain extent, exercises the highest powers of the government, I shall proceed to the Department of the Interior, whose attributions comprise the administration of the departments and the communes of France.

III.

DEPARTMENT OF THE INTERIOR.*

This department comprises the following principal divisions: the secretaryship general, among whose attributions are included the telegraphic lines, the direction of the accounts, the general direction of the administration of the departments and communes, including also the prisons, charitable institutions, hospitals, &c.

Before the 25th January, 1852, the Department of Agriculture and Commerce formed a separate ministry; at that date it was joined to the Ministry of the Interior, in place of the division of General Police, which was erected into a separate ministry, and it has, by decree of 24th of June, been joined to the Department of Public Works, and the Department of Police reinstated to the attributions of the Minister of the Interior. The minister of the Interior proposes for the nomination of the Emperor, or appoints himself, the prefects, sub-prefects, mayors, and all the other agents of the administration in the departments and communes.

Departmental administration.

The law of the 22d of December, 1789, introduced the present division of departments instead of provinces, and the present organization of the administration in the departments was fixed by the law of the 28th Pluviose, an. VIII.

M. Thiers, in his History of the Consulate and the Empire, (vol. I, page 153,) gives the following as characterizing the spirit of this law:

"The constitution had placed at the head of the State, an executive and a legislative power; the executive power concentrated almost entirely in one single chief, and the legislative power divided into several deliberative assemblies. It was natural to place at each degree of the administrative scale, a representative of the executive power, specially appointed to act, together with a small deliberative assembly, such as a departmental council, or a council of arrondissement or commune, to control or to give him information, but not to supply or act in his place. To this simple, yet clear and prolific, idea, are we indebted for the splendid administration which exists in France at the present day. The first consul wished to have in each department a prefect appointed, not to solicit from a collective administration the forwarding the affairs of the State,† but to transact them himself, being appointed at

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* See note *c* of Appendix.

† Alluding to the administrative organization established in 1789.

the same time to direct the affairs of the department, and that with the aid of a departmental council, and with funds voted by the same."

Thus in accordance with article 2 of this law, still in force, there exists in each department a prefect, a council of prefecture, and a general council, whose principal duties are briefly touched upon in the law itself. Nevertheless, numerous decisions were required to develope the principles laid down in the law of the 28th Pluviose.

Duties of the Prefect.

It has already been remarked that the prefect is charged with the entire administration of the Department, and that he corresponds with all the ministers, but more particularly with the minister of the Interior. It must be kept in mind, also, that he is at once the agent of the superior authorities or government, and the organ of the interests of the department. In each quality, his powers are very extensive, and have been rendered still more so by the decree of the 25th of March, 1812, entitled the *decrét de centralization.* It would be impossible to enumerate all the duties of the prefects, since they embrace—so to say—every matter connected with the government, but it may not be uninteresting to say a few words respecting the above named decree.

For a long series of years, (whilst the majority of Frenchmen maintain a decided preference for the principle of administrative centralization, which made the whole depend on one authority, and held the communes in subjection,) a number of writers attacked this organization in favor of de-centralization. They proposed at the same time a variety of projects for carrying out their principles, but all agreeing on one point—to give greater powers to the local authorities; or, more strictly speaking, to the communal and elective authorities. The motives on which they founded their arguments were of three kinds: first, the tardy manner in which the local matters were transacted, and the length of time which elapsed between a demand and a reply; in proof of which one fact, among others, has been cited, that in a commune where a bridge was much wanted, the bridge was built before the permission to build it arrived; second, the necessity of rendering the local authorities more independent, they knowing better than others their own interests, and the interests of their localities; and thirdly, the habit of relying entirely upon the government stifles the public spirit and devotedness to the general interests, and becomes at length dangerous to the government, imputing to it all the evils which arise, even without its being in fault, whilst no credit is given for the good which really emanates from it.

Decree of 25th March, 1852, called decree of de-centralization.

By the decree of the 25th March, 1852, the government remedied some of these complaints. A number of questions, a list of which follows the decree, page 822 and following, of the (*Bulletin des Lois*, year 1852,) are now decided by the prefects, and not sent for decision to Paris. Thus, they can now decide upon the mode of directing the property of the departments, can make purchases, and adjudicate for

public works, &c. They may also authorize the establishment of charitable institutions, approve the budgets of the communes, with some few exceptions, establish certain tariffs, &c.; they can also alienate, purchase, make exchanges, or divide the property of the communes, whatever be its value; in a word, the list of new functions comprises thirty-five articles, independently of the enumeration of twenty-six classes of officers they now have the right of naming, independently of those for which they already possessed that right.*

In the exercise of the greater number of his powers, the prefect decides alone, in the same manner as he can act alone. But in a certain number of cases the laws and regulations prescribe him to issue his decisions "en conseil de préfecteur," (the council of the prefecture being heard)—that is to say, to consult the council before issuing the decree.

Councils of Prefectures.

It will have been seen above, that the council of prefecture was created by the law of the 28th Pluviose, year VIII. This council has a double mission: first, to aid the prefect with its advice; and, secondly, to decide in disputed matters.

As an administrative council, the prefect is at liberty to consult it whenever he judges necessary; but there exist a number of cases in which the laws and regulations impose on the prefect the *obligation* to consult it, but without his being obliged to follow its advice.

It is through the medium of the *council of the prefecture* that the prefect, when he judges it of utility, authorizes the communes to settle a law suit, begun or about to commence, (law of the 21 Frimaire, an. XII;)

That he can settle questions relative to the privilege of communal property, (law of 9 Brumaire, an. XII;)

That he enacts in all claims respecting the registry of lands, (law of 15th September, 1807;)

That he decides on all questions which affect the taxes on articles of consumption, (law of 28th April, 1816;†)

That the prefects open the sealed packets containing offers to contract for the road and highways, (royal ordinance of the 20th May, 1829;) and accepts or refuses them, &c., &c.;

That he has the right to inscribe in the communal budgets all *obligatory* expenses, in case of refusal or omission on the part of the communes, (law of the 18th July, 1837;)

That he can fix of his own accord the budget of the department if it has not been voted by *the council general*, (law of 10th May, 1838;)

And that he has the power to designate the property which ought to be ex-propriated on account of public utility, (law of 3d May, 1841.)

In all the preceding cases, and in a few others of minor importance,

* The following are some of them: The directors and keepers of the lock-up houses and prisons of the department; the architects and keepers of the records; the verificators of weights and measures, (there being one for each arrondissement;) the municipal tax revenues in towns whose revenue does not exceed 300,000 francs; the cantonniers and others who work on the roads, &., &c.

† Certain fees can be paid by subscription; that is, a certain sum fixed upon in advance or by contract. This refers only to the octroi, or duties of entry into towns and cities.

the prefect, in order to satisfy the law which ordains it, but which still leaves him at liberty to decide otherwise, *must* consult the council of the prefecture. On the other hand, the prefect is at liberty to consult it whenever he thinks proper, without any regard to the business in question.

But these advisatory powers of the council of prefecture have only been allowed by degrees; the principal object of its creation (law of the 28 Pluviose, an. VIII) being to establish an administrative tribunal for the decision of matters in discussion, whether between one part of the administration and another, or between a private party and the administration.

It would be impossible to enumerate here the numerous and various cases in which they are called upon to give judgment; suffice it to say, that the law not having prescribed the mode of procedure before these tribunals, its own jurisprudence, that is to say, usage has supplied the omission. The judgments are determined with closed doors, and without oral argument, the parties petitioning by writing, and the judgment is given in the same way. Nevertheless, the parties are admitted to enlighten and furnish explanations to the council, which are duly appreciated when required. The judgments are given in the same forms as in the ordinary tribunals.

It has been just stated, that the prefect, at one time, represents the superior authority or the general interest; at others, the interest of the department considered as an individual. If in the former case, he is seconded by a council of prefecture, consisting of three or four paid officers, appointed by the government, (decree of the 28th March, 1852;) in the second case, he is supported by the Council General, elected by those over whom he is appointed.

Councils General previous to 1848.

Previous to 1848 the Councils General of the department were regulated by the laws of 22d June, 1833, and 10th May, 1838. To be eligible to become a member it was necessary to be twenty-five years of age, to pay two hundred francs direct contributions in the department, although, however, not required to reside in it. Each canton elected one member of the council; but when there were upwards of thirty cantons in the department, several were united to vote one member, in order not to surpass the number of thirty members.

The members of the Council General were elected for nine years, and were renewed by thirds every three years; but they could be re-elected indefinitely. The Council General could only meet on being convoked by the prefect, in virtue of an ordinance of the king, which determined the period and duration of the session. The council elected its own president and secretary; its sittings were not, nor are they at present public; but a *proces verbal* of its proceedings is published. The councils could not prolong their session beyond the term fixed by the ordinance, under penalty of their proceedings being declared null. The king could dissolve a council general, or annul its illegal acts. It was forbidden to correspond with one or several councils of the arondissements, or of the departments. When not in session the council exercises no kind of authority.

Present organization.

Almost all these dispositions are still in force, except that since the revolution of 1848 universal suffrage has been established; and the law of the 7th July, 1852, conferred upon the government the right of naming the president, the vice-president, and the secretary of the Council General.

Duties.

The duties of the Councils General have varied but little for a long series of years; they are confined exclusively to the limits of the departments. This body pronounces judgment on every question submitted to it, whether as a delegate of the legislative power, or as legal representative of the department, or simply as a government council.

As delegate of the legislative powers, it enacts the repartition of the direct taxes among arondissements. The legislative body distributes them amongst the departments.

As legal representative of the department, its powers are sometimes absolute, at others subordinate.

The expenses of the department are effected by means of *additional centimes*, added to the principal of the direct taxes,* or by means of the revenue of the property belonging to the department.

If these expenses are obligatory, they are levied by the additional centimes, named *ordinaire*. If they are left to the appreciation of the council, the additional centimes are called *facultative;* the law on the budget fixes every year the number of centimes in this category.

There are also *special* additional centimes, fixed by general laws, which have devoted them to special uses for the public service, such as the registration of lands, public instruction, the local roads; and *extraordinary* centimes authorized in extraordinary cases and for urgent purposes.

The council general votes these different centimes; its vote is indispensable, and the government cannot interfere except in certain definite cases, or by virtue of formal law, as, for instance, the law on primary instruction, which authorizes it to impose the additional centimes to provide for this expense.

It has also secondary powers; that is to say, it deliberates, subject to the approbation, according to the importance of the question in debate, of the prefect, the minister, or the Emperor, upon the following objects:

1st. On the extraordinary taxes to be levied on the department, or on all loans to be contracted for the same;

2d. On the purchase, sale, and exchange of property of the department;

3d. On their change of destination, their mode of direction, &c.;

4th. On the accepting of gifts and legacies for the department;

5th. On the classification and direction of the departmental roads;

6th. On the projects, plans, and estimates of all other works executed from the funds of the department.

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* See the chapter on the finances.

7th. On the share of the expenses to be imposed on the department for works executed by the State, but which are of interest to the former; and several other cases, the consequence of the preceding.

In a word, as simple council of the government, it is consulted:

1st. On proposed charges in the circumscription of the territory of the department, the arrondissements, cantons, and communes, and to designate their capitals, (*chef lieux;*)

2d. On any difficulty raised relative to dividing the expense of works in which several communes are interested;

3d. On the establishment, the changing, or suppression of fairs or markets.

It has been seen that each department has a budget voted by the council general, and that this budget comprises the *ordinary* expenses which are obligatory, in addition to which there are *facultative*, *special*, and *extraordinary expenses*.

Obligatory expenses of the Department.

The following is a list of the obligatory, or ordinary expenses of each department:

1st. The repairs necessary for the public edifices and buildings of the department;

2d. The taxes or contributions levied on the property of the department;

3d. The rent, when required, of the hotels of the prefecture and sub-prefecture;

4th. The furniture and repairs of the hotel of the prefecture, and the offices of the sub-prefecture;

5th. The ordinary barracks for the gendarmes;

6th. The ordinary expenses of the prisons of the department;

7th. The expenses of removing prisoners, vagabonds, and liberated convicts;

8th. The rent, furniture, and minor expenses of the courts of justice, tribunals, and the lesser expenses of the *juges de paix;*

9th. Firing and lighting the guard-houses, and establishments belonging to the department;

10th. The works for repairing the departmental roads, and for works of art, which form part of the same;

11th. The expenses for foundlings and children abandoned by their parents, for mad people or idiots, for the portion due by the departments, conformably with the laws thereon;

12th. Travelling allowances to the indigent;

13th. Expenses of printing, and the publication of the electoral lists, and the lists of the jury;

14th. Expenses of printing the budgets, and accounts of receipts and expenses of the department;

15th. The portion at the charge of the department of the expenses of preparing the decennial tables of births, deaths, and marriages;

16th. The expenses of sanitary measures for arresting the progress of contagious and epidemic maladies;

17th. Premiums fixed by the regulations of the administration for the destruction of noxious animals;

18th. The expenses for keeping and preserving the records of the department; and finally, all other expenses of utility, or for charitable purposes, and which are optional.

Department of the Seine.

The department of the Seine,* which comprises the city of Paris, and several surrounding towns and villages, and since the year 1830, the department of the Rhone, (Lyons,) is governed by a particular organization. The power which the prefects formerly possessed is divided between two officers, the prefect of the department of the Seine, (or the Rhone,) and the prefect of police. The prefect of the department preserves all the powers of the other prefects, except the police. He is, moreover, particularly in Paris, a complete central mayor. The city of Paris, though forming, in fact, only a single commune, is divided into twelve arrondissements, each having a mayor as its head, and two *adjoints*, (deputies,) whose chief duty consists in registering the births and deaths, and performing the civil marriages, and drawing up the electoral lists, &c. There is but one municipal council for the whole city, of which the prefect of the department is the president, and who performs, in every respect, the duties of a central mayor. The same municipal councillors are likewise members of the council general of the department.

Previous to 1848, (law of the 20th April, 1834,) each arrondissement of the city elected three councillors, and each rural arrondissement four, so that the municipal council of the city of Paris is composed of thirty-six members, and the general council of forty-four. Since 1848 a new municipal law has been promised for the city of Paris, but hitherto, up to the present moment, the municipal councillors continue to be provisionally appointed by the government, under the title of municipal commission.

Prefecture of Police.

The prefect of police, whose duties in Paris are very considerable, has charge of the general police, the municipal police, and the judicial and political police.†

The general police comprises (decree of the 12th Messidor, an. VIII,) what relates to passports, safety cards, mendicity, the police of the prisons, houses of ill fame, riotous mobs, printing offices, the theatres, steamboats, and engines of all descriptions.

The municipal police (by the same decree) has jurisdiction in what relates to the sewers, the liberty and safety of the highway, salubrity, fires, commercial security, the taxes, the free circulation of provisions, and supply of wheat, patents, &c.

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*For details of its administration see Appendix *k*.

†On the 25th May last, the legislative body voted a law which granted to the prefect of police the right of exercising his functions in the whole of the department of the Seine, (instead of being limited to the city of Paris.) For details concerning the functions of the police see Appendix *l*.

With regard to the judicial police, the code of criminal procedure, (promulgated in 1808,) in article ten, provides that "the prefects of the departments, and the prefect of police in Paris, can prepare personally, or require the officers of judicial police, each, in as far as he is concerned, to prepare all the necessary acts and proceedings, in order to bring forward proofs of crimes, misdemeanors, and contraventions, and to deliver the authors thereof over to the tribunals charged to punish them.

The political police is, by its nature, *secret*. I shall, however, return to this subject when treating of the ministry of police.

It appears needless to enter into details respecting the duties of sub-prefect, and the arrondissement council, whose powers are both extremely limited. I prefer giving an exposé of the communal organization.

Municipal organization.

It is necessary to distinguish between the municipal organization, and the powers of the municipal body. These powers have experienced but little change since 1789, although the organization has been modified several times.

I pass over the system of the law of 22d December, 1789, that of the 21st Fructidor, nn. III, as well as that of the 28th Pluviose, an. VIII, (in which the government appointed the municipal councillors,) and commence with the organization laid down by the law of the 21st March, 1831, which was still in vigor at the outbreak of the revolution in 1848.*

The municipal body is composed of a mayor, of one or more deputies, and of municipal councillors.

There is but one *adjoint* (deputy mayor) in communes of 2,500 inhabitants and under; in communes from 2,500 to 10,000 there are two *adjoints*, and in those where the population surpasses that number, there is an additional one for every 20,000 inhabitants. When the sea or any other obstacle renders the communication between the chief town and a portion of the commune either difficult, dangerous, or at times impossible, a special deputy, chosen from among the inhabitants of the said portion, is chosen in addition to the ordinary number, to fulfil the duties in the above named detached portion of the commune. The members of the municipal council are elected by the assembly of the communal electors.

According to the law of the 21st March, 1831, the list of communal electors were of two kinds: 1st. The landholders, or those who paid contributions; 2d. The men of capacity, or head men of the commune. Among the former were included the citizens put down as paying the *highest amount* of taxes on the list of direct contributions of the commune, and being twenty-one years of age, in the following proportion: For communes of 1,000 souls and under, the number of electors was equal to a tenth of the population of the commune. This number was augmented by five for every hundred inhabitants in communes from

* See Appendix, note *a*.

1,000 to 5,000; in communes of 5,000 to 15,000, by four for every hundred; and by three for every hundred in communes having upwards of 15,000 inhabitants. Among the second class were included the judges, the members of the chamber of commerce, and councils of manufactures and prud'hommes, the directors of the hospitals, the officers of the national guard, members of the learned societies authorized by the law, the lawyers, doctors of law, medicine, and letters, and the officers under government. To form the municipal council, the electors named:

Ten members in communes of 500 inhabitants and under;
Twelve members in those from 500 to 1,500;
Sixteen members in those from 1,500 to 2,500;
Twenty-one members in those from 2,500 to 3,500;
Twenty-three members in those from 3,500 to 10,000;
Twenty-seven members in those from 10,000 to 30,000;
Thirty members in those above that number.

For towns, where there are upwards of three deputy mayors, the municipal council is augmented by as many members as there are deputies above three.

The municipal councillors must be at least twenty-five years old, and were renewed by half their number every three years.

It was from among the municipal councillors that, previous to the year 1848, the king named the mayors in communes whose population exceeded 3,000 souls. In those below that number, they were chosen by the prefect, in the king's name, but always from among the municipality.

The mayors and their deputies might be suspended by a decree of the prefect, but they could not be dismissed from office without an ordinance of the king. Their duties lasted three years, but they could be re-elected.

Changes introduced in 1848.

The law of 3d July, 1848, has introduced the following changes into the preceding organization:

The list of electors comprizes all the citizens of twenty-one years of age, inhabiting the commune, for at least six months. The *cense*, or property qualification, as well as the *capacité* are no longer required. By the same law of 1848, every citizen of twenty-five years of age, inscribed on the list of electors, and those not inscribed, but paying direct taxes, are eligible to the office of municipal council. But the latter class can only furnish one-fourth of the number of members.

This council chose from its own body the mayors and deputies in communes having less than 6,000 inhabitants. In those of 6,000 souls and upwards, the mayor was named by the executive power, but from among the members of the municipal council. The prefect could suspend a mayor or a municipal council, but the head of the executive power alone could dismiss or dissolve them, on the advice of the council of state.

Present organization.

The constitution of 1852 simply provides that the mayors and their deputies should be appointed by the government, and are not required to be chosen from the council. It promises, however, a special law on the subject. The law of the 7th July, 1852, respecting the renewing of the councils general, and the municipal and arrondissement councils, maintains universal suffrage as the basis of their election, and decrees, also, that the prefect may name the mayors and deputies in communes of less than 3,000 inhabitants, but that the chief of the State shall appoint them in communes above that number; it decides, also, that the prefect can suspend these officers, but the chief magistrate alone can dismiss them from office; it decrees, also, that the mayor shall preside over the council, and have a preponderating voice in case the votes be divided (although he is not a member of the council.)

The same rights belong to the *adjoint* who replaces him. In other cases, the deputies not chosen from the municipal council have only right to a seat in it, with a consultive voice alone.

In a word, the municipal council can be suspended by the prefect; but it can only be dissolved by the chief of the State. In case of a dissolution, the election of a new municipal council takes place within a year. In the interim, its place is supplied by a commission appointed by the prefect. The definitive law relating to municipal organization has not yet appeared. The powers of the municipality, which is composed of a mayor, deputies, and council, remain as defined by the law of the 18th July, 1837.* I begin with the functions of the mayor.

Attributions, or duties of the Mayors.

The mayors are at once the organs of the general interests, the agents of the executive power in the different communes, and as well as being the organs of the communal interests, they are the executive agents of all measures to be taken for the economical outlay of the funds belonging to the communes. The following is an outline of the position which the mayor accepts on taking office:

He is submitted to the *direction* and *authority* of the prefect, the subprefect, and ministers in whatever affects general interests. He is under their superintendence in whatever regards the special interests of the commune to which he is appointed.

The duties of a mayor are enumerated in articles 9, 10, 11, and 12 of the law of the 18th July, 1837. Article 9 is as follows:

The mayor is deputed, *under the authority* of the superior administration—

1st. To publish and put into execution the laws and regulations of the government;

2d. To perform the special duties which are attributed to him by the laws; and

3d. With the execution of all measures of general safety.

Article 10 is as follows:

* See, for this law, Appendix *a*.

The mayor is charged, under the superintendence of the superior authorities—

1st. With the municipal and rural police, the repairs of the roads, &c., and with providing for the execution of the acts of the superior authorities relating thereto;

2d. With the preservation and direction of the property belonging to the commune, and, consequently, to take all measures relating to the preservation of its rights;

3d. With the management of the revenues, and superintendence of the establishments belonging to the commune, and the accounts;

4th. With proposing the communal budget, and authorizing every outlay of funds.

5th. With the direction of the works of the commune.

6th. With the making of contracts, and preparing leases for the property, and entering into contracts for the works to be executed in the commune, according to the forms established by the laws and regulations.

7th. To sign, in the same forms, all acts of sale, exchange, and division of the land or property; to accept all gifts and legacies; to make purchases, and perform all other transactions, when these acts have been authorized.

8th. To represent the commune in the courts of justice, either as plaintiff or defendant.

Article 12th gives the mayor the right of appointing to all the employments in the commune, to which the law does not prescribe a special appointment, and to suspend or dismiss the persons employed. A special mode of nomination is prescribed by article 14 for the appointment of the rural guard, (*garde champêtre.*) He is proposed by the mayor; the choice must be approved by the municipal council, and confirmed by the sub-prefect, who issues his commission; but he can be dismissed by the prefect only. It would be impossible to enter into a complete detail of all the duties of the mayor, for, on one hand, almost all the orders of the government pass through their medium to the citizen; and, on the other hand, they are called upon to put in execution every decision taken in the interest of the communes.

The duties of the mayor, deputy, and municipal councillor are honorary.

Attributions of the Municipal Council.

The attributions of the municipal council are exceedingly varied, and its powers have a different force and bearing according as the case may occur; for instance:

1st. The municipal council comes to a final decision in certain matters of interest to the commune, namely, the mode of directing its property, the forms and clauses of all leases of farms and tenements, which must not exceed eighteen years for rural leases, and nine years for all others, the mode of sharing the pastures and fruits of the commune, of cutting wood,* &c.

* This is a right which the inhabitants of certain communes have of cutting a definite quantity of wood in the forests of the commune.

2d. The deliberation of the municipal council is requisite in the following instances, but their decisions, forwarded to the prefect through the medium of the sub-prefect, require to be approved by the superior authority, generally the prefect himself:—(Law of 18th July, 1837.)

(*a.*) The budget of the commune, and, in general, all receipts and expenditures, whether ordinary or extraordinary;

(*b.*) The tariffs and regulations for collecting the revenues of the communes;

(*c.*) The purchase, alienation, or exchange of communal property, &c.;

(*d.*) The marking the boundaries, or dividing private property between two or more communes or portions thereof;

(*e.*) The clauses of leases for farms exceeding eighteen years, and nine years for houses or tenements;

(*f.*) All plans of buildings, and considerable works, as well as demolitions, and, in general, all works required to be undertaken in the communes;

(*g.*) The opening of streets and public places, and the projects relative to the roads;

(*h.*) The right of passage and of pasturing cattle, *(vaine pâture.*)*

(*i.*) To accept gifts and legacies made to the commune, and communal establishments.

(*j.*) All judicial actions and transactions, &c.

3d. The municipal council is also consulted in a number of cases, in which simply its advice is required. Among these the principal are those relating to acts of public beneficence, and to the establishments consecrated to the same.

4th and lastly; the municipal council can testify its wish *(exprimer des voeux)* on all questions of local interest.

Independently of these four different degrees of power, namely, to *regulate*, *deliberate*, give an *opinion* or advice, and express a wish or *desire*, the municipal council can protest against the contingent or share of taxes assigned to the commune by the council of the arrondissement, and it also deliberates upon the statement of accounts presented annually by the mayor and the receivers or tax collectors of the commune.

The Communal Budget.

The budget of the communes is of sufficient interest to claim some particular notice. It is composed of expenditures and receipts. The expenses are divided by the law into two classes—*obligatory* and *facultative*.

Obligatory Expenses.

The expenses declared obligatory by the law are as follows:

1st. The keeping in repair of the *hôtel de ville* (town house) and mayoralty;

* That is to say, the right which exists in many places of sending cattle into unenclosed lands after the crops have been gathered in.

2d. The office expenses of printing for the service of the commune;
3d. The salaries of its agents, the tax gatherers, overseers, police commissioners, keepers, &c.;
4th. The repairs of the communal edifices;
5th. The closing and keeping in repair of the burying grounds;
6th. The opening and keeping in repair the roads of the commune.

To the above must be added the expense of taking the census of the population, which occurs every five years; a subscription to the *Bulletin des Lois*, or the *Moniteur des Communes*; the expenses for the maintenance of the national guard; for public instruction, and the payment of all debts contracted by the communes, and several others, which, however, do not exist in every commune.

Facultative Expenses.

The facultative expenses form also a heavy charge upon the commune, because there exists scarcely a single one which is not under the necessity of incurring some of them. In fact, the only difference between the *obligatory* and *facultative* consists in the prefects having the right to inscribe the former in the budget of the commune, if they have been omitted; whereas he cannot do so in the latter case.

Resources of the Communes.

The resources of the communes, or means by which they provide to cover these expenses, are of two kinds—the ordinary and the extraordinary receipts.

Ordinary Receipts.

These consist of—
1st. The revenues of all the property of which the inhabitants have not the use in kind;
2d. The assessment imposed yearly upon those who gather the fruits and produce in kind;
3d. The produce of the ordinary additional centimes imposed upon the commune by the laws of revenue;
4th. The revenue of the portion which is granted to them from the tax upon patents;
5th. The produce of the municipal dues;*
6th. The product of the amount of stalls or authorized places in the different markets, fairs, and slaughter-houses;
7th. The product derived from stands and lettings on the public road, on the quays and rivers, and other public places;
8th. The amount received from the tolls of the commune; the dues for weighing, measuring, and gauging, (applied to the tonnage of vessels;) the amount of road-dues, and other taxes legally established;
9th. The amount paid for grants of land in the burial-grounds;

* The octrois, or duties, consist of certain taxes on articles of consumption levied at the entrance of every town or city. For the city of Paris it is near forty millions of francs. Before 1852 one-tenth of the produce was paid into the treasury of the State.

10th. The amount of contracts for water, and removing the mud and clearings from the public roads and streets, and all other contracts of the same nature;*

11th. The produce of taking copies of the acts of the administration, and of births, deaths, and marriages;

12th. The portion which the law allows to the communes from the amount of fines pronounced by the police courts and correctional police, and the councils of discipline of the national guards, &c., &c.

It is evident that these receipts, although they are entitled as *ordinary* receipts, do not exist in every commune. They are called ordinary, because, where they are levied, it is regularly or annually. It is not, however, the same with the greater portion of the *extraordinary* receipts, of which the following is an outline:

Extraordinary Receipts.

1st. Extraordinary taxes, duly authorized to be levied;

2d. The amount derived from the sale of communal property;

3d. Gifts and legacies;

4th. The reimbursement of capital not fallen due, and the purchase of government securities;

5th. The amount produced by extra cuttings of wood;

6th. The produce of loans, &c.

The draft of the budget is drawn up by the mayor, who submits it to the municipal council, by whom it is discussed and amended, or modified; and, after being finally closed and voted, it is afterwards sent to the prefect, who approves it, in communes having a revenue of less than 100,000 francs; but in communes whose revenue surpasses that sum, the approval of the head of the State is required.

Communal Establishments.

Under the denomination of communal establishments might be classed the various government offices which embrace certain communal interests, and which are, in some measure, the dismembering of those interests, and which may, therefore, be considered as annexed to the communal administration.

These special administrations are of several kinds, namely:

Of finance: The commission for the assessment of land tax, &c., &c.

Of charity: The directing commissions of the hospitals; the offices for receiving charitable donations; the administrative councils of the *monts de piété*, (pawnbrokers;) of the savings banks, and of the houses of refuge and for labor.

Of instruction: The local superintendence of schools; the offices for the direction of the communal colleges.

Of religion: The councils for the buildings of the church and temples; (that is to say, those who are charged to administer the church property.)

* The mud serves for manure; in many places a considerable sum is paid for the right of removing it.

Of public order: The council for the examination and regulation of the national guard, &c., &c.

Assessors of Taxes.

Amongst all these various commissions, I deem it essential only to give details respecting that of *répartiteurs*, or assessors of taxes, whose duty is to divide amongst all the inhabitants, to each his share or contingent, of the tax assigned to the commune. The members of these committees are named by the prefects, and for one year. They are seven in number, namely: the mayor and his deputy, in communes having less than 5,000 inhabitants, (where they exceed that number these officers may be replaced by two municipal councillors,) and five landed proprietors, of which two, at least, non-resident in the commune, if they can be found. It is expected that the sub-prefects will avoid reappointing the same individuals to this office, it being thought just that the divers inhabitants be called, each in his turn, to determine the assessment, provided they possess the talent and integrity necessary to enable them to sit on the committee for that purpose. No one can refuse the duties of assessor, except for a legitimate cause of exemption; for instance, grave and acknowledged infirmities, having entered the sixtieth year, or being about to undertake a long voyage, &c. The time for the meeting of the assessors is determined beforehand, and the mayor informs the rate-payers thereof by a public notice in the usual form. They are convoked under the presidency of the mayor, or, in his absence, by the deputy mayor, or one of the municipal councillors appointed for that purpose. The operation is performed with the concurrence of the agents of the direct taxes. They deliberate in common, and decide by a majority of votes, and they cannot deliberate unless there be at least five of their number present.—(Law of the third Frimaire, an. VII.)

The assessors are forbidden to dispense with performing the duties required of them by the law, under penalty of being personally responsible, and even liable to be summoned for the taxes unpaid, within the specified time, by reason of the non-execution of their duties within the time allotted.—(Law of the second Messidor, an. VII.)

The deliberations of the commission of assessors require no approval by the higher authorities, but can be put in force as soon as terminated. As several of the duties of the municipal body will come under observation hereafter, I shall proceed to the examination of the organization of the department of the general police, under the title of—

*Division, late Department, of the General Police.**

This division was created by the decree of the 22d January, 1852, into a distinct department, and was organized by the decree of the 30th of the same month, and by decree of 24th June, 1853, placed again within the attributions of the minister of the Interior. Its duties relate to whatever regards the general safety, the superintendence of the

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See note c 1, of Appendix.

press, the theatres, prisons, &c. The greater part of these functions were fulfilled by the division of general safety, which formerly belonged to the department of the Interior. But by this decree the minister was surrounded by a host of inspectors-general of police, special inspectors, and commissioners of police. Very important duties were confided to the inspectors-general, in the execution of which very serious discussions and difficulties arose between them and other officers of higher rank, which circumstance contributed, probably, to the promulgation of the decree of the 5th March, 1853, suppressing the general and special inspectors, the former of whom were immediately under the minister of general police, and replacing them by departmental inspectors, subordinate to the prefects.

Powers of the police.

The power of the police remains as formerly, with the exception of a greater vigilance and superintendence on two important points; the one relative to a residence in Paris or Lyons, the other with regard to the Press.

Interdictions relative to residence in Paris and Lyons.

According to the law of the 9th July, 1852, the police can interdict the residence in Paris or Lyons to any persons who, not having a fixed residence in either of those cities, belong to the following class or condition:

1st. Those who within the last ten years have been condemned to imprisonment for rebellion, begging, or as vagabonds; or who have been condemned to the same penalty for one month for coalition or combination among workmen;

2d. Those who do not possess, in the cities above-mentioned, the means of existence.

The interdiction to reside can be renewed. The order is made out by the prefect of police, and notice of it is given to the individual whom it concerns, with a summons to obey the injunction within a given delay, under penalty of imprisonment from eight days to one month.

On the press.—Condition before 1848.

On the breaking out of the revolution of 1848, the periodical press was governed by the law of 18th July, 1828, and more especially by that of the 9th September, 1835, under the well known denomination of the *laws of September.** According to these laws the daily papers appearing in Paris were forced to pay caution money to the amount of one hundred thousand francs into the treasury; and those not appearing daily, or which appeared in the departments, (that is to say out of Paris and its environs, †) only paid caution money in proportion to the

* See, also, under the government of the Restoration, the laws of the 17th May, 1819, of 26th May, 1829, of 9th June, 1829, and of 25th March, 1822; and, under the government of Louis Philippe, the laws of 8th October, of 29th November, of 14th December, 1830, and of 8th April, 1831.

† The departments of the Seine and Marne, and of the Seine and Oise.

frequency of publication. Before publishing a political paper, the projectors were obliged simply to declare the names of the proprietors, managers, printer, &c., but no authority was necessary; on fulfilling these formalities it became a right.

The journals were stamped. This stamp cost three or six centimes, according to the dimensions of the sheet; in addition to which two centimes were paid for each paper (under band or envelope) for carriage in the department of the Seine, and four centimes for the other departments. Beyond a certain size the paper paid a supplement.

Changes brought about by the revolution of 1848.

The decree of the 9th August, 1848, reduced the caution money of the daily journals published in Paris to twenty-four thousand francs, and that of the others in proportion. A decree of the 11th August, of the same year, modified the clauses of the previous laws relative to the repression of crimes and misdemeanors of the press, dispositions, however, which the law of 27th July, 1849, increased. By this same law, the distributors and carriers of books and pamphlets were likewise compelled to procure an authorization, delivered by the prefect of police. It was, however, the law of the 16th July, 1850, which definitely fixed the caution money (at twenty-four thousand francs) the stamp, and several other secondary points.

Present condition.

The laws of the press at present in force were established by the organic decree of the 17th February, 1852. The following are its principal dispositions: No journal or periodical writing, treating of politics, or social economy, can be established or published without the previous authority of the government, and which is equally required for all changes in the responsible editors, the editors, proprietors, or directors of a newspaper. The same permission is also necessary to introduce foreign journals into France. The caution money is fixed at fifty thousand francs for journals published every day in Paris and environs* and the department of the Rhone; and lesser sums for those published less frequently, or in the other departments. The stamp is fixed at six centimes each sheet of seventy-two square centimetres and upwards in the departments of the Seine and of the Seine and Oise, and at three centimes in the other departments. Writings treating of political matters or social economy, not appearing periodically, if they are published in one or several numbers, of less than ten sheets of impression, from twenty-five to thirty-two decimetres square, are equally subject to a stamp of five centimes each sheet. This regulation also applies to journals and periodical writings as well as those not published periodically coming from foreign countries.

The journals can only publish the official summary of the deliberations of the legislative body, and are forbidden to publish the details of the sittings of the Senate, as well as those of the Council of State,

* Department of the Seine, of the Seine and Oise, and Seine and Marne.

which are not public. They are also forbidden to give reports of actions against the press; and the publication of false news is to be severely punished. Every director of a journal is obliged to insert at the head of his paper all official documents, authentic reports, particulars, answers to correspondence, and rectifications forwarded to him by any of the members of the government.

The publication must take place in the number of the day subsequent to the receipt of the document. The insertion is gratuitous; and infractions will be punished. By the law known as the law *Tingny*, all articles must be accompanied by the signature of their author under penalties of imprisonment and fine.

All booksellers are obliged to take out a license, (patent;) all offences committed through the medium of the press, or any other mode of publication, must be brought before the tribunals of correctional police, and not before the jury or the assizes, whether these offences or misdemeanors have been provided for by previous laws or by the present one.

A single condemnation for a misdemeanor committed through the medium of the press, and two condemnations for offences, or contraventions committed within the space of two years, subject the journal, the directors of which have been condemned, to be suppressed. After a condemnation for a contravention or offence of the press, pronounced against the responsible editor of a journal, the government has the faculty, during the two months after the condemnation, to pronounce either the temporary suspension or total suppression of the journal. A journal can be suspended by the decision of a minister, without having been the object of a condemnation after two warnings, stating the motive, and during a period which cannot exceed two months.

A journal can be suppressed, either after a judicial or administrative suspension, as a measure of general safety, in virtue of a special decree of the emperor, published in the *Bulletin des Lois*. The regulations relative to hawkers have also been made much more severe; they are not only required to have a license for themselves, but every printed work, whether book, pamphlet, &c., must be authorized and bear the stamp of the minister within whose attributions fall the police; as a proof thereof:

Salaries of Prefects.

In terminating this chapter a table of the salaries of the prefects, from 1831 to 1848, from 1848 to 1852, and at present, is of interest.

Salaries of the Prefects, from 1831 *to* 1848, *according to the royal ordinance of the* 28*th December*, 1830.

1	prefect at	50,000	francs, (Seine.)
4	"	36,000	"
2	"	32,000	"
2	"	28,000	"
13	"	24,000	"
6	"	20,000	"
45	"	16,000	"
13	"	15,000	"
Total, 86			

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Salaries of the Prefects, from 1848 *to* 1851, *by the decree of Cavaignac, (President of the Ministry, and charged with the executive power,) dated* 15*th December*, 1848.

1	prefect at	30,000	francs, (Seine.)
3	"	24,000	"
10	"	20,000	"
11	"	16,000	"
22	"	12,000	"
39	"	10,000	"
Total, 86			

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Salaries of the Prefects established by the decree of the 17*th March*, 1852.

1	prefect at	50,000	francs, (Seine.)
8	"	40,000	"
18	"	30,000	"
59	"	20,000	"
Total, 86			

In general the salary of the prefect depends upon the importance of the department; but according to the decree of 17th March, 1852, it can be augmented without the prefect changing his department.

IV.

THE DEPARTMENT OF FINANCE.*

This highly important administration, charged with the receipts and expenses of the State, has experienced but very few, and those unimportant, changes, during the last few years. The following is its present organization:

Organization.

The minister of finance is surrounded by a central administration, comprising the *secretariat*, or secretary general's office, charged with the *personnel* and expenses of the ministry; a division for disputed matters in France, appointed to uphold the interests of the treasury; a direction for the general circulation of the funds; another for the public debt; a direction for the general accounts of the finances; a special service for the cash payments, and of the central paymaster of the treasury; and a general comptrolling division. All these directions or divisions are composed of several offices, under the direction of a head clerk, (*Chef*,) and comprising a second head clerk, and several under clerks.

In the above consists the central service of the department, properly speaking, to which, however, must be added the division of general inspection, which includes several offices in Paris: Eleven inspectors general, twelve inspectors of the first class, twelve inspectors of the second class, and fourteen inspectors of the third class, with eleven sub-inspectors, who are sent periodically or unexpectedly to visit or inspect the accounts of all the receivers or accountants of the government.

But independently of these duties, which relate more particularly to the circulation of the finances in general, there are various administrations, equally central, which are dependent upon them, but which, however, are only employed on one specific branch of the public revenue. Of this description are the General Post Office,† the Administration of Direct Taxes, the Administration of the Registry Office and of the domains,‡ the Administration of the customs and Indirect Taxes,§ (which previous to 1848, formed two distinct administrations,) the Administration of the Woods and Forests, and the commissioners of the Mint.‖

The other agents of the finance department are:

Eighty-six directors and eighty-six inspectors of the direct taxes, (one in each department.)

Eighty-five receivers general, and as many particular receivers as there are arrondissements, independently of which there are collectors in the greater part of the communes.

Eighty-six paymasters, and a certain number of collecting clerks under their orders.

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* See Appendix.

† See Note *d* 1, of Appendix.

‡ See Note *d* 3, of Appendix.

§ See Note *d* 4, of Appendix.

‖ See Note *d* 2, of Appendix.

Eighty-six directors, as many inspectors and comptrollers, several hundred receivers, and thousands of clerks employed in collecting the indirect taxes, without including the directors, inspectors, receivers of customs, and from twenty-six to twenty-seven thousand custom-house officers appointed to protect and watch the frontiers. Independently of these there are numerous agents belonging to the administration of the post office, the woods and forests, &c.

Financial System.

Before pointing out the mode of proceeding pursued by this complicated machinery, it is necessary to mention the various taxes, which united, form the financial system of France. All the taxes levied in France may be divided into two great categories—the *direct* and the *indirect* contributions or taxes.

There are four direct taxes:

1st. The land tax;

2d. The personal tax;

3d. The property tax;

And 4th. The tax on patents or licenses.

Direct Taxes.

1st. The land tax, which is levied in equal proportions upon all landed property, whether built upon or not, in proportion to their net taxable revenue, and each is taxed in the commune in which it is situated.—(Laws of the third Frimaire and second Messidor, an. VII.) No individual property is exempt from this tax, so that if a commune possess a piece of land not capable of being farmed out, but from which the inhabitants reap an advantage, this land is taxed, and the amount paid by the commune.

The land tax, as well as all the direct taxes, is subdivided into *principal* or capital, and *additional centimes*. The *principal* forms the basis of the tax; it is the assessment or quota of the revenue of every citizen, fixed by the law. The *additional centimes* are likewise authorized by the law, but their number varies. By *additional centimes* is understood a supplementary sum proportioned to the capital or principal of the tax, and which is expressed in so many centimes per franc, or so much per cent. The general *additional* centimes devoted to the expenses of the State, are voted by the legislative body, whose vote is also necessary to levy *extraordinary* centimes in the departments and communes. But the law allows the councils general and the communes the power of voting each to the amount of five additional centimes, not including certain centimes appropriated to special purposes.

The land tax, as well as the other direct taxes, is divided among the departments by a finance law—that is to say, its assessment is voted by the legislative power. The contingent of a department is divided amongst the arrondissements by the general council, (elected by universal suffrage.) The quota of the arrondissement is divided among the communes by the arrondissement council (elected also) and in the communes, a number of assessors, chosen from among the principal

inhabitants, establish the assessment to be divided among the tax-payers in proportion to their property. The list of tax-payers, thus drawn up, is called the rent-roll.

2d. *The personal and property tax.*—The personal tax is always composed of the value of three days' labor. In each department the council general determines, every year, the average price of a day's labor; it cannot, however, be fixed under fifty centimes, or above one franc fifty centimes. In other words, the tax varies from one franc fifty centimes, the lowest, and four francs fifty centimes, the highest rates.

This tax is due by every inhabitant, whether French or foreign, both male and female, enjoying their rights, and not reputed indigent. It is the only tax levied upon the individual personally.

The property tax, which is always united with the personal tax, is fixed at one-twentieth part of the rent paid by each resident, but only for the portion which serves as a residence. It has regard to the rent really paid, and if the individual resides in his own house, he pays the amount which would be payable if the apartment he occupies were let to a tenant.

All warehouses, shops, inns, manufactories, and workshops, for which the occupiers pay a patent or license, are exempted from this tax, as well as the offices of public functionaries, the buildings destined for lodging the pupils in all kinds of schools, and those serving for agricultural purposes, &c.

Every inhabitant, French or foreign, not reputed indigent, pays this tax. But in many towns and cities, in Paris, for example, the municipal council, in order to come in aid to those paying rents below a certain sum, by a sort of contract or subscription with the government, paying a certain fixed sum instead from the revenues of the city or town.

3d. *The door and window tax.*—By the law of the 4th Frimaire, an. VII, this tax is levied on all doors and windows opening or looking on the streets, courts, and gardens of all buildings and manufactories. Doors opening on a staircase, and those in the interior of the apartments, as well as all openings without doors or windows, and windows serving to give light into barns, stables, sheepfolds, &c., are not included in this tax. The scale by which the tax is levied is combined from the nature, number, and position of the openings; it increases also in proportion to the population, that is to say, it is higher in the towns and cities than in the country villages, &c.

4th. The tax for a *patent* or license is levied on every person, French or foreign, carrying on a trade or business of any kind.* The *patent* is subject to a fixed and a proportional tax. The fixed tax is levied according to a scale which enumerates the different occupations to be taxed, with the (fixed) amount of the tax opposite to each. Another table indicates the various modifications to which this fixed tax is liable, in proportion to the population. The greater the population the more the patent is increased; and, in certain cases, in the interior of particular cities, the patent is modified according to the rent.

Previous to the year 1850 the following professions were exempted

* Law of the 25th April, 1844.

from paying for a patent: Public officers or officers and clerks under government; notaries, attorneys, bailiffs, and auctioneers; barristers, physicians, surgeons, midwives, &c.;

Veterinary surgeons;

Painters, sculptors, architects and other artists;

Professors, schoolmasters, editors of newspapers, public writers, &c.;

Persons receiving wages, or working by the piece, or by the day;

And several other professions.

Since the passing of the finance law of the 15th May, 1850, the following are subject to a proportionate tax (for license) amounting to one-fifteenth of the rent paid by them:

Architects, (but not painters, &c.;)

Barristers, attorneys, notaries, bailiffs, lawyers' clerks, auctioneers, and attorneys, and others attached to the tribunals of commerce;

Physicians, surgeons, health officers, dentists;

Veterinary surgeons;

Referendaries to the seals of office;

Schoolmasters and masters of boarding schools. (The premises used for lodging the scholars, and the school rooms, are not included in the estimates of the premises paying rent.)

Independently of the four contributions above mentioned, the following ten unimportant taxes are often included in the direct taxation:

1st. The fixed and proportionate dues levied on the mines;

2d. The annual tax paid by schoolmasters, and keepers of boarding schools;

3d. The dues levied in the faculties of law, medicine, &c.;

4th. The remunerations for the verifications of weights and measures;

5th. Contributions for keeping up the scholarships *(bourses)* and for the Chambers of Commerce;

6th. The special and local contributions for works for the keeping in repair and reconstruction of the dykes, for cleansing the canals, &c.;

7th. Taxes for the works of draining of the marshes;

8th. The amount paid for the expenses of visiting the chemists' shops, pharmacies, and grocers' shops, &c., (to verify that the drugs, &c., are not adulterated;)

9th. The dues paid by the proprietors and manufacturers of natural and artificial mineral waters;

10th. The value of the payments in materials or money for keeping up and repairing the local roads.

Indirect Taxes.

1st. The registry duties and duties on succession.*

The registry is a tax to which all public documents, and a great number of private ones are subject, (the sale and purchase of estates, for instance,) which are required to be produced before the tribunals. This tax serves, on the one hand, to produce a certain revenue to the State, and on the other, it gives more authenticity, and more value to

* Laws of the 15th December, 1790, and 9th May, 1791—see also the law of the 22d Frimaire, an. VII, and the finance law of the 15th May, 1850.

the acts themselves, and, what is often of great importance, *a certain date.*

The tax is fixed or proportionate, according to the nature of the acts, and is higher or lower according to their importance. It is levied by particular receivers, dependent upon the administration of the registry office at the Department of Finance, and who are also charged to levy the duties on successions. The tariff of the legacy duties, or rights of succession, which naturally vary according to the degree of parentage, have often been modified.

The law of finance, of the 15th of May, 1850, likewise modified the rights of *mutation.* Changes caused by deaths, and *gratuitous* transmissions between living persons, of inscriptions on the great books of the public debt, as well as all kinds of shares and actions, are now liable to the same tax as for successions.

The smallest registry duty is two francs.

2d. The *timbre,* (stamps,) were introduced into France in 1673, under the name of *formula,* and received that of *timbre* by the law of the 12th of December, 1790.

The stamp duty is fixed according to the *dimensions of the paper,* or to the amount in money. The duty on the dimensions of the paper is fixed as follows:

The largest size sheets	2 francs.
Large paper	1 franc, 50 cent.
Middling paper	1 " 25 "
Small paper	70 "
Half sheets, small paper	35 "

The stamp duty according to the sums is regulated as follows.

All bills of exchange, notes, or to order, of 300 francs and under	15 cent.
500 francs and under	25 "
1,000 francs and under	50 "

And 50 centimes per thousand francs above that sum.

Only commercial bills and letters of exchange are liable to this scale, all other acts are charged according to the preceding tariff on the dimensions of the paper.

All acts and writings relative to the military, petitions, and certificates of indigence, &c., are exempted from the stamp.

3d. The customs. It is well known that France continues to be governed by a protective or rather prohibitive system. Latterly there have been a few, but important, modifications, except that since 1850, all Algeria has been assimilated to France, so that its productions, with few exceptions, can enter free of duty.

4th. The tax on salt, which has always been 30 francs the quintal of 100 *kilogrammes,* (or 200 lbs.,) has been reduced to 10 francs since 1848.

5th. The tax upon potable liquors, which has been established in France for upwards of five centuries, is one which has been the most frequently attacked. The constituent assembly of 1848 had even sup-

pressed it, but as it brings a hundred million of francs yearly into the treasury, it was re-established in the course of the same year.

This tax, laid upon wine, cider, mead, and perry, is subdivided into the tax on circulation, on the sale by retail, and entrance duty into towns of 4,000 souls and upwards.

The departments are divided into four classes, according to the quality of the wines they produce, in respect to the tariff for the tax on circulation.

The tax on selling wine by retail is one-tenth of the sale.

The entrance duty differs according to the importance of the town or city.

Spirits of wine, brandy, and liqueurs, are not subject to the above named taxes, but pay a heavy duty on consumption.

As to beer, it pays an excise duty, as it is made, of two francs forty centimes the 100 litres *(hectolitre)* of common beer, and sixty centimes for small beer.

All these potable liquors are also liable to an entrance duty (*octroi*) in favor of the different communes.

6th. The cultivation of tobacco, in France, and the monopoly of its sale, is another considerable source of revenue to the treasury. The following is the mode in which the tax, on its cultivation, is levied:

The cultivation of tobacco is forbidden in France, except in five or six departments so privileged by the nature of the soil. In these departments, the cultivator who wishes to plant tobacco must make a formal demand to that effect. About six thousand *hectares** of land are devoted to the culture of tobacco, and these are divided amongst the departments so authorized. When a demand for permission is received, the agent of the government, appointed for that purpose, proceeds to verify whether it exceeds the extent allowed, and gives or refuses the permission solicited, as the case may be.

A very severe superintendence is exercised by the agents of the treasury over the cultivation, whose duty it is to count the number of plants, and the number of leaves on each plant. The government also fixes the price of the tobacco it purchases, but which is, no doubt, remunerative, since, every year, it is obliged to refuse permissions to cultivate the plant.

The government itself prepares for sale, in the manufactories of the administration of indirect taxes, both French and foreign tobacco into snuff, tobacco for smoking, cigars, &c. The tobacco, which in its rough state is worth about one franc fifty centimes, is sold to the dealers at seven francs the *kilogramme*, (two pounds.) who sell it retail at eight francs.† The difference between the cost of manufacturing and sale to the dealers constitute the tax or profit to the State.

The administration itself appoints the retail dealers in tobacco and snuff. These places are generally bestowed on old soldiers, or the families of persons who have rendered some service to the State.

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* The *hectare* is equal to about two acres, one rood, thirty-five perches.

† Tobacco is sold to the military and navy at one franc fifty centimes, but only ten grammes, (about one third of an ounce,) per day, is allowed at this rate, (decree of July, 1853.)

The tax on tobacco is thus concealed under the plea of a service rendered, or of an object sold.

7th. The same is the case with respect to the Post Office. In France the transport of individuals can be undertaken by private persons, but that of letters is reserved to the government. Formerly the tax, or postage of letters, varied according to the distance. By the law of the 24th of August, 1848, the postage of letters was reduced to a uniform rate of twenty centimes for letters not exceeding seven and a half *grammes*, (one-fourth ounce.) It was, however, raised to twenty-five centimes, (for the same weight,) in the year 1850.

The postage of a single letter in Paris, which has always been fixed at fifteen centimes, has, very recently, (7th of May, 1853,) been reduced for franked letters to ten centimes from July, 1853.

Letters are franked in France, as in all other countries in the present day, by stamps.

8th. The woods and forests produce likewise a considerable revenue to the State, but their legislation has not varied for many years.

The civil courts decide on all cases arising out of indirect taxation.

Accounts.

It has been already stated, that the Legislative body, after having voted the taxes, distributes the direct taxes throughout the departments; that the Council General of the departments assesses the arrondissements; that the arrondissement council assesses the commune, and that the commission of assessors draws up the individual list. This list, or rent roll, after having been approved by the prefect, is forwarded by the director of the direct taxes to the tax-gatherer charged to collect the taxes.

Ten days after having collected the taxes, he is obliged to remit the amount to the particular receiver, (of which there is one in every arrondissement.) He is required to keep his books in the best order. Every ten days he must forward a copy of his day-book to the receiver of the arrondissement, and to the receiver general, (of which there is one in each department;) and independently of which he sends in a monthly and a yearly statement of his accounts.

The receivers of the arrondissement are bound to verify, at certain periods, on the spot, the state of the cash accounts and the writings—duties which they take good care not to omit, being responsible for the acts of their subordinates, and obliged to replace, or indemnify the treasury in case of a defaulter.

The particular receivers, (those of the arrondissements,) likewise hand over their receipts, within a given term, to the receiver general; every ten days, also, they are bound to forward him a copy of their day-book, or journal, and to forward another copy to the minister of finance. They also send in monthly and yearly statements, and their cash accounts and writings are also inspected and verified at certain periods, the same as the tax-gatherers.

The accounts given in by the collectors, and forwarded in duplicate to the receiver general, and certain other documents, serve to control the management of the particular receivers, and the accounts forwarded

by the latter to the minister control the registers of the receiver general. This latter is also responsible for the management of his subordinates.

In a word, to prevent all delay, the receiver general pays interest to the treasury for all sums in arrear, whilst, on the other hand, he receives an allowance when he is in advance. The receiver general sends in his accounts to the minister, and to the *cour des comptes*, (court of accounts.)

Besides the receivers, there are paymasters in each department. Consequently, it is an established principle that he who orders an expenditure cannot directly pay it himself. From whence it results, for example, that when any work has been executed for the State the creditor presents himself, provided with his justificative documents. His demand is in general verified by the person who superintends the works, and who afterwards issues an order for its payment. (He declares that it may be paid.) With these documents and the order for payment he repairs to the paymaster, who, after another verification, delivers the amount.

As the funds furnished to the paymaster are provided by the receiver, no payment can be made without having been inspected by three persons: 1st. The person who orders the payment. 2d. The receiver. 3d. The paymaster.

In general, a number of inferior officers participate at the same time in the payments, so that no embezzlement can take place, since too many persons would be aware of the fact to ensure the secrecy.

The organization of the public accounts in France, so admirable for its simplicity and the skilful combination of the whole machinery, is developed in their fullest detail in the royal ordinance of the 31st May, 1838, in which is found also the latest rules and regulations of the *Cour des Comptes.*

*The Cour des Comptes, (Court of Accounts.)**

The court of accounts is appointed to judge and control the public receipts and expenditure handed in every year by the receivers general, the paymasters of the public treasury, the receivers of the registry dues, the customs, and of the indirect taxes, &c.; in a word, by all who have the management of the funds of the State.

The court is divided into three chambers, each composed of a president, six principal accountants, and several referendary magistrates, for examining the accounts; the whole under the direction of the first president. Formerly the magistrates of this court were not only irremovable, but were named for life; but the decree of the 19th March, 1852, has applied to them also the regulations of the decree of the 1st March, 1852, with regard to retiring on pensions.

The first président distributes the accounts to be verified among the referendaries, and appoints the chamber to which a report is to be made. A referendary cannot be appointed twice successively to verify the accounts of the same accountant. When the referendary has pre-

* See Appendix, note e.

sented his report to the chamber, the president appoints a principal councillor to verify: 1st. Whether the referendary himself has performed the work; 2d. Whether the difficulties raised by him are founded; and 3d. To examine himself some part of the account, to ascertain whether the referendary has verified it carefully. No principal accountant can be appointed twice consecutively to report on the account of the same agent.

The accountant presents his report to the chamber, with his remarks, and when each has given his opinion the president pronounces a decree of judgment. By its final decree the court decides whether the accounts of the various responsible agents are balanced, or in advance, or in arrears. In the first two cases it gives a final discharge, and withdraws the oppositions and mortgages entered against their property by reason of the management or duties to which the account refers. In the latter case they are condemned to liquidate the balance within a given delay fixed by the law.

Every year the general result of the labors of the court of accounts, accompanied by their remarks respecting reforms or ameliorations in the different divisions of the accounts, are laid before the chief of the State.

Changes introduced in the Department of Finance.

The principal changes which have been introduced into the finances of France are far from being administrative. In the first place, was the reduction of the 5 per cent. *rentes* to 4½ per cent., (14th March, 1852,) and subsequently the recoinage of the copper coin, (6th May, 1852.)

There have been numerous reductions in the tariff of duties on importations, showing a tendency to a less prohibitive system. These have been principally upon raw products, such as iron, coal, ores, raw silk, &c., &c., and provisions. The reduction on these last are, however, but temporary.

The *senatus consulte*, modifying the constitution of the 23d December, 1852, decides that the expenses should be no longer voted by chapters, but by departments. When the budget was voted by chapters the funds could not be employed for any other purpose than the chapter named; but now the ministers can carry over, to any service of their department requiring it, the excess of any department of which the expenses had been fixed at too high a rate.

These changes in the employment of the funds *(virements)* can, however, only take place by a decree of the chief of the State, and discussed in the Council of State.

V.

THE DEPARTMENT OF JUSTICE.*

Justice.

The Minister of Justice or the Keeper of the Seals (of the State) is appointed to provide for the administration of justice, to propose for the nomination by the chief of the State, of the judges and public prosecutors requisite for this object. His duty is to exercise an active superintendence over the whole judicial order, as well as maintain the strictest discipline. Among his other functions are the reception of petitions for pardon, demands of rehabilitation, or reversal of judgments, the naturalization of foreigners, the verification of titles of nobility, &c.

Previous to 1848, the administration of public worship formed part of the powers of the Minister of Justice. Since the revolution of the 24th of February, it has been included in the duties of the Minister of Public Instruction.

On the judicial organization.

The judicial administration in France comprises 2,847 justices or tribunals of the peace, or one for each canton; 225 tribunals of commerce;† 361 civil tribunals of first instance, (one in each arrondissement;) twenty-seven courts of appeal, (formerly *royal*, but at present called *imperial courts*,) and one court of cassation.

Tribunals of the Peace.‡

The tribunal of the peace is composed of a justice of the peace, of two assistants, and one clerk, (*greffier*,) appointed by the chief of the State, and subject to removal at his pleasure. The justice of the peace, and in certain cases, the mayor, presides also in the tribunal of simple police.

Tribunals of Commerce.

The tribunals of commerce are composed of a president, judges, and assistant judges, and a clerk. These judges are elected by the principal merchants and tradesmen from among their number, in accordance to the law of 3d March, 1840. In 1848, universal suffrage was also introduced, but since 1852 the previous legislation has been pretty nearly resumed.

Tribunals of first instance, and courts of appeal.

The tribunals of first instance, and the courts of appeal, are composed of a president, and a number of judges or counsellors,§ adapted

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* See note *f* of Appendix.

† In those arrondissements which have no tribunal of commerce, the tribunals of first instance are competent.

‡ See note *b* of Appendix.

§ The judges in the courts of appeal bear the title of counsellors.

to the extent of the judicial arrondissement or department. They comprise one or several chambers; but in the latter case, vice-presidents, or presidents of chambers, are named. The judges in these courts or tribunals, as well as of the courts of cassation, are appointed for life.

In civil matters, a court cannot be formed unless seven members be present; in criminal and correctional cases, five counsellors suffice. The duties of public prosecutor to the tribunal of first instance are performed by the imperial attorney *(Procureur Imperial)* (formerly called attorney of the republic) and by their deputies. Attached to each court of appeal (or imperial court) is a solicitor general, two or three attorneys general, and deputies of the solicitor general. The solicitors general are occupied more especially with the direction and superintendance of the pleadings at the bars of the various courts within their respective districts; the attorneys general are principally employed in civil matters; and the deputies of the solicitor general devote themselves generally to criminal cases.

Civil justice in France is administered by the justices of the peace, the tribunals of first instance, (or arrondissement courts,) and the imperial courts (or courts of appeal.)

Industrial and commercial justice.

Industrial and commercial justice is rendered by the *prud'hommes* (a mixed council composed of tradesmen and workmen,) the tribunals of commerce, and the imperial courts.

Repressive justice.

Repressive justice is administered by the simple police courts, the correctional tribunals, (of each arrondissement,) the chambers of appeal of the correctional courts or the imperial courts, and the courts of assizes. Besides these ordinary tribunals for the repression of crime, there are also the high court of justice for crimes against the State, (formerly judged by the chamber of peers;) the military tribunals, (councils of war or courts martial,) the maritime tribunals, the council of discipline for the national guard, its name alone indicating its special duties. The government tribunals, that is to say, the council of the prefecture and the council of state (in appeal) decide also in certain police cases of infraction.

Matters of minor importance are submitted only to one degree of jurisdiction. More important matters never exceed two, and the court of cassation would be the third degree, were it to judge in the cases which are submitted to it: the duties of this court consist, however, only in ascertaining and watching over the legality of the former proceedings; when it quashes a judgment or decree, the parties are referred to another court.

The court of cassation.

The court of cassation, the highest tribunal of the land, has its seat at Paris, and is composed of three chambers: *de requêtes*, civil, and

criminal. It decides only on the points of law, not on points of fact, and has no original jurisdiction. The *chambre des requêtes* decides on the admission of a case, or, in other words, if the affirmation of the parties rests upon a point of law or of fact—if the former, the case goes before the civil chamber, which decides whether or no the law has been violated; if the latter, the case is thrown out.

This separation does not exist for the criminal chamber, which decides on the report of a member called a counsellor on the arguments of the public prosecutor and the lawyer of the party.

It is composed of a first president, three presidents for each chamber, and forty-five counsellors named for life by the chief of the state.

No chamber can pronounce judgment with less than eleven members, and then by absolute majority. When a case is returned for the second time on the same point to this court, a final decision is given in solemn session of all the chambers united, and presided over by the first president, which must be recognized by the court of appeal to which it is addressed.

Attached to this court are an imperial attorney general, six substitutes *(avocats généraux)* and a chief clerk, named by the chief of the State, and four sub-clerks, proposed to the court by the head clerk, and eight *huissiers*.

The judicial organization in France is simple, and the same throughout the whole kingdom. The fundamental principles laid down towards the end of the last century have not been changed. Modifications only have taken place in the collateral branches, and secondary objects; and in certain parts which may be considered as detached.

Modifications.

It is essential to make particular mention of the modifications which have taken place within the last few years with regard to the irremovability of the judges, to the jury, to the tribunals of commerce, and to the councils of *prud'hommes*.

Decree concerning the age of the judges.

The decree of the 1st of March, (article 1st,) provides that the members of the court of cassation, at the age of seventy-five years, the magistrates of the courts of appeal, and of the tribunals of first instance at the age of seventy, have full right to their retiring pensions. Thus the irremovability of the judges commences the day of their appointment, and terminates at the above respective ages. A similar regulation also exists with regard to the *cour des comptes*.

Far more serious changes have, however, taken place in the legislation respecting juries.

On the Jury.

In France there are several kinds of juries: the examining juries, the juries of revision for the national guard, and the jury of expropriation for causes of public utility, (assessment of damages where private pro-

perty is taken for public purposes;) but the jury which takes cognizance in criminal matters, and which is a component part of the court of assizes, will only be referred to here.

Previous to 1848,* on the 15th of August, every year, the prefect of of each department published a list, divided into two parts; the former including the electors of the department, (paying 200 francs taxes,) and the latter, those electors who, having their residence in the department, exercise their electoral rights in another; and also of the following categories, who were exempted from serving on the jury—namely, all public officers named by the king, and exercising their functions gratuitously; the officers of the army and navy enjoying pensions; doctors and licentiates of a faculty; the members and corresponding members of the institute of France, and other acknowledged learned societies and notaries, after having exercised their office during three years.

From this general list, on which no one was inscribed before attaining his thirtieth year, the prefect, on his own responsibility, extracted a special list for the following year. This special list comprised a fourth part of the names contained in the general list, but could not, however, exceed three hundred names, except in the department of the Seine, where it is limited to fifteen hundred names. This list was drawn up in triplicate, and on the 30th of October one copy was sent to the minister of justice, another to the president of the royal or imperial court, and the third to the solicitor general of the same court.

Ten days, at least, before the opening of the session, the first president of the imperial court, as formerly, draws by lot thirty-six names from the list forwarded by the prefect, which thirty-six persons form the list of jurymen for the service of the session; independently of which he chooses four supplementary jurymen from the same list, but only amongst those who reside in the town where the assizes are held. The drawing takes place in public, in the first chamber of the court.

The list of jurymen is made up afresh every year, and having once served is considered as discharging the parties.

The law of the 7th and 12th August, 1848, was drawn up in a far more democratic spirit. It ordained that every Frenchman who had attained his thirtieth year, and enjoying his civil and political rights, should be inscribed on the general jury list, except those who could neither read nor write, and domestic servants. It also declared, as being incapacitated from serving on a jury, those who have failed in business, and not restored to their civil rights, (*réhabilités*,) all persons interdicted,† those who are *pouvoir d'un conseil judiciare*, and those who are under accusation, or having a judgment pending over them, all individuals condemned to afflictive or ignominious punishments, &c.; but political condemnations do not incapacitate from becoming a juryman, unless formally stated in the judgment.

The list of jurymen in the communes was drawn up by the mayor, and publicly exposed during a space of ten days, in order that every citizen might raise complaints for irregularities, which complaints were

* Code d'instruction criminelle, art. 381 to 385, inclusive.

† Declared minors.

heard by the municipal council in the first instance, and the civil tribunal in appeal. The list of jurymen was permanent. After it had been finally drawn up by the mayor in the communes, it was forwarded to the prefect, who drew up the general list of the department by cantons, and in alphabetical order. The annual list for each department ought to comprise one juryman for every two hundred inhabitants; still the total number could not exceed three thousand in the department of the Seine, and fifteen hundred in the other departments. A special list was also drawn up of supplementary jurymen, chosen from among the inhabitants of the town in which the assizes are held.

The jurymen of each canton who ought to form part of the yearly list were designated by a commission composed as follows: the member of the general council elected in the canton as president, the justice of the peace, vice president, and two members of the municipal council of each commune of the canton, specially appointed by the council. In those cantons which comprise but one commune, (there are many towns in this category,) five municipal councillors were appointed.

Law of May, 1853.

The law on the jury, voted by the legislative body in the month of May last, and inserted in the Moniteur of the 11th June, 1853, makes no mention of the composition of the general jury list, as this list is the same as the electoral list; but this new law makes very considerable modifications in the mode of composing or drawing up the annual list. Articles 6th and subsequent ones are as follows:

The annual list is composed of two thousand jurymen for the department of the Seine, and five hundred for the departments whose population exceeds 300,000 inhabitants; four hundred for those whose population is between 200,000 and 300,000 inhabitants; and three hundred for smaller departments. The number of jurymen is divided by arrondissements and cantons, in proportion to the population, by a decision of the prefect. On forwarding this decision to the justice of the peace, the prefect furnishes him with the names of the jurymen of the canton appointed by lot during the year preceding, and of the current year, (in order that they may not be included in the list of the year following.

In each canton, a commission, consisting of the justice of the peace, as president, and of the mayors of each canton,* draws up the preparatory lists for making the annual lists. They contain three times the number of names fixed for the quota or contingent of the canton by the decree of assessment. These lists are forwarded to the sub-prefects. A commission, consisting of the justices of the peace of the arrondissement, with the sub-prefect at its head, (or the prefect in the arrondissement in which the prefecture is established,) chooses from the lists the number of jurymen necessary to form the list for the arrondissement, agreeably with the assessment fixed by the prefect, who also prepares the annual lists. The remaining enactments of this law

*It is in the framing of this commission that this law differs more particularly from the preceding ones.

are only a repetition of the similar enactments contained in the preceding laws. Among the *incompatible* the law of 1848 includes the ministers of any kind of worship as *incompatible*, (not liable to serve.)

The law of 1853 states: The ministers of a form of worship acknowledged by the State.

A law of the same date likewise abrogates that of the 18th and 20th October, 1848, on the number of votes necessary to declare an accused person or prisoner guilty. In France the unanimity of the twelve jurors has never been required for this object. The code of criminal instruction requires only the simple majority (seven votes.) The decree of the 7th of August, 1848, requires nine votes; the law of the 20th October, 1848, required upwards of seven votes, that is to say, at least eight; but the law recently voted re-establishes the original rule of a simple majority.*

Tribunals of Commerce.

Previous to 1848, the tribunals of commerce were regulated according to the commercial code, and the law of the 7th of March, 1840. The judges of the tribunals of commerce were elected by an assembly of the principal bankers and merchants. Any commercial man could be appointed as judge or deputy judge, provided he was thirty years of age, and had exercised his profession or business for five years with honor and distinction. The president was required to be forty years of age and upwards, and could only be chosen from among retired judges. These judges, thus elected, were installed by the head of the government. They were chosen for two years, but the president and judges retiring from office could be re-elected for another term of two years; but after this second election they were only eligible to be re-elected after a lapse of one year.

Tribunals of Commerce, law of 28th August, 1848.

On the 28th of August, 1848, the National Assembly repealed the articles 618, 619, 620, 621 and 629 of the Code of commerce, replacing them by others framed in a more democratic spirit. By the new article 618, for example, the judges of the tribunal of commerce were named by all the tradesmen patented within five years, excluding only those who had failed in business, condemned persons, &c., &c.

The other articles comprise the different regulations respecting the mode of voting, &c., &c.

Decree of 2d March, 1852.

The decree of the 28th August, 1848, was in its turn repealed by that of the 2d March, 1852, which merely re-established the former legislation on the subject.

Each tribunal of commerce is composed of a president, of not less than two, nor more than fourteen judges, renewed by one half yearly.

* Seven votes suffice for attenuating circumstances. The vote is secret, and the white bulletins are in favor of the accused person.

There is no public prosecutor, and instead of the several counsel, there are special lawyers, called *agréés*, or the party interested, or one empowered by him can plead.

The functions of the judges are honorary.

These tribunals decide on all disputes relative to engagements and transactions between merchants, shopkeepers and bankers; or disputes between others relative to commercial transactions.

The articles 632 and 633 of the code of commerce not only give exact definitions of the contestations between mercantile clerks and their employers, but also concerning the traffic to which they are attached, concerning bankruptcy, &c.

They decide in first and last instance on all demands where the principal does not exceed 1,500 francs, and on all those where the parties agree to abide by the decision without appeal.

Appeals for cases, where the sum in dispute is more than 1,500 francs, are made to the imperial court.

Prud'hommes.

There exists in France an institution entitled the council of *Prud'hommes*, charged at the same time with a certain jurisdiction, and administrative functions, in relation solely, the one and the other, to the factories, and the arts and manufactures, and to those who occupy them, both manufacturers and workmen. Its jurisdiction is confined to the disputes which arise between the manufacturers on the one hand, and the workmen on the other, by reason of their common branch of industry, whatever may be the importance of the matter in dispute.

The prud'hommes are not authorized to settle a dispute between two manufacturers. In the exercise of their powers the council of prud'hommes is divided into two offices. One, the *private office*, is composed of two members, a workman and a manufacturer; and its mission is to conciliate the parties. The other, the *general office*, before which the parties appear only when conciliation has become impossible, pronounces a final judgment for all sums less than 100 francs.

The *general office* exercises also another jurisdiction which may be styled a disciplinary power. It takes cognizance of the infractions of certain laws and regulations in reference to the arts and manufactures, especially concerning models, drawings, and marks or brands.

The administrative functions of the prud'hommes relate particularly to patents for inventions, (law of the 3d July, 1844,) of which they ascertain the infractions, but without taking cognizance of them. They preserve the patterns of the drawings, the property of which an inventor wishes to guarantee to himself. They can be consulted by the government whenever it is thought necessary.

The councils of prud'hommes, were regulated by the law of the 18th March, 1806, the decree of the 11th June, 1809, modified by the advice of the Council of State of the 20th February, 1810, and the decree of the 3d August, 1810. From that period to the year 1848 the legislation on this subject has experienced but little variation.

The idea which inspired the creation of this institution is thus expressed in the preamble of the law of the 11th March, 1806:

"In matters relating to the arts and manufactures, the superintendence to be exercised, and the infractions to be repressed, require other agents than those of the general administration of the empire, and even the private administration of the city, other agents, even, than those of the ordinary police.

"These functions require a certain knowledge which the manufacturers alone or the foremen of the workshops can possess. They require, also, in addition to the severity of the magistrate, a species of paternal goodness which tempers the austerity of the judge at times, allows even of indulgence, at all times inspires confidence, and aids in procuring submission."

The council of prud'hommes was organized in conformity with these views. It was composed, according to the decree of 1809, of manufacturing merchants, foremen, overseers, and workmen patented. By *manufacturing* merchant must be understood one who manufactures goods to sell them afterwards himself.

The law of the 25th May, 1844, on licenses *(patents)* has greatly reduced the number of workmen, who are obliged to pay a patent, or license, in proportion to the exercise of their trade or calling. Moreover, in order to be elected a prud'homme, every candidate, whether a manufacturer, or head of an industrial establishment, or a simple workman, must possess the following qualifications: 1st. He must be a Frenchman. 2d. Be above thirty years of age. 3d. He must have exercised his trade at least six years, and still continue the same business. 4th. He must know how to read and write. 5th. He must have a license when the law requires it. 6th. No tradesman who has failed in business is eligible; and if the candidate be a workman, he must never have been accused of purloining materials provided by the manufacturer.

The decree of the 27th May, 1848, allows every master, foreman, workman, and journeyman, twenty-one years of age, and resident during six months at least within the limits of the council of prud'hommes, to become an elector. Previously they were required to be twenty-five years of age, and to have resided at least a year within the same circumscription. What is the more remarkable in this decree is, that the patrons and the workmen are convoked separately by the prefect to proceed by ballot, according to the majority, to designate in their respective categories a number of candidates triple that of the number of members required to be named.

The meeting of workmen was presided over by the justice of the peace, that of the masters by his deputy.

The workmen choose among the candidates masters, who in their turn choose amongst workmen the number of members required. The foremen and overseers were considered as masters, (they were formerly considered as workmen.)

System introduced by the law of the 1st June, 1853.

The councils of prud'hommes are established by decrees, issued in the form of public administrative regulations, in pursuance of a notice from the chambers of commerce, or the consultative chambers of arts

and manufactures: 1st. All masters twenty-five years of age, and having been licensed at least five years, and three years within the circumscription of the council. 2d. All foremen, overseers, and workmen, aged twenty-five years, who have exercised their trade during five years at least, and resided three years within the same limits, are electors.

All electors aged thirty years at least, who can read and write, and have not been condemned for any crime against probity, are eligible. The list is drawn up by the mayor, assisted by two masters and two workmen, electors, and is finally agreed upon by the prefect.

The masters, in a general assembly, name the masters; the foremen, overseers, and workmen, appoint those of their class. The emperor appoints the president and vice-presidents, who are not required to be chosen from amongst the eligible members. The secretary is proposed by the president, and appointed by the prefect.

Their duties last during three years, but the same members can be re-elected.

The decree establishing the council of prud'hommes fixes the number of members, and names the trade or industry, and the locality over which it presides.

The councils of prud'hommes decide, without appeal, all matters under two hundred francs; an appeal against their decision must be made before the council of the tribunal of commerce.

In other respects no changes have been made in the former laws.

Penal Colonies.

It may be interesting to state here that, by a decree of the 27th March, 1852, the president of the republic endowed France with a penal colony at French Guiana, (Cayenne,) to which a great number of convicts from the convict prisons (*bagnes*) and some political prisoners have already been transported.*

VI.

The Department of Public Instruction and Worship.†

The University.

The minister of Public Instruction is likewise grand master of the University. In France the word university must, in the present day, be taken in quite a different sense to that in which it was understood in 1789, and which is still attributed to it in Germany, and some other countries, as well as our own—a superior school in which are united

* See Report on penal law.

† See note *g* of Appendix.

the faculties of law, medicine, and philosophy. The following, on the contrary, is the definition bestowed on it in 1817 by the illustrious Royer Collard: "The University possesses the monopoly of instruction in the same measure as the tribunals possess that of justice, and the army that of public force. The university is simply the government as applied to the general direction of public instruction, to the colleges in the towns and cities, as well as to those of the State, to the private schools as well as to the colleges; in fact, the monopoly, from the lowest country school to the highest faculty."

No person can open a school, or teach in public, without having received from the university either a diploma or a license of capacity, or at least without having been specially authorized.

Organization.

In France, the instruction is divided into three degrees—of primary, secondary and superior instruction, and of private schools, answering to the above.

At the head of the Public Instruction is the minister, entitled also grand master of the University, and the superior council of public instruction, entitled originally the *council of the University*, by the decree of 17th March, and subsequently the *commission of public instruction*, by the ordinance of the 15th August, 1815, and *royal council of public instruction* by the ordinance of the 7th December, 1845.

The royal council was composed of thirty members, ten of which were appointed for life, *(titulary councillors,)* and twenty chosen every year, (*ordinary councillors.*) They were chosen from among the higher functionaries of the university, and formed into five committees, namely:

1st. The state and progress of the studies.
2d. The direction and police of the schools.
3d. The accounts.
4th. Disputed matters.
5th. Matters relating to the seal, or ministry.

The council, on the proposition of the grand master, (the minister,) discusses and adopts all projects of regulations and statutes required for the different schools. By virtue of the administrative power which it exercises over the establishments devoted to instruction, it decides all questions relative to their police, expenditure, and accounts, as well as their general direction. It settles their budget, and approves of the works or books which may be used for teaching in the colleges. The council furnishes its opinion and advice to the grand master, on all reforms it may be judged useful to introduce into the system of public instruction; it receives the complaints of the superior, and settles the claims of the inferior officer. There exists, also, certain disciplinary penalties which it alone has the right of inflicting, except in certain cases in which recourse is had to the council of state. The council has thus four different kinds of attributions—a regulating and an administrative power, consulting functions, and judicial authority. The minister of public instruction has also under him a number of inspectors

general, as exterior agents, who superintend the academies,* the rectors from among which represent the minister in the departments. There are also private inspectors for secondary instruction, or the colleges, and simple inspectors for primary or elementary instruction.

Law of the 15th of March, 1850, (*Loi Falloux.*)

The law of the 15th of March, 1850, introduced many new principles. According to the same, the superior council of public instruction is composed of the Minister, of four bishops, three ministers of worship, not Catholic, three councillors of State, three members of the court of cassation, and three members of the Institute, *each selected by their respective colleagues;* of eight members named by the President of the Republic, in a council of ministers, and chosen from among the higher officers of the University, and three members among the free or private instructors, (heads of boarding-schools or private institutions,) appointed also by the President of the Republic.

The eight members above alluded to form a permanent section; they are appointed for life, and receive salaries; the duties of the remainder last for a term of six years, but the members can be re-elected.

The attributions of the superior council of public instruction are the same as those of the royal council.

An academy is established in each department, (eighty-six instead of twenty-seven.) Each is under the direction of a rector, assisted by one or several inspectors, and by an academic council. This council is composed of the rector, an inspector, the prefect or his deputy, an ecclesiastic appointed by the bishop, a Protestant minister, a delegate of the Jewish consistory, if one exist, the attorney general, a member of the court of appeal, or of the tribunals, elected by the court or tribunal, and four members elected by the Council General, two chosen from amongst its own members, the latter elected for three years, and susceptible of being re-elected.

The academic council represents the State in the departments, to a certain degree, in the same manner as the superior council represents it in a higher degree throughout France. It is consulted by the minister on whatever is connected with public instruction (particularly primary and secondary instruction) throughout the department. This same law also regulates the mode of instruction, and primary as well as secondary education, both public and private, entering into numerous details on the subject, so that, in fact, it may justly be considered as the code of public instruction.

The decree of the 9th March, 1852, alters but a part of this law. It suppresses the elections, and enacts, that instead, the members of the permanent section, as well as their colleagues, formerly elected, shall be named by the chief of the State. The latter are at present only named for one year. A slight modification also occurs in the council, there being one bishop more, and one member of free instruction less.

By the decree of the 9th of March, 1852, the professors of the college of France, and some others, are no longer elected for life, a privi-

* Previous to the year 1848, they were twenty-seven in number.

lege they formerly enjoyed. When the appointment of a professor is required, the minister proposes a candidate to the chief of the State, either among the doctors, chosen from a duplicate list of names obtained from the faculty in which the vacancy occurs, or from the academic council.

This decree also promised a new plan of study, which has been since published, the grand principle of which is to connect the studies of the exact sciences (*sciences*) with the philological and classical studies, (*lettres.*)

Public Worship.

The general administration of worship, formerly attributed to the ministry of Justice, has, since the 25th of February, 1848, formed part of the ministry of Public Instruction.

It is well known that the system of worship in France was organized by the *organic articles* of the law of 18th Germinal, year X.* This organization has not been changed for the Catholic worship, which still continues to be directed by the hierarchy of archbishops, bishops, curates, and officiating clergy, (the vicars, chaplains, &c.) It has been only modified, in some respects, with regard to the Protestant worship, by the addition of a Jewish council, (or consistory,) the Jewish persuasion being already included.

Modifications in respect to Prostestant worship.

The following is an analysis of the decree of the 20th March, 1852, relative to Protestant worship:

Every parish has a Presbyterial council, composed of at least four laymen, and not more than seven, presided over by the pastor, or one of the pastors, and the members of which are elected by the members carried on the parish registers.

A certain number of parishes form a consistorial circumscription. The consistory is composed of the Presbyterial council of the chief town of the circumscription, and includes double the number of members composing the others, as well as all the pastors, and a delegate from each Presbyterial council.

These dispositions are common to the reformists, (Calvinists,) and to the Augsburg confession, (Lutherans.) There exists, however, special regulations for each. A central council of the reformed churches in Paris represents this confession before the government. The pastors are named by the consistories, from a list of candidates classed in alphabetical order. When the chair of a professor of this communion becomes vacant in the faculty of theology, the central council collects the votes of the different consistories, and transmits them, with its opinion and advice, to the minister.

The churches and consistories of the confession of Augsburg are placed under the authority of the superior consistory of the directory. The superior consistory, named by the government at the request of

* See note *h* of Appendix.

the directory, watches over the establishment and discipline of the church, and approves of the books and forms of prayer used in the worship, and religious instruction, &c.

The directory is composed of the president, one layman, one ecclesiastical inspector, named by the government, and two deputies, named by the superior consistory. The directory exercises the administrative power. It names the pastors, submitting their nomination to the government; it also exercises a superior superintendence over the religious instruction, &c.

A special paragraph of the decree of the 20th March confirms all the remaining paragraphs of the *organic articles*, which are not contrary to the new regulations.

VII.

The Department of Public Works, of Agriculture and of Commerce.*

This Department is charged with whatever relates to the roads and bridges, the internal navigation and the maritime ports, the railroads, mines, also, under the head of general direction of Agriculture and Commerce, with what relates to those two branches, as well as to arts and manufactures.

The external service of the Department of Public Works is composed,

1st. For the administration of the roads and highways: of inspectors general and inspectors of divisions, of head engineers and engineers of the second class, students, drivers, and inferior servants, guards for the canals, lock keepers, &c.; to which must be added the captains, lieutenants, and port masters for the sea ports, and inspectors of navigation on the rivers.

2d. For the administration of the mines; of inspectors general, chief engineers, and engineers of the second class, and pupils.

In consequence of the suppression of the department of Police, (decree of the 21st June, 1853,) the department of agriculture is re-established, and connected with that of public works, under the title of the general direction of agriculture and commerce.

Direction of Agriculture and of Commerce.†

Its duties extend to whatever relates to agriculture, industry, and commerce in general. Its agents are, in the first place, the ordinary members of the executive power, the prefects, sub-prefects, and mayors, with the aid of several special agents, such as agricultural inspectors, the inspector of the veterinary schools, the chambers of commerce, &c.

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* See note i of Appendix.

† See note i 2 of Appendix.

A very important aid is also rendered to these departments by the agricultural societies, and the various committees, of which there exist from 450 to 500 in the country.

Consulting Assemblies of Agriculture.

When the government requires information on any subject connected with agriculture, industry, or commerce, it can apply to several consulting assemblies, namely:

The imperial and central society of agriculture, but for technical questions only;*

The chambers of commerce;

The consultive chambers of arts and manufactures; and

The general council of commerce and industry.

Condition previous to 1848.

Previous to 1848 no chamber of agriculture existed, so that when the law of 20th May, 1851, was promulgated, it gave universal satisfaction, the desire for such a law having been often expressed.

By this law, the meetings to this effect which formerly existed, but which had not been charged with any specific duties, were regularly organized. Article 2d is in the following terms: The proprietors, farmers, petty farmers, and their children aged twenty-one years, residing or having property within the limits of the meeting, have the right to become members on conforming to the rules and regulations.† By special deliberation, taken by a majority of two-thirds of the voters, persons not fulfilling the conditions prescribed by the preceding paragraph, and to the amount of one-tenth of the total number of members, may be admitted to take part in the deliberations. The rules and regulations of each committee must be presented for the approbation of the prefect. Article 5th enacts: The committees correspond with the chamber of agriculture. They are specially appointed to superintend the interests of practical husbandry; they are the umpires in all competitions, and distribute the prizes or other rewards within the limits of their meetings.

The greater portion of these committees comprise but one or more cantons; there are, however, others which include a whole arrondissement.

According to the law of the 20th March, a chamber of agriculture should exist in each capital *(chef lieu)* of the eighty-six departments, comprising a member from each canton. They should be elected by the committees; are eligible at the age of twenty-five and upwards; and in case there exists no committee in a canton, the general council must name the member to represent the said canton in the chamber of agriculture. The members were elected for six years, one-third of them being renewed every two years, and capable of being re-elected.

* This society receives an annual grant from the State of 20,000 francs. It has, independently, considerable property of its own.

† This paragraph introduces no change, but the following one is of importance.

The chambers of agriculture held a session of eight days yearly, fixing the time themselves, and also regulating the proceedings. They could also hold extra sessions at the summons of the prefect or of their president.

Their functions were to present to the government their opinion on all questions relating to agriculture. It could be required, except in cases of urgency, on the changes necessary to be effected in the legislation concerning the agricultural interests, namely, in regard to the indirect taxes, the customs and duties, the police, and the employment of the waters. They were necessarily consulted for the establishment of fairs and markets, and, on the general distribution of the funds, whether general or belonging to the department, destined for the encouragement of agriculture, for establishing model farms, and agricultural schools, within their jurisdiction.

The decree of the 25th March, 1852, is based upon the following considerations: "Whereas, the law of 20th March, 1851, has complied in its principle with the wish of the country for an official representation in its agricultural department, still, in the application of that principle, very serious difficulties, not only with regard to the mode of election, but also the prejudice it bears towards the liberty of action of the agricultural societies and meetings:

"Considering that it is of importance to the wants of agriculture, to render more easy and less burdensome the meetings of its representatives, by bringing the consultive chambers nearer the scene of their occupations and labors, in order that they may be able to assemble whenever the matters confided to them may require it;" &c., &c.

This decree provides that in future there shall be established a chamber of agriculture in each arrondissement, and that the mayor shall name for each canton one respectable husbandman or farmer, having his residence or property in the canton, to become a member of the same. They are appointed for three years, and can in all cases be re-elected. The prefect fixes every year the period and duration of the ordinary meeting, and convokes it for an extraordinary session whenever he judges it of utility.

The mission confided to the consultive chambers of agriculture is thus defined by article 6 of the decree of March 25, 1852:

"The consultive chambers of agriculture present to the government their views on all points interesting to agriculture. Their advice can be required when any changes in the legislation are about to be effected in regard to the agricultural interests, particularly with respect to the indirect taxes, the customs and duties, the police, and employment of water-works.

"They may also be consulted on the establishment of fairs and markets, and the employment of the funds given by the State, or belonging to the department; and also for founding agricultural schools and model farms."

The general council of agriculture is of a much older date than the consultive chambers of agriculture. Previous to 1848 its organization was founded upon the royal ordinances of 29th April, 1831, and of the 29th October, 1841. The following are the principal provisions of these laws:

The council general of agriculture was composed of fifty-four proprietors, or members of the agricultural societies, chosen by the minister of agriculture.

It held an annual session, (this article, however, has never been strictly adhered to,) the period and duration of which were fixed by the minister, who could also convoke an extraordinary session in case of urgency. The duties of the members of this council were honorary; they lasted three years. And as vacancies arose among its members, they were filled up by the prefect until the end of the period.

It chose a president for the annual session. One of the clerks of the department was appointed by the minister himself to fulfil the duties of secretary to the council, and a commissioner, appointed by the king, was also attached to each council, to elucidate the questions which the minister sent before the council, and to furnish communications and explanations which may be necessary in their investigations.

The council of agriculture deliberated and issued its views and wishes with respect to the propositions or claims of its members, which were made either in their own name, or in the name of the various agricultural societies existing in the kingdom.

It also furnished its advice on all questions referred to it by the minister.

Law of 20th March, 1851.

The law of the 20th March, 1851, the same which establishes the consultive chambers of agriculture, prescribes that the council general must be composed of as many members as there are consultive chambers, (namely, 86.) But it can also elect, by vote, ten members above that number. Each chamber always elects (according to the law of 20th March, 1851,) one member of the general council of agriculture, and for three years. To be eligible, it is necessary to be a member of one of the agricultural chambers, and the members can be re-elected at the expiration of the first three years. These are the only changes in the royal ordinances above named.

Changes introduced by the decree of 25th March, 1852.

The decree of the 25th March, 1852, introduced some changes in the preceding legislation. It provides that the council general shall be composed of 100 members, eighty-six chosen from among the members of the agricultural chambers, and fourteen from among the other inhabitants. They are to be appointed by the minister, who is himself president, and also appoints the vice-presidents. The remaining articles are copied from the preceding legislative enactments.

Councils General of Arts and Manufactures, and of Commerce.

The Councils General of Arts and Manufactures, and of Commerce, created also by the ordinance of the 29th April, 1831, are organized the same as the council general of agriculture, and their duties are analogous, but applied to industry and commerce only; instead of being

named they were elected, some by the consultive chambers of arts and manufacturers, and others by the chambers of commerce. These two institutions have not experienced any great modifications for many years. They are always composed, the one of commercial men and retired merchants, and the other of manufacturers, or of men who have retired from business, elected by the principal members from among their different professions.

There are several other councils depending upon the Department of Agriculture and Commerce, in which, however, no very important modifications have been introduced.

VIII.

Department of Foreign Affairs.*

Foreign affairs.

The Minister of Foreign Affairs is charged with keeping up the relations with foreign countries; with drawing up treaties of alliance or commerce, and providing for their execution; the appointment of ambassadors, ministers, chargés d'affaires, and consuls, and other diplomatic or consular agents; giving them instructions; causing the privileges of the envoys of foreign powers to be respected; and affording protection to French subjects abroad.

In this task the minister is aided and seconded by a central administration (see appendix) and by the diplomatic agents.

The diplomatic agents are, the ambassadors and extraordinary ambassadors, envoys extrordinary and ministers plenipotentiary of the first and second class, chargés d'affaires, and, in certain localities, consuls general.

The foreign relations of France employ also first and second secretaries of embassies, secretaries of legations, *aspirants*, or attachés, *chancelliers*, or young men destined to fulfil consular functions, and dragomen.

The duties and functions of French diplomatic agents are naturally the same as those of similar agents of other countries.

The only important changes worthy of note, respecting this department, are with regard to the salaries of the various diplomatic agents. The following is a comparative scale for the different countries, in the years 1848 and 1582:

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* See note *j* of Appendix.

Courts.	Under the Republic of 1848. Francs.	Since June, 1852. Francs.
London	150,000	250,000
St. Petersburg	120,000	200,000
Madrid	80,000	120,000
Vienna	90,000	110,000
Rome	90,000	110,000
Constantinople	80,000	100,000
Berlin	70,900	100,000
Naples	60,000	80,000
Washington	60,000	80,000
Mexico	60,000	70,000
Rio de Janeiro	60,000	70,000
Turin	50,000	60,000
The Hague	50,000	60,000
Berne	50,000	55,000
Brussels	40,000	55,000
Francfort	50,000	50,000
Athens	40,000	50,000
Lisbon	40,000	50,000
Munich	40,000	50,000
Copenhagen	40,000	45,000
Dresden	40,000	45,000
Hamburg	35,000	45,000
Hanover	35,000	45,000
Stockholm	40,000	45,000
Florence	35,000	40,000
Stutgard	30,000	40,000
Carlsruhe	30,000	30,000
Cassel	25,000	30,000

Consuls.

The corps of consuls is composed of consuls-general, and consuls of the first and second class, and *eléves consuls*, or young men who are studying for the consular department. These various agents are appointed by the Chief of the State, upon the recommendation of the Minister of Foreign Affairs. (Royal ordinance of the 20th of August, 1833.) *Chancelliers* are placed with a number of the consuls; but they are not allowed to be related to the consuls by family ties. In the consulates of the Levant, the office of *chancellier* is confided in preference to the dragoman (or interpreter) of the locality.

The consuls can receive authority from the minister to appoint a delegate in those places, within their jurisdiction, where they may deem it necessary for the interests of the service. They are required, as much as possible, to choose Frenchmen of note, established in the country, and where there are none, to select the most respectable merchants or inhabitants of the place for the office. These delegates, or deputies, are entitled vice-consuls, or consular agents. Various regulations of the public administration have prescribed the mode of admission and promotion in the *personnel* of the consulates. No consul of the

first class can be named consul-general, and no consul of the second class can be promoted to the first class unless he has served at least two years in his class. No *eléve* or supernumerary can be appointed to a consulate of the second class, until he has served five years in studying the duties of a consul. (Royal ordinance of April 26, 1845.) None are admitted as *eléve consul* under twenty years of age, nor after twenty-five at the utmost, and then must have passed the degree of bachelor of laws and licentiate, and be judged worthy of admission by a special commission, under certain conditions, and a mode of examination agreed upon by a special regulation, drawn up by the Minister of Foreign Affairs.

The following are admitted to compete for two-fifths of the vacancies in consular appointments:

To general consulships: the sub-directors of the department of foreign affairs; the first secretaries of embassies, or secretaries of legation, after five years' service, three of which, at least, in their official capacity;

To first class consulships: The head clerks in the various offices, and writers to the Department of Foreign Affairs, secretaries of legations, and second secretaries of embassies, and the first dragoman and the interpreting secretary to the Ottoman Porte (after twenty years' service;)

To second class consulships: The head clerks of the central administration of Foreign Affairs, the paid *attachés* to the different embassies and legations; consular agents, and *chancelliers* appointed by the chief of the State, and some few other classes of officers under government.

IX.

The Department of War.*

War Department.

The head of this department, after the chief of the State, is commander-in-chief of the land forces. Whatever relates to military government, the raising of soldiers, the levying and organization of the troops, providing provisions, maintenance, &c., &c., are confided to his care. He is also charged with the police of the army, and the distribution of military justice, the special hospitals, and regulation schools. &c., &c.

Military Organization.

The military organization of France is sufficiently important to merit further detail.

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* See note *k* of Appendix.

Conscription.

The French army is formed by means of *conscription.* (Law of the 21st of March, 1832.) Every year all the young men of twenty years of age are inscribed in a special register, kept for the purpose, in the chief town of the canton.

On a given fixed day, during the spring, all the young men inscribed are assembled in the chief town of the canton, and before a commission, with the sub-prefect at its head; each young man, in his turn, draws a number from the urn, which is immediately inscribed opposite his name in the register, in which are also inscribed the causes of *exemption* which each may bring forward. The annual contingent to be furnished by the whole State is voted by the legislature, and distributed by the Executive power among the departments and the cantons, in proportion to the list of names entered. When the number of recruits to be furnished by the canton is decided upon, they are taken from a table on which all the young men are inscribed, in the order of the numbers they have drawn. Thus, if the number inscribed is 500, and the contingent 100, those who have from number 1 to 100 are declared soldiers, and those from number 100 to 500 are free. It is to be remarked, however, that there are certain infirmities, and positions in society, which exempt many young men from serving, so that the first 100 numbers would not suffice to furnish 100 men.

Causes of exemption.

The following is a summary of the causes of exemption from military service, and which, in consequence, requires that the individual be replaced by one of the young men who had drawn one of the next succeeding numbers.

1st. Those who have not 1 *metre* 56 *centimetres* in height;

2d. Those whose infirmities render them unfit for service—(these infirmities are examined by physicians specially appointed for the purpose;)

3d. The eldest of orphans whose father and mother are dead;

4th. An only son, or the eldest son; or if there be no son, or son-in-law, the only grandson, or the eldest grandson, of a woman actually a widow at the time of the conscription; or of a father, either blind, or who has entered his seventieth year;

5th. The elder of two brothers called upon to participate in the same drawing, and who are both designated to serve by their numbers drawn, provided the younger is acknowledged fit for service;

6th. He who has a brother already in the ranks, except as a substitute;

7th. He whose brother has died in active service, or who has been invalided or superannuated for wounds received in a service ordered, or for infirmities contracted in the army, by sea or by land. (In this case the substitute who dies exempts his brother.)

Independently of the exemptions from service there exist dispensations. But with this difference between the young men *exempted* and those absent by dispensation, that the former are replaced by others in

the formation of the contingent, taken from the same list in numerical order, whilst the latter are considered as performing a service equivalent to the military service; and, consequently, the vacancies which occur from their permission or exemption are not filled up.

Among other causes of exemption are:

1st. Those who are already attached to the military service in the army, by sea or land, by reason of voluntary enlistment, a license or commission to accomplish the service prescribed by the law;

2d. The young sailors carried on the lists for the sea service;

3d. The pupils of the polytechnic school, on condition that they pass, either in the school or in the public service, a term of years equal to that of the military service;

4th. Those who, being members of public instruction, undertake, before the council of the university, and that previous to the period fixed for the drawing, a solemn engagement to devote themselves to instruction during a term of at least ten years;

5th. The pupils of the larger seminaries authorized to continue their ecclesiastical studies; and the young men authorized to continue their studies to become ministers of the other religious worships authorized by the State, on the condition that the former, if they have not entered into holy orders on reaching the age of twenty-five years, and the latter, if they have not been consecrated the year following that in which they might have been received into holy orders, are obliged to accomplish the term of service required by the law;

6th. All young men who have gained the first prizes at the institute or university.

Enlistments.

Independently of the conscription, a small number of soldiers (that is from nine to ten thousand) are procured annually by enlisting. Formerly the engagements were for the ordinary duration of the service, (seven years;) in 1848 the provisional government authorized enlistments for two years, but since 1852 the term of seven years has been re-established. The effective period of service, however, is seldom more than six years; because generally during the last year an unlimited furlough is allowed.

Substitutes.

Every young man whose lot requires him to become a soldier can procure a substitute. He can easily find a man (in time of peace) who for a certain sum (eight hundred to one thousand francs) will consent to replace him. Brothers also have been known to become substitutes in the interest of their family.

But the military authorities do not accept the first comer as a substitute:

1st. He must be free from all service and obligation imposed, either by the recruiting laws or the maritime *inscription;*

2d. He must be from twenty to thirty years of age, at the utmost; or from twenty to thirty-five if he has already been in the ranks; or

from eighteen to thirty, if the brother of the individual for whom he offers himself as a substitute;

3d. He must not be married, or a widower with children;

4th. He must have the stature required, 1 *metre* 56 *centimetres;* and, lastly, he must not have been dismissed from service.

He who is replaced by a substitute is responsible, in case of desertion, during one year from the day he is engaged before the competent authorities; but he is liberated if the substitute dies within a year, or if, having deserted, he is retaken within the same period.

The system of conscription was violently attacked in the Constituent Assembly of 1848; but the majority gained the day, and it was duly inscribed in the constitution of that year.

Rank and promotions.

The law of the 14th of April, 1832, fixed the necessary conditions of age, length of service in the lower ranks, &c., necessary to promotion, and to obtain higher grades.

One-third of the vacancies to the rank of second lieutenant are given to the non-commissioned officers of the corps in which the vacancy occurs. Two-thirds of those of lieutenant, and of captain, are given to those who have served longest in the lower grades. Half those of the rank of majors of infantry, and *chefs de bataillon* and *d'escadron* of cavalry, are given to those who have served longest; the other half are named by the king. In the superior grades, all are so named.

In time of war these regulations are slightly modified; and the term of service necessary for promotion from one rank to another is also slightly shortened.

Deprivation of Rank.

An officer can only be deprived of his rank for one of the following causes:

1st. Dismissal, or resignation, accepted by the government;

2d. Loss of the quality of Frenchman pursuant to sentence of a tribunal;

3d. Condemnation to an afflictive or ignominious punishment;

4th. Condemnation to a correctional penalty for a crime provided for by articles 402, 403, 405, 406, and 407 of the Penal Code;

5th. Condemnation to a correctional penalty, which has placed him under the *surveillance* of the police, and deprived him of civic and civil or family rights;

6th. Dismissal pronounced by a court martial.

Pay.

The laws form a distinction between the *positions* and the *prestations.*

The *positions* are *general*, or as being on the footing of peace or war; or *individual*, the being on active service, unattached, in *non activité*, or on half pay. The position of active service is again divided into present or absent, and which is again sub-divided, as for example, on

furlough, in the hospital, detained in prison, or taken prisoner by the enemy; and each of these positions is subject to particular regulations.

The *prestations* are either in money or in kind. Those in money constitute the pay, which varies, according as the soldier is present under the flag, absent, or unattached; in fact, according to his relative position. The *prestations* in kind consist of provisions, firing, lodging, &c., which differ according to the footing of peace or war.

Internal administration.

The bodies of troops consist of the *company*, commanded by a captain; the battalion, commanded ey a *chef de bataillon*, (*commandant*,) or major; the regiment, commanded by the colonel; and the brigade and division, commanded by generals of brigade, or generals of division. The internal administration (*commissariat*) is appointed to pay over to the men included in the different corps the pay and provisions due to them, and to account for the money and munitions furnished for this purpose, to the State.

This administration is exercised (except for the companies) by a council, composed of the superior officer, and four or six officers of inferior rank. The captains and majors are appointed under the authority and superintendence of the council and major, with all the details and writings necessary for the administration and subsistence of the troops under their orders. They draw up all claims to be laid before the council, when the pay and distributions of the rations are not effected at the regulated periods. They are responsible for the funds, effects, and munitions of all kinds, for which they give receipts, and also for the due distribution of the same.

Intendants militaires, (commissaries of stores.)

This corps forms part of the *Etat major* of the army. It includes the commissaries, sub-commissaries, and deputy sub-commissaries. These officers represent the Minister of War, in whatever relates to the regularity and due employment of the finances, independently of which they exercise several special functions, which are clearly defined in the royal ordinance of the 18th of September, 1822.

Committees.

The Minister of War is assisted by several committees, namely:

The committee of infantry;
The committee of cavalry;
The committee of artillery;
The committee of engineers and fortifications, and
The staff committee, or Etat major.

The organization of the committees of infantry and cavalry is very nearly the same. (Ordonnance of 17th December, 1840.) Both are composed of seven generals of division and a military commissary. One of the superior officers of the staff fills the office of secretary.

The members of each committee are renewable, either wholly or in

part, every two years. The session of the infantry and cavalry committee lasts from the 1st January to the 1st July. During the other six months of the year, these committees can only be summoned by virtue of a special order of the Minister of War.

These committees discuss and examine whatever relates to the portion of the army which they represent, and in compliance with the returns ordered by the Minister of War, all questions relating to the constitution, organization, service, discipline, instruction, clothing, arms, regimen, and internal administration of the different corps.

Amongst their duties are also included the examination and drawing up of a summary of the reports of the inspectors general on the various parts of the service, and the drawing up, from the names proposed by the same, the table of promotion *by choice*, as well for the rank of superior officer in the infantry, cavalry, and gendarmery, as for that of captain in the latter. Their opinions must be accompanied by their motives for the same.

The committee of artillery is composed of nine generals (of division or brigade) on active service; the office of secretary being filled by a superior officer of artillery. Its duties and powers, defined by the ordinance of the 19th August, 1836, are as follows:

It gives its opinion and advice respecting—

1st. The regulations relative to the organization of the men and munitions, and *material* of the artillery, and the service of this corps, whether in peace or war.

2d. The means of arranging and regulating the rules and special services and administration of the artillery, with the rules and regulations affecting the other branches of the army.

3d. It regulates the plans, projects, contracts, treaties, &c., respecting works to be executed in the arsenals, forges, foundries, manufactories of arms, and powder mills, as well as all discoveries and inventions relating to the various kinds of arms, and for which the committee orders the necessary trials and proofs to take place.

4th. On the funds required annually for every branch of the artillery.

5th. On the system of instruction in the school of application and the regimental schools, and on the means of perfecting the various departments of this corps.

6th. On the general inspections required, both of the troops and arsenals, &c.

7th. On naming the officers of artillery, of different ranks, to various places required in the arsenals and establishments; and to command the troops, whether in time of peace or war.

8th. On the substitutes to be provided, and on the promotions to be granted in the artillery corps.

The committee of fortifications is composed of nine generals on active service. (Ordonnance of the 27th August, 1830.) It duties are the same as those of the artillery; the only difference between them relates to matters connected with the nature of their duties.

The committee of the staff is composed of three generals of division and one general of brigade, the director general of the depot of the war department, the general commanding the school of application of the staff, and the general commanding the special military school. (Ordon-

nance of the 18th June, 1841.) The duties of this committee embrace every point in connexion with the staff corps.

Board of Health for the Army.

The board of health for the army is composed of two inspecting physicians, two inspecting surgeons, and an inspecting chemist and druggist; that is to say, five members of superior rank. (*Royal Ordonnance* of the 10th August, 1836.) The service of an additional number of physicians of lower rank is sometimes required.

The board of health composes the *programmes* for the examinations and competitions which are required for the pupils and the assistant surgeons. It forms part of the jury for the competition for advancement in the medical staff. It reports to the minister its views and opinions on the ameliorations to be introduced into the medical department, and furnishes information and advice on all questions relative thereto, submitted to it by the minister.

The members of this board are also required to inspect military hospitals, &c., &c.

Algeria.

The Minister of War has also the superintendence of Algeria, which is governed by a separate legislation, that has often been modified since 1830. To give a full account of its development would exceed the limits proposed for this report.

X.

DEPARTMENT OF THE MARINE AND THE COLONIES.

The Marine.

The duties of the minister of marine include the direction of the ports, arsenals, and of provisioning the navy; the superintendence of the convict prisons; the fitting out, construction, and repairing the ships-of-war; directing the naval forces and their various operations; in fact, whatever relates to the marine and the colonies.

Inscription Maritime.

The *inscription maritime* bears the same relation to the navy as the recruiting system or conscription to the army.*

Every one who devotes himself either to navigation or fishing in the sea or in the rivers as far as the point where the tides rise, is inscribed on the registers of the navy, at first provisionally, and subsequently de

* See law of 3d Brumare, an. iv.

cisively, provided he declares his intention of devoting himself to the sea, or, in fact, if he continue to navigate. The *inscription* extends from the age of eighteen to fifty, inclusive. As long as his name remains on the registers of the State the sailor is obliged, wherever he may be, to answer the summons of the State.

The sailor whose name remains on the list, and who enters a foreign service, is liable to the penalties declared against a deserter. The duration of the service is from six to seven years.

On entering the service the sailors receive their pay and travelling expenses; a portion of the former they are allowed to remit to their families. They are exempt from the recruiting service for the army, and from serving in the national guard.

Three or four thousand men are entered annually as recruits, who are distributed amongst the crews of the ships-of-the-line, and the marines, infantry, and artillery.

After the age of fifty they are enrolled on the list of invalids, and are entitled to a pension.

In addition to the above may be added those who enlist voluntarily, and who number from one-fourth to one-third of the seamen employed in the French navy.*

Officers.

The officers are chosen from among the pupils of the naval and polytechnic schools, and the captains of trading vessels making long voyages, (*de long cours,*) who have served two years as supernumerary ensigns on board vessels belonging to the State,† and the boatswains of ships-of-the-line, (*vaisseaux,*) who have passed an examination prescribed by the ordinance of the 24th April, 1832.

Under the Naval Department are the crews of ships-of-war, the mechanics, workmen, and stokers or firemen, the infantry and marine artillery, the marine gendarmery, &c., &c., each of which has its separate organization.

Administration.

In respect to the local administration of the navy, there are five maritime arrondissements in France: Cherbourg, Brest, L'Orient, Rochfort, and Toulon, at the head of each of which is a maritime prefect. The five arrondissements are again subdivided into thirteen sub-arrondissements, and fifty-eight divisions, or *quartiers.*

Commissariat.

Besides the crews and different bodies required for the naval service, there exist also civil services. The civil or administrative service is confided to the "*commissariat.*" Its duties consist in provisioning the

* The number of seamen, &c., at this moment in the French navy is, according to a late report of the minister of marine to the emperor, 33,675.

† In France no one can command a vessel without authority, which is given only after passing an examination, which differs essentially for the *coasting trade* and the captains for long voyages, (*de long cours.*)

ports, in receiving and storing the clothing and other ready-made marine stores, in centralizing the general accounts of the munitions and *matériel* of the ports, the providing provisions, the hospitals, and convict prisons, in giving the necessary orders for the expenses of the navy, paying the officers and men, and, generally, in regulating whatever relates to the subsistence or victualling of the navy.

The officers and various agents of the commissariat are employed in the maritime arrondissements of France, in Algeria, and in the other colonies, and also in the central administration. This body comprises a number of commissaries general, commissaries, and sub-commissaries. There existed formerly a special administration for the provisions or victualling office, which has been suppressed.

Naval Schools.

The naval schools ought not to be forgotten in enumerating the institutions dependent upon the Department of the Marine.

Established in the roadstead of Brest, on board a vessel-of-the-line, the naval school offers to pupils a theoretical and practical course of instruction, which has been thought the most suitable to form them for the service of the fleet. The *personnel*, or persons attached to the school, comprise a captain of a ship-of-the-line as commander, the captain of a frigate as second, eight lieutenants, a government clerk, a surgeon-major, an almoner, ten professors, four examiners, and a crew of one hundred and sixty men. Every year a programme of qualifications for admission to the naval school is published. The pupils must not be more than sixteen years of age, the price of admission is seven hundred francs per annum, and the outfit six hundred francs, once paid. (See regulations of the 25th of April, 1839, and 11th of January, 1844.)

There is also in almost every port a school where the art of laying down maps and charts is taught gratuitously. (Ordinance of the 7th August, 1827.)

Schools of Cabin-Boys, (Mousses.)

Schools of cabin-boys are established on board vessels in the roadstead of Cherbourg, Brest, and Toulon, to instruct the lads and to enable them to enter the companies of cabin-boys, in the divisions of the crews of the line attached to these three maritime arrondissements.

These young lads, chosen in preference from the population of the coast, must be from thirteen to sixteen years of age. They must produce a certificate of birth and of good behaviour, and the engagement contracted by their parents to reimburse their expenses to the State, if taken from the service before the age of sixteen years.

Schools of Marine Artillery.

There exist, also, several schools of marine artillery at Brest, Toulon, and L'Orient, in addition to which there are two floating schools of artillery at Brest and Toulon, for exercising the firing at a mark at sea.

The school of application of naval engineering is established at L'Orient.

The *Ecoles de Maistrance* at Brest, Rochfort, and Toulon are consecrated to maritime engineering, under the direction of officers of that department, to form sub-officers for the different professions relating to naval architecture.

Colonies.

The colonies are regulated by special laws, which differ even sometimes between one colony and another. The following is an outline of the manner in which the colonial government is organized:

At the head of each colony is a governor, who is supported by a privy and a colonial council.* The privy council is composed of several superior officers. (See the royal ordinance of 9th of February, 1827, and 31st of August, 1828.)

The colonial council is elected by the inhabitants of the colony.

Previous to 1848, it was necessary to pay two hundred francs taxes at Bourbon, and three hundred francs at Martinique, in order to become an elector; at present the *cense* is abolished.

Colonial Governor.

The powers of the governor are very extensive. He represents the chief of the State in the colonies. The military authorities are at his disposal; in cases of urgency, unless they have special instructions, the commanders of the naval forces obey the requisitions of the governor; he can declare the colony in a state of siege, and assume all the civil authority under his own personal responsibility; he convokes and presides over the *council of defence;* he forms and convokes the courts martial, the jurisdiction of which extends only to the army, and matters connected with the militia.

The governor has the superior direction of the naval and war departments, and the finances of the whole interior service of the colony; he exercises supreme superintendance over the navigation, and the police thereof, lays on embargoes, delivers acts of registration as French ships to vessels built abroad, and also, letters of marque to corsairs in time of war, &c. Every year he decrees the project of the budget of receipts and expenditure, for the service of the island, to be laid before the colonial council; he orders the levying of the rent rolls of the direct taxes; he directs the regular receipt of the taxes, and the application of the laws with regard to foreign commerce and the customs; he proposes to the Minister of the Marine, to the Council General, and to the municipal council, in the order of their respective functions, the acquisition, exchange, or alienation of the property of the colony; and he alone can grant concessions of lands, or revoke them; he superintends and protects what relates to public instruction, issues measures relative to the sanitary police of the colony, watches over the press, and takes

*This refers to Martinique, Guadaloupe, Guyana, and L'Ile de la Reunion, (Isle of Bourbon;) Senegal, Pondicherry, and St. Pierre Miquelon have no *colonial* council.

every other measure connected with the superior police which he may judge necessary.

On the other hand, the powers of the governors are limited by ordinances and regulations, (*reglements.*) and in many cases it is his duty to take the advice of the privy council.

Privy Council.

This council is composed of the governor, the military commandant, the *ordonnateur*,* (commissary,) the director of the interior of the colony, the attorney general, three colonial councillors, and the inspector of the colony.

When the council is called upon to give judgment in any matter which ought to be decided administratively, (when the question relates to a matter in discussion with the administration,) it calls in the assistance of two magistrates, who have a deliberative voice. The officers charged with the direction of the artillery and the engineers, the chief engineer of bridges and roads, the captain of the port of the chief town, the government victualling officer, the directors of the administration of the finances, &c., are by right called upon to assist in the council, when questions which relate to their different departments are to be discussed, and for which they have a consultive voice.

The council verifies and closes the accounts of the receivers, storekeepers, and all the accountable agents of the colony, except those of the treasury. It decides all contracts and sales for the provision and objects of utility to the colony, it ordains promotion and increase of pay to the seamen, and gives its decision on all questions within the province of the prefecture councils in France.

Colonial Councils.

The colonial councils resemble the general councils of the metropolis. They vote the budget of the colonies presented by the governor, except the salary of the governor himself, as well as the expenses of the *personnel* of justice and of the customs, which are fixed by the home government.

The colonial councils also decide and distribute the direct taxes, and in the same forms they are consulted on all the outlay attached to the military service at the charge of the State; they have also the right of communicating their wishes on all matters interesting to the colony.

The decrees adopted by the colonial councils, and approved by the governor, must be submitted to the sanction of the Chief of the State; but they can, in cases of urgency, be put in execution provisionally.

In the colonies of Senegal, India, (Pondicherry,) and of St. Pierre Miquelon, a government council replaces the privy council with similar powers; and a general council, elected by the inhabitants themselves, supplies the place, to a certain degree, of the colonial council.

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* The *ordonnateur* in the colonies performs nearly the same duties as the commissary of stores in the army.

Council of the Admiralty.

Among the councils by which the minister of the marine is surrounded, may be mentioned, in the first place, the council of the Admiralty, which was created by the royal ordinance of 4th August, 1824.

According to this ordinance, which was still in force on the breaking out of the revolution of 1848, its duties consist in giving advice on all measures relating:

1st. To the colonial and maritime legislation, and to the government of the colonies.

2d. To the organization of the forces of the navy, and mode of victualling.

3d. To the naval works and constructions, and to the direction and employment of the navy, in time of peace and war.

In 1847, this council consisted of a vice admiral as vice president, and another vice admiral as deputy; of a Councillor of State, formerly director of the ports and inspector general of the naval engineers; of a Councillor of State, director of naval constructions, or architecture; of two rear admirals; of a naval commissary general, formerly governor of the colonies; and a naval captain, on the retired list, as secretary.

The minister of the marine is president. In case of being prevented, he is represented by a member appointed by himself. The Minister has the faculty, when he thinks it necessary, to summon the directors of his Department to the council, to assist in the discussion of questions connected with their respective offices. The directors thus summoned have a deliberative voice; but the Minister cannot call in more than two together, to take part in the deliberations.

The composition of the Council of the Admiralty was modified by the decree of the 3d May, 1848. It was composed of naval officers of all ranks, down to that of lieutenant; and the duty of drawing up a list of promotions for naval officers was added to its functions.

Naval Invalids.

The superior commission of the establishment for naval invalids merits particular attention, on account of the interesting institution over which it presides.

This establishment comprises three distinct funds or pay offices:

The prize fund;

The seamen's fund; and

The invalids' fund.

Pay office for prizes.

1st. The fund, or pay office for prizes, receives in all cases the produce of captures made by the vessels of the State, and, in certain fixed cases, those made by corsairs. When the amount of a prize has been liquidated, the amount due to private vessels is paid over to the owners; that which belongs to the officers and crews of the vessels of the State and privateers is paid into the seamens' fund; and the share falling to the invalids is paid into the invalid fund, in conformity with the regulations on this head.

Seamens' fund.

2d. The seamens' fund, in addition to the share of prizes, receives the pay of the seamen absent, all maritime successions, and, in general, all sums, &c., which, being the property of sailors or their families, could not be collected by the interested parties themselves.

In this manner are deposited the amount in money, &c., from the remains of shipwrecks and accidents at sea.

During the first two years following the deposit, all claims, duly substantiated, are satisfied, by the money or object claimed being delivered without any expense, at the residence of the claimant; after that period, the sums of money or other objects are handed over to the invalid fund.

Invalid fund.

3d. The invalid fund forms the complement of, and is superior to, the other funds. It receives, after a deposit of two years, the sums previously paid into the seamens' fund; but only as a deposit, and without any prejudice to the rights of the parties to whom they belong. Those sums, however, which remain in the fund, become its property, after a certain fixed lapse of time.

Other revenues.

The other revenues of this branch of the service are: A deduction of three per cent. from the expenses of the navy and the colonies; various sums levied on the fitting out of ships of commerce; the amount of prizes which, though not considerable for those taken by privateers, are far more so for those taken by the vessels of the State; together with the interest of money in the public funds, accruing from the savings of the administration during the wars at the commencement of the century, and from other sources.

Administration.

For the purpose of receiving the funds and paying the expenses of the administration in France, the government employs a treasurer general and forty particular treasurers, without reckoning those of the colonies, and, when required, the consuls.

This administration is also employed to pay over to the merchant seamen, as well as seamen belonging to the State, all pensions and assistance granted by the government.

It is calculated that this seamens' invalid fund supports and relieves annually upwards of 20,000 families.

Change in the system of promotion in the Marine.

An important modification has been made in this Department by the laws voted in the *Corps Legislatif* the 19th of April last, concerning promotion in the marine. The superior officers of the marine are assimilated, in regard to continuing in actual service, to those of the

army; the vice and rear admirals corresponding in rank to generals of division and of brigade in the army, ceasing to appertain, the first after the age of sixty-five, the last after the age of sixty-two, instead of at sixty-eight and sixty-five, according to the former laws, to the section of actual service, and pass into that of reserve. As a compensation for this change, certain facilities are offered for promotion to the higher grades.

XI.

Department of State.*

The decree of the 22d January, 1852, appointing this Department, conferred upon it the following functions:

The superintendance of the relations of the government with the *Corps Legislatif* and the senate;

The correspondents of the president (of the emperor) with the different departments of the government;

The signing of the decrees appointing the ministers, presidents of the senate and of the legislative body, the senators, state councillors, &c.;

The drawing up and preservation of the documents of the proceedings of the council of ministers;

The exclusive direction of the official columns of the *Moniteur;*

The direction of the national palaces and manufactories of the State, Sevres, the Gobelins, &c., &c.;

Since the re-establishment of the Empire, this department has also been appointed to the direction of the Emperor's household.†

CONCLUSION.

To sum up all in a few words, the changes and modifications effected in the legislature and in the administration have been as varied in their sphere as the political changes brought about by the revolutions. The general character of these modifications, however, is, that the revolution of 1848 introduced the principle of election wherever there was a possibility of so doing, whilst 1852 restored to the government the right of direct nomination. Universal suffrage, wherever it has been established in general elections, has been preserved.

The National Guard.

Previous to 1848, the national guards, for instance, elected their subaltern officers, who in their turn, elected their superior officers; whilst the king named the colonels. Under the Republic, the national guards elected the officers of every rank; whilst under the Empire, the commissioned officers are appointed by the government.

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* See note *l* of Appendix.

† See note *l* 2, of Appendix.

Mayors.

The mayors are at present appointed by the Executive Power, without any limitation as to its choice. Formerly they were, in a certain measure, appointed by election, in the same manner as the municipal council in the present day.

Decentralization.

It is more particularly the power of the prefects, which has been modified and increased by the decree of *decentralization.* A number of questions which formerly could be only decided by the central administration at Paris are now settled by the prefect, which naturally shortens the time necessary for their settlement.

Ministries.

A change, equally important, had been caused by the suppression of the Department of Agriculture and of Commerce, which were annexed, under the head of a general direction, to the Department of the Interior, and by the establishment of the Department of the Police. This Department, however, has in its turn been recently suppressed, and the Department of Agriculture and of Commerce re-established and annexed to the Department of Public Works.

The duties and functions of the Department of Police have been conferred upon the Minister of the Interior. He gives the warnings, when necessary, to the press, which were formerly given by the Minister of Police; he also sees to the execution of the laws relative to the residence in Paris, superintends the book and printing departments, &c.

A new Department, created in 1852, has been preserved: the Ministry of State and of the Household of the Emperor, among whose attributions are included the Council of State, the Senate, the Legislative Body, the Household (Court) of the Emperor, &c.

Council of State.

It is the Council of State which has experienced the greatest variety of phases and modifications since 1847. At that period it was simply a consultive council, named by the king, and possessed scarcely any other fixed duties than the discussion of matters in dispute between the government and the administration, (*contentieux.*) The constitution of 1848 caused the Councillors of State to be elected by the legislative body, and their election was for six years; it also conferred upon this council several very important functions, and even imposed upon the government the obligation of submitting to it all laws which originated from the administration, before presenting them to the chambers. The constitution of 1852 restored the nomination of the councillors to the chief of the State, by whom they are named for life, and cannot be dismissed from office. The new Council of State deliberates upon ALL bills presented to the legislative body, and which are supported by its members before that assembly. The Council of State has also retained its former powers.

Crédit Foncier.

In conjunction with the various modifications which have been effected in the administration, I ought not to pass over the creations, innovations, and changes effected in the order of political economy.

For many years France has solicited the establishment of *Caisses de Crédit Foncier*, or banks lending on mortgage, without the liberty of receiving back their capital otherwise than by a sinking fund, by means of an annuity.

These banks were established by a decree of 28th February, of the year 1852. The debtor of the *Crédit Foncier* pays five per cent. annually, in which is included the interest, cost of the administration, and sinking fund of the capital, which in fifty years will thus be extinguished.

The capital is 60,000,000, divided into shares of 500 francs each. Bonds are issued for the amount of every loan; they are of 1,000 francs each, with *coupons* of 100 francs; they draw interest; and besides, there is a lottery, in which the bondholders participate, in which the highest prize is 100,000 francs. A certain number of bonds are, by lot, paid off yearly at 1,200 francs.

The *Crédit Foncier* was established for each department, but by a later decree the society of Paris was extended over the whole of France, with the exception of Nevers and Marseilles. This decree has changed the nature of this institution very materially. It comes now in aid to large building enterprises in the principal towns, but loses its character as a rural institution.

Discount Banks.

Institutions similar to the *Crédit Foncier*, *Comptoirs d'Escompte*, were created in 1848, for the purpose of advancing funds upon merchandise, and which were to have been discontinued; they have, however, on account of their utility, been authorized to continue their operations, by a law voted by the legislature during this year—with the only difference, that instead of being supported by the government, they are established and carried on with the funds provided by different companies or by shares.

"*Secours Mutuels*," (*Friendly Societies.*)

The friendly or mutual aid societies have been placed under the special protection of the government, which has granted them several very important privileges. For instance, those societies authorized by the government are declared to be *institutions of public utility*, which declaration alone, given by the superior authorities, gives them the right of possessing landed property, of accepting gifts and legacies, &c.

The diploma of a member of the society replaces the passport, or *livret*, when travelling.

Savings Banks.

In general, the establishments created in favor of the working classes have experienced the influence of passing events. In 1848 these banks were obliged to give *rentes* or stock to the depositors, instead of returning their deposites in money. Since that period the rate of interest paid by the banks has been reduced, (it is at present four per cent.,) and no individual can hold in one more than a thousand francs, ($200.)

Crédit Mobilier.

The society of *Crédit Mobilier* also deserves notice as another creation of the past year. It has a capital of 60,000,000 of francs, with the right to issue bonds to the amount of six hundred millions, hypothecated on its *investments* or its loans in stocks, &c. In a word, it is an association of capital, a huge bank patronized by the government for making vast speculations, loans to States or individuals, for undertaking great industrial enterprises, and for taking the direction of financial companies.*

Prud'hommes.

The councils of *Prud'hommes*, or *industrial magistrates*, for judging, or more properly speaking, for conciliating and settling by mutual concessions all difficulties and matters in dispute between masters and men, or manufacturers and workmen, were, in the first instance, elected only by the manufacturers and licensed workmen, or those having a patent. Thus, previous to the year 1848, the manufacturers had a decided majority in the council. In 1848 workmen of all classes were admitted to vote, and the organization was effected in a manner to insure them a majority in their turn. The new law appears to have established a certain equality between the men and their masters.

With regard to the administration of the interests of morals, the legislation relative to public worship and instruction, the juries, the press, and the suppression of crime, have been severally modified.

Worship and Public Instruction.

The modifications introduced into the administration of public worship, (Protestants only,) are unimportant. It has not, however, been the same with regard to public instruction, which is no longer, as in 1848, exclusively in the hands of the university, or, in other words, of the State. A system of free education has been established, but which,

* Much could be said here of various administrative and other measures of the government to stimulate enterprise throughout the country; of the extension of time of the concession of railroad companies; of its withstanding itself from active participation as a proprietor of railroads; of the vast amount of public works encouraged and forwarded; of the increased facilities for obtaining money at the public institutions of credit; of the permissions to the communes and departments to increase and extend their term of payment of their liabilities; of important changes in the tariffs, showing a tendency to a more liberal system of duties on imports; but I should be carried too far, and have already exceeded the limits I had proposed, and fear to venture upon the subject.

however, appears in a great measure to be under the direction of the Catholic clergy.

Jury.

Previous to 1848 no one could sit as a juryman unless he paid 200 francs taxes, and a few other classes of citizens, such as those exercising the learned professions, (physicians, lawyers, notaries, &c.,) and which were entitled *classes de capacités.* After 1848, and even since the establishment of the empire, the condition of the census has been abolished. Every Frenchman thirty years of age, who can read and write, is not a menial servant, and of moral conduct, (that is, who has not been condemned to a correctional punishment,) is eligible as a juryman.

The only difference between the imperial and the republican regime, with respect to the jury, has been established by a recent law. Under the Republic the jurymen, from amongst whom those destined to serve during the year were chosen by lot, were chosen by an elective commission; under the Empire they are chosen by a commission named by the government.

The mode of declaration by the jury has likewise been modified. The provisional government decreed that "henceforward nine instead of seven votes should be required to condemn a prisoner or accused person." During the same year the Constituent Assembly reduced the number to eight; but the legislation of 1853 has, on the proposition of the government, restored the original number of seven votes.

Penal Colonies.

The penal legislation has been completed by the formation of the penal colonies at Guiana. But this question, although decided upon in fact, is not yet settled as a matter of legislation.

The Press.

To sum up all, the newly-established political regime has received its completion by an entirely new organization of the press. The censorship has not been re-established; but no new journal can be established without a previous authorization. The caution-money and stamp are retained. After two condemnations, not by a jury, (which no longer decides upon offences of the press,) but by the correctional tribunals, a journal is suppressed by right; and after two warnings given by the government, the latter has the right, *if it thinks proper*, to suppress a journal.

One important change remains to be mentioned, in conclusion: that concerning the pensions of civil functionaries regulated by a law voted the 16th of May last by the *corps legislatif.*

Before this law there existed a great number of pension funds; there was one in every administration, besides a great many others, and certain categories of public functionaries had no right to a pension. The pension, equal to one-half of the salary for those having right to the same, was calculated on the average salary for the previous three

years, and could only commence after arriving at the age of fifty years. Infirmities caused by the service gave a right to a pension, without distinction of age.

By the new law, which is to date from January 1, 1854, the State absorbs all the existing pension funds, and declares itself debtor for their pensions to all those having right to the same. The pensions date from the age of sixty years, or thirty years of service, and are calculated, as a general rule, at one-sixtieth of the salary for each year of service, and on the average of the previous six years' salary. The new law favors the functionaries receiving less than 1,500 francs, as no pension is given of less amount than 750 francs. Those receiving high salaries are less favored, a pension of 5,000 francs, for example, only being given to the functionaries whose salary is 12,000 francs. The regulations in favor of the infirm are prescribed, and the widow and orphans of the retired functionary have a right to a pension equal to one-third of his pension. The widow of the officer who has lost his life in the exercise of his duties receives two-thirds of the pension to which he was entitled.

APPENDIX.

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APPENDIX.

CHAPTER I.

(a.)

Law on the municipal administration.—Union, Division, and Formation of Communes.

Article 1. No union, division, or formation of communes can take place except in conformity to the following rules.

2. Whenever it is proposed to unite several communes into one, or to detach a section of a commune, whether to annex it to another, or to form it into a distinct commune, the prefect must first institute an inquiry in the communes interested, to consider both the project itself and its conditions.

The municipal councils, assisted by the principal (largest) tax payers of the commune, in number equal to that of their own members, together with the councils of *arrondissement*, and the council general, will give their opinion on the subject.

3. If the project concerns a communal section, a syndical committee must be instituted for the section. The number of members composing the committee being determined by a decree of the prefect. This committee must be elected by the municipal electors domiciliated in the section. If the number of electors be not double that of the members to be elected, the committee will be constituted of the principal tax payers of the section. The committee will elect its own president, and will be charged with giving its advice on the above named project.

4. The union of communes, or any detachment from a commune, when these changes modify the composition of a department, an arrondissement or a canton can only be pronounced by law. All other communal unions or divisions, in case of the consent of the municipal councils, deliberating with the principal tax payers, conformably with the second article, or, in default of this consent (for the communes of less than three hundred inhabitants) with the affirmative opinion of the consul general of the department, may be pronounced by an ordinance from the king. In all other cases it must be pronounced by law.

5. The inhabitants of a commune which has been annexed to another commune preserve the exclusive right to all property of which the product is *perçus en nature*.

Edifices, and other real estate used in the public service, will become the property of the commune to which the annexation is made.

6. The section of a commune formed into a separate commune, or annexed to another commune, will take with it all the goods and chattels which were its exclusive property.

Edifices, and other real estate used in the public service, and situated within the communal territory, becomes the property of the new commune, or of the commune to which the annexation has been made.

7. The other conditions of union, and division of communes, will be determined by the particular act by which the union or division is decreed. When the union or division is pronounced by a law, these conditions, except in all cases involving questions of property, may be fixed by an ulterior royal ordinance.

8. In all cases of the union or division of communes, the existing municipal councils shall be dissolved, and the election of new councils be proceeded with immediately.

CHAPTER II.

Functions of Mayors and Municipal Councillors.

I.—*Functions of Mayors.*

9. The mayor is charged, under the authority of the superior administration:

1. With the publication and execution of laws and regulations;
2. With the special functions attributed to him by the laws;
3. With the execution of measures of general surety.

10. The mayor is charged, under the supervision of the superior administration:

1. With the municipal police, the rural police, the police of the municipal *voirie*, and with seeing to the execution of all acts relative thereto, emanating from the superior authority;
2. With the care and administration of the property of the commune; and, consequently, with whatever is necessary for its preservation and protection;
3. With the management of the local revenues, the supervision of communal establishments, and with the communal accounts;
4. With the proposition of the budget, and *ordonnancement* of the expenses;
5. With the direction of the communal works;
6. With signing contracts, giving and adjudication of communal works, according to the forms established by the laws and regulations;
7. With signing, according to the established forms, of all documents relating to sales, exchanges, divisions, acceptation of gifts and legacies, acquisitions, compromises, &c., when these acts have been authorized conformably to the present law;
8. With representing the commune before the courts, whether as accuser or defendant.

11. The mayor issues decrees:

1. Ordaining local measures relative to questions confided by law to his vigilance and authority;
2. Republishing police laws and regulations, and enjoining upon citizens to observe them.

The decrees issued by the mayor are addressed immediately to the sub-prefect. The prefect can annul them, or suspend their execution.

Decrees establishing permanent regulations cannot be put in force till a month after a copy has been sent to, and its acceptance acknowledged by the sub-prefect.

12. The mayor appoints to all communal places not otherwise provided for by the law, and suspends or revokes the *titulaires* of each place.

13. The mayor appoints the rural police, (*gardes champêtres,*) subject to the approval of the municipal council. The members of this police must be accepted and commissioned by the sub-prefect; they may be suspended by the mayor, but can be dismissed only by the prefect.

The mayor also appoints the communal herdsmen, with the approbation of the municipal council; and can decide on their dismissal.

14. The mayor is charged, exclusively, with matters of administration; but he can delegate a part of his functions to one or several of his *adjoints*, and in the absence of *adjoints*, to those members of the municipal council who are called to perform such functions.

15. In case the mayor should refuse or neglect to perform any of the acts prescribed by law, the prefect, after having called upon him to perform them, may proceed to their performance himself, either personally, or by a delegate.

16. When the mayor proceeds with an adjudication, on the account of the commune, he is assisted by two members of the municipal council, designated in advance by the council; or, in default of such designation, appointed in the order of the table.

The municipal receiver is present at all adjudications.

All the difficulties which may arise concerning the preparatory operations of adjudication are decided, in session, by the mayor and two assistant councillors, and by a majority vote, always excepting the right of appeal to the law.

II.

Functions of Municipal Councils.

17. The municipal councils regulate, by their deliberations, the following subjects:

1. The mode of administration of the communal property;

2. The conditions of *bails à ferme* or *à loyer*, of which the duration does not exceed eighteen years for rural property, and nine years for other property;

3. The mode of *jouissance*, and the repartition of communal products and pasturage, with the exception of wood; also the conditions to be fulfilled by the purchasing parties;

4. The rights of wood-cutting in the forest, conformably to the laws.

18. The record of all deliberations on any of the subjects mentioned in the preceeding article is immediately addressed by the mayor to the sub-prefect, who gives, or orders to be given, a receipt.

The deliberation is executory, if within thirty days following the date of the receipt the prefect has not annulled it, whether by virtue of his office, on account of the violation of a legal enactment, or of a rule of the public administration, or whether on account of the reclamations of an interested party.

The prefect may also suspend the execution of the deliberation for another period of thirty days.

19. The municipal council deliberates on the following subjects:

1. The budget of the commune, and, in general, all receipts, and expenses, ordinary or extraordinary.

2. The tariffs and regulations for the collection of all communal revenues.

3. Acquisitions, alienations, and exchanges of communal properties; their appropriation to different public services; and, in general, whatever concerns their preservation and amelioration.

4. The *délimitation*, or the division of undivided lands between two or several communes, or sections of communes.

5. The conditions of *bails à ferme* or *à loyer*, of which the duration exceeds eighteen years for rural property, and nine years for other property; as also the bail of property hired by the commune, for whatever period.

6. Projects of constructions, of extensive repairs and demolitions; and, in general, all works to be undertaken.

7. Opening of public streets and squares, and projects for the *alignement* of municipal roads.

8. *Le parcours* and *la vaine pâture.*

9. Acceptance of gifts and legacies made to the commune, and to communal establishments.

10. Judiciary cases and compromises, and all other objects upon which the municipal councils are called upon by the laws and regulations to deliberate.

20. A record of the deliberations of the municipal councils, on the subjects mentioned in the preceding article, is addressed to the subprefect.

These deliberations are executory, on the approbation of the prefect; excepting in the cases where the approbation of the competent minister, or of a royal ordinance, is prescribed by the regulations of the public administration.

21. The municipal council is always called to give its opinion on the following subjects:

1. The *circumscriptions* relative to worship.

2. The circumscriptions relative to the distribution of public assistance.

3. Projects of *alignement* of the principal roads in the interior of cities, *bourgs*, and villages.

4. Acceptance of donations and legacies, made to charitable and benevolent establishments.

5. Authorizations to borrow, to acquire, to exchange, to plead, and to compromise, applied for by the same establishments, and by churches and other administrations of worship, of which the members are salaried by the State.

6. Budgets and accounts of charitable and benevolent establishments.

7. Budgets and accounts of churches and other religious administrations, whose ministers are paid by the State, when they receive assistance from the communal funds.

8. Finally, all subjects upon which the municipal councils are called upon by the laws and regulations to give their opinion.

22. The municipal council reclaims, if there is occasion, against the contingent assigned to the commune in the establishment of the *impots de repartition.*

23. The municipal council deliberates on the annual accounts presented by the mayor.

It hears, discusses, and decides on the cash accounts of the receivers, except for the final regulation, conformably to article 66 of the present law.

24. The municipal council can express its desires on all subjects of local interest; it can neither make nor publish any protest, proclamation, or address.

25. In the sessions where the accounts of the administration of the mayor are considered, the municipal council designs, by ballot, those of its members who shall exercise the presidency.

The mayor may assist at the deliberation; but he should retire when the council is about to vote. The president will address the record of the deliberation directly to the sub-prefect.

26. When, after two successive convocations made by the mayor, at intervals of eight days, and duly *constatées*, the members of the municipal council do not assemble in sufficient numbers, the deliberation of the members after the third convocation is valid, whatever may be the number present.

27. The deliberations of the municipal councils are decided by a majority of votes; the president has a casting vote.

28. The deliberations must be recorded, in the order of their date, in a register marked and numbered with the initials of the sub-prefect; they must also be signed by all the members present at the sitting; or mention must be made of the causes which prevented them from signing.

29. The sittings of the municipal councils are not public; their discussions can be officially published only, with the approbation of the superior authority.

When the members require it, the ballot is secret.

III.

Expenses and Receipts, and Budgets of the Communes.

30. The expenses of the communes are obligatory and voluntary.

The following are obligatory:

1. The maintenance, if there is occasion, of the hotel de ville, or the *local* appropriated to the mayoralty.

2. Bureau expenses, and printing for the service of the commune.

3. Subscription to the *Bulletin des lois.*

4. The expenses of the census.

5. The expenses of the registers of the *état civil*, and the portion of the decennial tables made at the expense of the communes.

6. The salary of the municipal receiver, of the collector-in-chief of the *octroi*, and the expenses of collection.

7. The salary of the *gardes des bois* of the commune, and of the *gardes champêtres*.

8. The salary and bureau expenses of commissaries of police, such as they are determined by the laws.

9. The pensions of municipal *employés*, and of commissaries of police, regularly liquidated and approved.

10. Rent and reparation of the *local* of the justice of the peace; also the purchase and maintenance of its furniture in the chief communes of the canton.

11. Expenses of the national guard, such as they are determined by the laws.

12. Expenses relative to public instruction, conformably to the laws.

13. Indemnity for lodging to curates and *desservants*, and other ministers of worship salaried by the State, where there is no particular building appropriated to their use.

14. Assistance to the *fabrique* of churches and other administrations of worship, whose ministers are salaried by the State, in case of the insufficiency of their revenues, justified by their accounts and budgets.

15. The contingent assigned to the commune, conformably to the laws, in the expenses incidental to foundlings and abandoned children.

16. The principal repairs of the communal edifices, excepting the execution of special laws concerning military buildings, and edifices consecrated to worship.

17. Enclosing cemeteries, maintaining them, and removing them in cases determined by the laws and regulations of the public administration.

18. Expenses of plans of *alignement*.

19. Charges and expenses of the councils of prud'hommes for the communes where they sit; the petty expenses of consultative chambers of arts and manufactures for the communes where they exist.

20. Taxes established by law on the communal property and revenues.

21. The payment of outstanding debts; and generally all other expenses incurred at the charge of the communes, according to law.

All other expenses, except those above named, are voluntary.

31. The receipts of the communes are ordinary and extraordinary.

The ordinary receipts are as follows:

1. Revenues of all property of which the inhabitants have not the *jouissance en nature*.

2. Annual taxes on *les ayants droit aux fruits qui se perçoivant en nature*.

3. Product of the *centimes ordinaires* appropriated to the communes by the financial law.

4. Product of the proportion of the license tax accorded to communes.

5. Product of the municipal *octrois*.

6. Product of the charges for stalls, &c., in the markets, fairs, *abattoirs*, &c., according to the duly authorized tariffs.

7. Product of the charges for stations and locations in the public streets, on rivers, and in other public places.

8. Product of toll-houses, weighing, measuring, and guaging charges, road charges, &c., &c., duly authorized by law.

9. Price of leases and grants in the cemeteries.

10. Product of the water tax, water privileges, filth, &c., removed from the streets, and other grants authorized for the communal service.

11. Product of fees for copying administrative acts, and acts of the *état civil.*

12. The proportion accorded by law of the fines imposed by the tribunals of simple police, the correctional police, and by the councils of discipline of the national guard, and generally the product of all taxes of the town and of the police, the collection of which is authorized by the law.

32. The extraordinary receipts are as follows:

1. Extraordinary taxes duly authorized by law;
2. Product of alienated property;
3. Donations and legacies;
4. *Remboursement de capitaux exigibles*, and of *rentes rachetées;*
5. Product of extra cuts of woods in the forests;
6. Product of loans and all other accidental receipts.

33. The budget of each commune, prepared by the mayor and voted by the municipal council, is definitely regulated by a decree of the prefect.

At the same time the budget of towns or cities of which the revenue is 100,000 francs and upwards is regulated by an ordinance of the king.

The revenue of a commune is estimated to be 100,000 francs when the ordinary receipts established by the accounts amount to this sum during the last three years.

It is estimated to be less than 100,000 francs only when during the last three years the receipts, as shown by the accounts, are less than that sum.

34. The loans which may be considered as necessary, according to the regulation of the budget, are deliberated conformably to the preceding articles, and authorized by the prefect in the communes where he is called to regulate the budget, and in the other communes by the competent minister.

At the same time, in these last named communes, supplementary loans for urgent expenses may be approved by the prefect.

35. In the case when for any cause the budget of the commune shall not have been approved before the commencement of the fiscal year, the ordinary receipts and expenses will go on, as during the previous year, till the budget has been duly approved.

36. The expenses proposed in the budget of a commune may be rejected or reduced by an ordinance of the king, or by a decree of the prefect who regulates the budget.

37. The municipal councils can add a new *crédit* to the budget for unforeseen expenses.

The sum inscribed for this *crédit* can only be reduced or rejected in proportion as the ordinary revenues, after having satisfied all obligatory

demands, are found insufficient, or in proportion as they exceed the tenth part of the ordinary receipts.

The *crédit* for unforeseen expenses shall be employed by the mayor, with the approbation of the prefect and of the sub-prefect.

In the communes, other than the chief commune of the department or of the arrondissement, the mayor may employ the amount of this *crédit* for urgent expenses without previous approbation, on condition of immediately informing the sub-prefect, and rendering an account of the same to the municipal council at its first session after the money has been so employed.

38. The proposed expenses of the budget cannot be augmented; and no new expenses can be introduced by decree of the prefect or by ordinance of the king only in the case of their being obligatory.

39. If a municipal council refuses to allow the funds for any obligatory expense, or allows only an insufficient sum, the necessary amount may be inscribed on the budget by an ordinance of the king, where the revenue of the commune is 100,000 francs or over, and in other cases by a decree of the prefect in council of prefecture.

In all cases the municipal council shall first be called on to deliberate on the question.

If it concerns an annual and variable expense, it shall be inscribed according to the average for the three proceding years. If it concerns an annual and fixed expense, or an extra expense, it shall be inscribed for the actual amount.

If the resources of a commune are insufficient to provide for the obligatory expenses inscribed by virtue of this article, they shall be provided for by the municipal council; or, in case of the refusal of the municipal council, by means of an extraordinary tax, established by an ordinance of the king, within the limits of the maximum which shall be annually fixed by the law of finance; or, if the tax should exceed this maximum, by a special law.

40. The deliberations of the municipal council concerning an extraordinary tax, destined to provide for obligatory expenses, shall only be executory by virtue of a decree of the prefect, when it concerns a commune having less than 100,000 francs of revenue, and by an ordinance of the king in all other cases.

In the case where the extraordinary tax is for providing for any other than obligatory expenses, it can only be authorized by an ordinance of the king, when it concerns a commune having less than 100,000 francs of revenue, and by a law in all other cases.

41. No loan can be authorized except by ordinance of the king, issued according to the forms provided by the regulations of the public administration, where the communes have less than 100,000 francs of revenue, and by a law in all other cases.

Nevertheless, in case of urgency, and in the interval of the sessions, an ordinance of the king, issued in the form provided by the regulations of the public administration, may authorize the communes whose revenue is 100,000 francs and upwards to contract a loan equal to one-fourth of their revenue.

42. In the communes whose revenues are less than 100,000 francs, whenever an extraordinary tax or a loan is proposed, the principal tax-

payers on the communal *rôles* shall be called upon to deliberate with the municipal council in number equal to those of the acting members of the council.

These principal tax-payers shall be convoked individually by the mayor at least ten days before the meeting. In case of their absence, they may be replaced by the next largest tax-payers on the *rôle*.

43. The tariff of road charges shall be regulated by an ordinance of the king, issued in the form provided by the regulation of the public administration.

44. The private taxes due by the inhabitants, or by proprietors in virtue of the laws and of legal usages, are apportioned by the deliberation of the municipal council, approved by the prefect.

These taxes are collected according to the forms established for the recovery of public taxes.

45. No new construction nor partial or entire reconstruction can be authorized except upon the presentation of projects and estimates.

These projects and estimates must be submitted to the previous approbation of the competent minister, when the expense exceeds 30,000 francs, and in other cases to that of the prefect.

IV.

Purchases, Alienations, Leases, Donations, and Legacies.

46. The deliberation of municipal councils, with a view to the purchase, sale, or exchange of real estate and the division of undivided property, are executory on a decree of the prefect, in council of prefecture, when it concerns a value not exceeding 3,000 francs for the communes whose revenue is less than 100,000 francs, and 20,000 francs for the other communes. If it concerns a larger amount it is decided by an ordinance of the king.

The sale of personal estate and of the real estate of the communes not used in the public service may be authorized on the demand of a creditor, *porteur de titres exécutoires*, by an ordinance of the king, which will determine the form of sale.

47. The deliberations of the municipal councils in regard to leases for a period exceeding eighteen years are only executory by virtue of a royal ordinance.

Whatever be the duration of the lease, the act passed by the mayor is not executory till after the application of the prefect.

48. Deliberations respecting the acceptance of donations and legacies of personal estate or of money made to the commune or to communal establishments are executory only by virtue of a decree of the prefect, when their value is less than 3,000 francs, and by an ordinance of the king when their value exceeds this amount, or when objection is made by persons claiming to be heirs to the estate.

Deliberations resulting in refusal of donations or legacies, and all those which relate to the gift or bequest of real estate, are only executory by virtue of an ordinance of the king.

The mayor may always accept donations and legacies in trust, by virtue of the deliberation of the municipal council. The ordinance of

the king, or the decree of the prefect which follows, takes effect from the day of such acceptance.

V.

Judiciary actions and compromises.

49. No commune, nor section of a commune, can introduce any matter before a court of justice, without the authorization of the council of the prefecture.

After the rendering of any judgment the commune has no power of appeal, except by virtue of a new authorization of the council of the prefecture.

Nevertheless, any tax-payer inscribed on the tax *rôle* has the right to institute, at his own charge and risk, with the authorization of the council of the prefecture, actions which he believes to belong to the commune or section, and which the commune or section, previously called upon to deliberate upon the subject, shall have refused or neglected to institute.

The commune or section shall be *mise en cause*, and the legal decision shall have effect in regard to it.

50. The commune, section of commune, or tax-payer, to whom authorization has been refused, may appeal to the king, in council of state. The appeal shall be introduced and judged in administrative form. It must be made, under a penalty of *décheance*, within a delay of three months from the date of the notification of the decree of the council of prefecture.

51. Whoever intends to institute an action against a commune, or a section of a commune, is bound first to present a memorial to the prefect, setting forth the motives of the proposed suit; for which memorial an acknowledgment must be given.

The prefect will transmit the memorial to the mayor, with authorization to convoke the municipal council immediately, to deliberate upon it.

52. The deliberation of the municipal council must, in all cases, be transmitted to the council of the prefecture, who will decide if the commune should be authorized to appear in court.

The decision of the council of prefecture should be given within a delay of two months from the date of the acknowledgment mentioned in the preceding article.

53. Every decision of the council of prefecture refusing authorization should be accompanied by a statement of reasons.

In case of refusal of authorization, the mayor, by virtue of a deliberation of the municipal council, may appeal to the king in council of state, conformably to article 50.

A decision on the appeal should be pronounced within a delay of two months from the day of its registration at the secretariat general of the council of state.

54. No action can be instituted till after the decision of the council of the prefecture; or, in default of a decision within the delay fixed by article 52, till after the expiration of that delay.

In case of appeal from the decision of the council of prefecture, the *instance* shall be suspended until a decision has been pronounced upon the appeal; and in default of a decision within the delay fixed by the preceding article, until the expiration of that delay.

In no case can a commune appear as the defendant of an action, without being expressly authorized.

55. At the same time, the mayor, without previous authorization, can institute any possessory action, or defend against one, and perform any other acts *conservatoires ou interruptifs des décheances.*

56. When a section of a commune has occasion to institute or sustain a suit against the commune itself, there is constituted, for this section, a syndical committee of three or five members, whom the prefect chooses among the municipal electors, or, in default of these, among the principal tax-payers. The members of the municipal corps, who are interested in the property, or the claim which gives rise to prosecution by the section, should not participate in the deliberations of the council on the subject. In all such deliberations, they should be replaced by an equal number of municipal electors in the commune; or, in default of these, among the inhabitants or proprietors not belonging to the section, and chosen by the prefect.

The suit is followed up by the member designed for this purpose by the syndical commission.

57. When a section has occasion to institute a suit, or to sustain a suit, against another section of the same commune, there should be formed for each section interested, a syndical committee conformably to the preceding article.

58. The section which shall have gained its case against a commune, or against another section, will not be liable for the charges or taxes imposed for the payment of the costs and damages, which result from the process.

This also applies to any party which pleads against either a commune or a section of a commune.

59. No compromise consented to by a municipal council can be executed till after the *homologation* by royal ordinance, when it concerns real estate, or personal estate of a value exceeding 3,000 francs; or till after a decree of the prefect in council of prefecture, in all other cases.

VI.

Communal accounts.

60. The accounts of the mayor, for the end of the year, (*exercise clos,*) are presented to the municipal council before the deliberation on the budget. They are finally approved by the prefects, where the revenue of the commune is less than 100,000 francs, and in all other cases by the competent minister.

61. The mayor only can give cheques. If he refuses to allow an expenditure regularly authorized, it shall be decided upon by the prefect in council of prefecture, the decree of the prefect in that case taking place of an order or checque from the mayor.

62. The communal receipts and expenditures shall be effected by an

accountant, charged exclusively, and on his own responsibility, with attending to the receipt of all the revenues of the commune, and all sums due to the commnue, as also with the payment of all expenses approved by the mayor, within the limits of the amount regularly granted.

All the *tax rôles*, and the lists of apportionment, and of local payments in kind, should be given to this accountant.

63. All municipal receipts for which the laws and regulations have not provided a special mode of recovery, are effected according to statements prepared by the mayor. These statements are only valid after having been *visés* by the sub-prefect.

Opposition to payment of communal dues, when the matter is within the competence of the ordinary tribunals, are decided on as summary affairs, and the commune can defend, in such cases, without authorization of the council of the prefecture.

64. Any person, except the municipal receiver, who, without legal authorization, shall interfere in the handling of the money of the commune, shall, by that one fact, be made accountable; he may also be prosecuted, in virtue of article 258 of the penal code, for having illegally assumed legal functions.

65. The collector fulfils the functions of municipal receiver.

Nevertheless, in the communes whose revenues exceed 30,000 francs, these functions are confided, if the municipal council asks it, to a special municipal receiver. This latter is appointed by the king, from three candidates presented by the municipal council.

The provisions of the first of the above paragraphs are applicable to communes having at the time a municipal receiver only, on the application council, or in case of absence.

66. The accounts of the municipal receiver are finally audited by the council of the prefecture, when the revenue of the commune is less than 30,000 francs, subject, however, to appeal to the court of accounts, and in all other cases by the said court of accounts.

The above mentioned provisions concerning the jurisdiction of the councils of prefecture and of the court of accounts, in the matter of the accounts of municipal receivers, are also applicable to the accounts of the treasurers of hospitals and other benevolent establishments.

67. The responsibility of municipal receivers, and the forms in which the accounts of the communes are to be kept, will be determined by the regulations of the public administration.

The municipal receivers, in the execution of these regulations, are subject to the supervision of the receivers of finances.

In the communes where the functions of municipal receiver and collector are united, the management of the accounts is placed under the responsibility of the receiver of finances of the arrondissement.

68. The accountants who have not presented their accounts within the delay prescribed by the regulations, may be condemned by the authority charged to judge them, to a fine of from 10 to 100 francs, for each month of delay, for the receivers and treasurers responsible to the councils of the prefecture; and from 50 to 500 francs, for each month of delay, for those who are responsible before the court of accounts.

These fines shall go to the benefit of the communes and establishments whose accounts have been delayed.

The amounts shall be placed to the debt of the accountants, and their recovery may be prosecuted by arrest, conformably to articles eight and nine of the law of April 17, 1832.

69. The budgets and accounts of communes remain deposited at the mayoralty, where any person on the tax *rôle* of the commune has a right to examine them.

They are made public, by being printed, in the communes whose revenue is 100,000 francs, or more; and also in other cases, where the municipal council votes the expense of the printing.

VII.

Interests which concern several communes.

70. When several communes possess undivided property, or claims in common, an ordinance of the king will substitute, if one of the communes require it, a syndical committee composed of delegates from the municipal councils of the interested communes.

Each one of the councils shall elect from its own body, by secret ballot, and by a majority of votes, the number of delegates which shall have been determined by the royal ordnance.

The syndical committee shall be renewed every three years, according to the partial renewal of the municipal councils.

The decisions of the committee shall only be executory after the approbation of the prefect, and will also be subjected to all the rules established by deliberation of the municipal councils.

71. The syndical committee shall be presided over by a syndic who shall be nominated by the prefect, and chosen among its own members.

The functions of the syndical committee and of the syndic, so far as concerns undivided property, will be the same as those of municipal councils and of mayors, in the administration of communal property.

72. When the same works interest several communes, the municipal councils will be specially called on to deliberate on their respective interests, and on the proportion of the expense which each commune should bear.

These deliberations will be submitted to the approbation of the prefect.

In case of disaccord among the municipal councillors, the matter will be decided by the prefect, after having heard the councils of arrondissements and the council general. If the municipal councils belong to different departments, the matter will be decided by a royal ordinance.

The proportion of the expenditure finally assigned to each commune shall be placed in the respective budgets, conformably to article thirty-one of the present law.

72. In case of urgency, a decree of the prefect will suffice for ordering the execution of the works, and will provide for the expenses by a provisional *rôle*.

The apportionment of the expenditure shall be arranged afterwards, in the form determined by the preceding article.

VIII.

Special provision.

74. The municipal administration of the city of Paris shall be regulated by a special law.

The present law discussed, deliberated, and adopted by the chamber of peers, and by the chamber of deputies, and sanctioned by us this day, shall be executed as the law of the State.

(*b.*)

Public and Ministerial Officers, &c.

Justices of the Peace of the Empire.

The justices of the peace are not irremovable. To be justice of the peace it is necessary to be thirty years of age. Every justice of the peace is assisted by a clerk (*greffier*) who should be at least twenty-five years old. The functions of judges of the peace include both civil and criminal affairs; in civil matters, they are: 1st. Judges in certain cases; 2d. Conciliators, and charged with proceeding or assisting in various acts of jurisdiction, *non-contentieuse*. In criminal matters, they compose the tribunals of simple police, and are officers of the judiciary police.

In civil matters, the justice of the peace alone takes cognizance, throughout the extent of his canton, of cases purely personal and *mobiliéres*, without appeal, involving value of 150 francs; and subject to appeal, whatever the amount at issue, viz:

1st. Actions for damages committed, whether by men, or animals, to the fields, to fruits, to harvests, &c.;

2d. Displacement of boundary marks; usurpations in regard to lands, trees, hedges, ditches, and other enclosures, committed in the course of the year; interference with enterprises relative to streams of water serving for the irrigation of fields, taking place in the course of the year, and all other *actions possessoires;*

3d. *Réparations locatives* of houses and farms;

4th. Indemnities claimed by the farmer or tenant on account of *non-jouissance*, when the right to indemnity is not contested; defacements alleged by proprietors;

5th. Payment of wages to laborers and domestics, and fulfilment, respectively, of engagements between domestics and laborers and their employers;

6th. Civil actions for slander or defamation; disturbances and assault and battery;

7th. Prosecutions for violation of patent rights;

8th. Contravention of custom-house laws, when they do not give rise to civil reparations.

In the cases provided for, and with the exceptions determined by the law, and particularly by articles forty-eight and forty-nine of the Code

of Civil Procedure, matters not within the jurisdiction of the justices of the peace nor of the tribunals of commerce, are taken before the former to be amicably settled, when that is possible.

In matters of *non-contentieuse* the functions of justices of the peace are very varied. They are charged especially with the convocation (*tenue*) and presidency of *conseils de famille;* with affixing and removing seals after a decease, or in cases of failure; with preparing, in a large number of cases, notarial acts, *actes d'adoption* and of *tutelle officieuse, &c.*

In criminal matters the justices of the peace take cognizance:

1st. Of police contraventions committed throughout the extent of the *chef lieu* of the canton;

2d. With contraventions committed in other communes in the canton, when, unless the guilty parties are taken in *flagrant délit*, the contraventions have been committed by persons not domiciliated, or not present in the commune; or when the witnesses who are to testify in the case are not resident or present;

3d. With contraventions in the case where the injured party claims for damages a sum not fixed, or a sum exceeding fifteen francs;

4th. With contraventions against the forest laws, when the offence is prosecuted by private individuals;

5th. With defamations or slander;

6th. With the prosecution of persons who exercise the trade of prognosticators, or fortune tellers, or dream interpreters.

The justices of the peace take cognizance also, in co-operation with the mayors, of all other contraventions committed in their arrondissement.

Police contraventions consist in offences which the penal code, or special laws, punish with a fine of fifteen francs and less; or with imprisonment of five days or less

Notaries.

The number of notaries is fixed by the government. In all cities of 100,000 inhabitants and more, there should be, at most, one notary to 600 inhabitants; and in all other cities, boroughs, and villages, there should be at least two notaries, and at most five, for each arondissement *de justice de paix.* No suppressions or *réductions* of the notarial office can take place except by death, dismissal, or resignation. The notaries are obliged to give bail or caution money, the amount of which is fixed by the law, and which is specially intended as a guarantee in case of condemnations pronounced against them in the exercise of their functions. They are authorized to nominate their successors, for acceptance by the emperor.

Notaries are divided into three classes; those of the first class are in the cities where there is an imperial court; they can exercise their functions, in concurrence with other notaries, throughout the jurisdiction of the court.

Those of the second class are located in cities where there is a tribunal of the first instance; they exercise their functions throughout the jurisdiction of that tribunal.

Those of the third class are located in the communes where there is

neither an imperial court nor a tribunal of the first instance; they can only exercise their functions within the limits of the canton where they reside.

Notaries are appointed for life; they can only be suspended on dismissal, after judgments rendered by the competent tribunals, founded on grave charges.

In order to be admitted to the exercise of notarial functions, the necessary qualifications are:

1st. To be in the enjoyment of all the rights of citizenship;

2d. To have complied with the laws on recruitment;

3d. To be twenty-five years of age;

4th. To have studied for a greater or lesser period, according to the class;

5th. To possess a certificate of morality and capacity, delivered by the chamber of discipline within the jurisdiction where he proposes to establish himself.

The notaries are appointed by the emperor, and receive a commission from him, which specifies the place of residence. They must be sworn into office before the tribunal of the first instance within two months after their appointment.

Their functions are as follows: To receive all *actes* and contracts; to authenticate thereon; to assure their date; to preserve a depôt of them; to deliver engrossments and copies. A notary cannot by himself give an authentic character to the documents which he receives, but must be assisted in that regard by a second notary, or by two witnesses.

There is instituted in connexion with the tribunal of the first instance, and for the whole jurisdiction, a chamber of discipline, the members of which are chosen by the assembly general of notaries. At Paris this chamber consists of nineteen members; where the notaries of a jurisdiction are fifty or less in number the chamber consists of nine members.

The members of this chamber choose from among themselves a president, a syndic, a reporter, a secretary, and a treasurer.

The chambers pronounce the following disciplinary penalties: Call to order and censure; deprivation of a deliberative voice; and interdiction of admission to the chamber and to the assembly general. There is a common purse for the expenses of the chamber. The assembly general meets twice a year; all the notaries are invited to be present.

Attorneys at Law, (*avoués.*)

The functions of attorneys (*avoués*) to the imperial courts and to the tribunals of the first instance are the same. Attorneys (*avoués*) have the exclusive right to officiate in cases brought before the courts and tribunals.

No one can be appointed to the function of attorney at law under twenty-five years of age, and without having obtained a certificate of capacity from a faculty of law.

At Paris the chamber requires that the candidate be *licensié;* and, to practice before an imperial court, that he shall have served five years as an attorney's clerk.

The attorneys at law are appointed by the emperor, on the nomina-

tion of the court or tribunal before which the candidate proposes to practice; they must have their domicile in the city, or seat of said court or tribunal.

Before entering upon their functions they must take the oath. They have the right to plead in all cases where they are engaged if they have obtained the grade of *licensié en droit* before the decree of July 2, 1812. Attorneys at law, not *licensiés*, or who have not been *licensiés* since the decree just mentioned, can only plead before the tribunals where the number of attorneys at law inscribed on the lists practicing or residing in the chief place of the commune shall be judged insufficient for the management of the business.

Attorneys at law can plead on *demandes incidentes* and on all the *incidentes* relative to the procedure in the causes which they undertake; they can plead in all summary cases, or before the tribunals of first instance, sitting in the *chefs lieux* of the imperial courts, the courts of assize, and of the departments.

Attorneys at law are subject for their police and discipline to a chamber instituted in connexion with each court and each tribunal.

The composition and the functions of these chambers are determined by the decrees of 13 Frimaire, an. IX, and 17th July, 1816.

Attorneys at law are subject to give bail or caution money; they may nominate their successors, subject to the approval of the Emperor.

Appraising Auctioneers, (commissaires priseurs.)

Commissaires priseurs, or appraising auctioneers, (formerly *huissiers priseurs*,) were established in Paris by the law of 27 Ventose, an. IX, and in the rest of France by the law of 28th April, 1816; they can only be established in the capital cities (*chefs lieux*) of the *arrondissements*, at the seats of the tribunals of the first instance, or places having a population of at least five thousand souls.

They are charged with the appraising of furniture, and the sale at auction of all moveable effects, which they can only sell upon due proof of ownership from the person offering them. The only qualification required by law is to be twenty-five years of age.

The appraising auctioneers are appointed by the Emperor, and must give bail and have a license. They may nominate their successors, subject to the approval of the Emperor. They are sworn into office before the tribunal of the first instance. There is a chamber of discipline instituted within the jurisdiction of each civil tribunal, and a common purse to which they contribute one-half of their fees and charges.

Huissiers, or Sheriffs.

The *huissiers* are charged to summons before the courts and tribunals, and to notify and execute *actes* and judgments.

There is a fixed number of *huissiers* appointed for each justice of the peace, tribunal of the first instance, imperial court, and court of cassation.

In order to be a *huissier* it is necessary to be at least twenty-five

years of age, to have worked two years in the office of an attorney at law, (*avoué*,) notary, or *huissier*, or three years in the *greffe*, (clerk's office,) and to have a certificate of morality and of capacity furnished by the chamber of discipline.

The *huissiers* can only practice within the jurisdiction of the court or tribunal to which they are attached.

The *huissiers-audienciers* are charged with the service during the sessions; they have the exclusive right of taking notifications from one attorney (*avoué*) to another.

In places where there are no appraising auctioneers the hussiers attend in corporation with the notaries and *greffiérs* (clerks of court) to the appraisement and public sale of furniture and other moveable effects.

The *huissiers* cannot refuse to act except for valid reasons.

The regulations as to the *communauté* of *huissiers*, the chamber of discipline and the common purse, are established by the decree of June 14, 1813.

The *huissiers* may nominate their successors, subject to the approval of the Emperor.

Stock brokers and merchandise brokers in the departments.

Stock brokers and merchandise brokers, where they are established, are appointed by the Emperor, on the nomination of the Minister of the Interior. They have the exclusive right to practice their peculiar calling, and to report respectively the price currents of the public funds, of negotiable papers, of *matiéres* in gold and silver, of merchandise, of freights, &c.

It is prohibited, under a penalty not exceeding a sixth of the caution money deposited by stock brokers and merchandise brokers, and not less than a tenth of the same for any person not appointed by the Emperor to practice either of the above named professions.

The stock and merchandise brokers are obliged to deposit caution money, which, in case of resignation or decease, is reimbursed, in the one case, to the person resigning, in the other, to his heirs or successors.

By virtue of the law of 28th April, 1816, and the ordinance of 29th May and 3d July, of the same year, stock brokers and merchandise brokers, their widows, children, and heirs, are authorized to nominate their successors, provided the persons nominated possess the required qualifications. This right is not extended to dismissed brokers.

(c.)

Department of the Interior.

Functions.—Political and administrative correspondence with the prefects: the *personnel* of the prefects, sub-prefects, councillors of the prefectures and mayors; maintenance of laws relative to the electoral assemblies, to the councils general of the departments, to the councils of the *arondissements*, and to the municipal councils; the national guards;

the electric telegraphs; the superior administration of the departments and the communes; public assistance; civil hospitals; establishments destined for the blind, and the deaf and dumb; pawnbrokers' establishments, *(monts de piété;)* amelioration of the lodging-houses of workmen; provident institutions and mutual aid societies; the treasuries (*caisses*) of the retiring pensions of the aged; savings banks; prisons, penitentiary colonies, and the patronage of juvenile prisoners, (*detenus;*) civil edifices and public monuments; supervision of theatres; encouragement of the dramatic art; statistics and census of the population, &c.

Cabinet of the Minister.

This is in charge of a *chef du cabinet.*

Bureau of the Cabinet.

This is in charge of a *chef de bureau.*

Functions.—Opening, registration, and sending off of dispatches; "*Moniteur des communes;*" private correspondence of the minister; audiences; reserved affairs not classified; transmission of orders from the minister.

Bureau of political correspondence.

This is under the charge of a *chef de bureau.*

Functions.—General correspondence; political affairs.

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Secretaryship general, and direction of the personnel.

This is under the direction of a secretary general and director of the *personnel.*

Bureau of the personnel.

This is in charge of a *chef de bureau.*

Functions.—Appointment and recall of prefects, sub-prefects, councillors of *prefectures; congés;* legion of honor; and honorary recompenses.

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DIVISION OF THE SECRETARYSHIP.

This is under the charge of a *chef de division.*

Bureau of elections and of Mayors.

This is under the charge of a *chef de bureau.*

Functions.—Municipal and departmental organization; analysis of the votes (*vœux*) of the councils general; elections; questions concerning *attributions*, honors, and rights of precedence; testimonies of public gratitude; complaints and suits against administrative functionaries; *personnel* of mayors, assistant mayors, and municipal councils; recalls; expenses of the administration of prefectures and sub-prefectures; salaries; *retenues* for *congés;* indemnities; accounts of *emploi;* cash bureau (*caisse*) of retiring pensions, and pensions of the *employés* of the departmental administration.

Bureau of Archives and Interior Expenses.

This is in charge of a *chef de bureau.*

Functions.—*Feuilles de travail* for legislative bills and decrees; reunion of affairs to be sent before the Council of State; archives of the ministry; preservation and dispatch of decrees and decisions of the executive power, of ordinances and other acts of preceding governments, of ministerial decrees, of circulars and instructions; insertion in the "*Bulletin des Lois*" of *actes* emanating from the Department of the Interior; official bulletins of Minister of the Interior; legalizations; *materiel* and interior expenses; printing; *autographie;* affairs of the franking privilege and counter-seal.

Interior Service.

This is in charge of a *chef du service interieur.*

Bureau of Assistance.

This is in charge of a *chef de bureau.*

Functions.—Individual assistance; assistance to the former colonists of St. Domingo; admissions to the hospital of Paris and the general charitable establishments; social statistics, (*état civil;*) *rapatriement;* seals and stamps of the departmental and municipal authorities; examination of the administrative collections of the prefectures; police of the race-courses.

Bureau of National Guards.

This is in charge of a *chef de bureau.*

Functions.—Census, organization, and *mobilisation* of national guards; nomination of officers; armaments, munitions, service, and discipline; inspecting officers and comptrollers of arms; matters in dispute, and expenses; communal *sapeurs pompiers;* military affairs; guardianship of the orphans of June, 1848.

Library.

This is in charge of a librarian.

Direction General of the Interior Administration.

This is under the direction of the *chargé général* of the interior administration.

This direction is divided into four divisions, viz: departmental and communal administration, with four bureaux; hospital administration, with two bureaux and an inspector general; penitentiary establishments, with two bureaux; civil edifices and theatres, with two bureaux.

1st Division.

Departmental and Communal Administration.

This is in charge of a *chef de division.*

1st Bureau.—Administrative and Departmental Expenses.

This is in charge of a *chef de bureau.*

Functions.—Actes of the general administration; political and administrative division of territory; departmental affairs; matters in dispute in the departments; departmental buildings; apportionment of the common funds; regulation of the departmental budgets; extraordinary taxes; loans; departmental roads; furnishing of prefectures and sub-prefectures; construction, repair, and maintenance of the buildings for the courts of appeal; minor expenses, and charges of the parquet of these courts.

2d Bureau.—Administrative and Communal Accounts.

This is in charge of a *chef de bureau.*

Functions.—Various questions relative to communal administration; *octrois;* difficulties and complaints on the subject of right of choice of places in the *halles*, fairs, markets, and slaughter-houses, and the charges for public weighing and gauging; advice on the subject of wood-cutting in the communal woods; fixing of the subscription for barrack expenses accorded to communes which have the *octrois;* instructions relative to the communal accounts; taxes for a period exceeding five years, or a *quota* of twenty centimes; loans, the payment of which is to extend through more than ten years, or the creation of resources which are not within the competence of prefects; annual accounts of loans and taxes; financial situation of the communes; municipal assessments; institutions of retiring pension. Bureaux in favor of the *employés* of the communes; regulation of the budgets and the accounts of the city of Paris; tariff of charges for choice of places at markets, &c., for public weighing, &c., and communal pensions in the same city; verification and *comptrol* of the decisions of prefects on affairs decentralized by the decree of March 25, 1852, and relative to these various matters.

3d Bureau.—Matters in Dispute in the Communes.

This is in charge of a *chef de bureau.*

Functions.—Differences and disputes (*conflits*) arising between the various authorities, (*pouvoirs;*) appeals to the Council of State growing out of these differences, and recourse to the same council in the matter of authorization to plead; recourse to the minister against perpetual decrees, in cases where prefects have exceeded their authority, or given wrong judgments; complaints in general; expropriation on account of public utility, (except so far as concerns roads, streets, paths, &c., (*voirie;*) old communal debts; civil responsibility of communes; legacies and donations, in cases where there are complaints made on the part of families; removing of presbyteries, where opposition is made by the diocesan authorities; questions relative to the expense of public worship; differences on the subject of the *jouissance en nature* of communal goods, of commonage, and of pasturage; alienations, acquisitions, exchanges, leases, works, *marchés degré à gré*, treaties of insurance, tariffs of charges of the *pompes funèbres*, (public funeral establishment,) and the cemeteries, so far as concerns the city of Paris; comptrol of prefectorial decrees in affairs decentralized by the decree of 25th March, 1852, and relative to these various questions.

4th Bureau.—Roads, highways, paths, &c., (voirie,) streams, (cours d'eau,) and municipal police.

This is in charge of a *chef de bureau.*

Functions.—Parish and rural roads; city streets, paths, &c., &c., (*voirie;*) communal toll bridges; unnavigable streams; differences arising between the authorities; appeals to the council of state in disputed matters, and for authorization to plead in such matters; expropriation on account of public utility, relative to city streets, paths, &c., &c., and to the *redressment* and enlargement of streams; classification as parish roads of portions of the national roads which have been abandoned; mixed works; straightening streets; acquisitions, alienations, exchanges, compromises, execution of works connected with roads, streets, paths, &c., so far as concerns the city of Paris; difficulties relative to these questions in all other cities and communes; appeal against prefectorial decisions in the matter of parish and rural roads, *alignements* in the communes, right of way, paving, sidewalks, municipal police, and *curage* of streams; comptrol of prefectorial *actes* concerning the service of streets, roads, paths, &c., relative to matters decentralized.

Secretaryship of the Departmental and Communal Archives.

This is under direction of a head clerk, (*chef,*) and having in charge the departmental, communal, and hospital archives.

There are eighty-six archives-keepers, (*archivistes,*) i. e., one for each department of France.

2D DIVISION.

This is under the direction of a *chef de division.*

1st *Bureau.—General Charitable Establishments for the insane and foundlings.*

This is in charge of a *chef de bureau.*

Functions.—General charitable establishments of Charenton, of the *Quinze Vingts*, for young blind persons, for the deaf and dumb; and of Mont Genévre, societies of maternal charity; private charitable societies; mendicity, statistics of mendicants and the indigents; houses of refuge; public and private asylums for the insane; foundling hospitals and departmental hospitals; *personnel*, administration, accounts, and matters in dispute connected with these services and establishments.

2d *Bureau.—Communal hospitals, charitable bureaux, pawnbrokers' shops, (monts de piété.)*

This is in charge of a *chef de bureau.*

Functions.—Hospitals, bureaux of charity and of pawnbrokers' shops; creation of these establishments; legacies and donations in their favor, where complaints are made by families; expropriations on account of public utility; appeals to the council of state on matters in dispute; complaints in general; acquisitions, alienations, exchanges, division of property, compromises, works of construction and maintenance; retiring pensions; regulations of the service, and treaties with religious "*communautés*," so far as concerns the general administration of public assistance and the *mont de piété* of Paris; comptrol of prefectorial decrees on subjects decentralized by the decree of 25th March, 1852, in matters of public assistance; and to hospitals, bureaux of charity, and charitable institutions generally; the amelioration of workingmen's lodgings; service of the inspection general of charitable institutions.

Inspection General of Charitable Institutions.

1st Section.—Charitable institutions.

This section of the inspection general is composed of two inspectors general of the first class; of four inspectors general of the second class, and of two inspectors general *adjoints.*

2d Section.—Insane institutions.

This section is composed of two inspectors general of the first class, one inspector general adjoint, and one honorary inspector general.

3D DIVISION.

Veterinary establishments.

This is under the direction of an inspector general of first class of prisons, *chargé de la division*, and a *chef de section.*

1st Bureau.—General administration of prisons.

This is in charge of a *chef de bureau.*

Functions.—Administration of the central prisons *de force et correction,* of penitentiary and correctional colonies, and of the *quartiers de jeunes detenus,* of departmental prisons, and all other establishments of *repression;* legislation and regulations; *personnel* of all the services; disciplinary *regime,* moral and religious; instruction, guardianship, and supervision; sanitary state; medical service; statistics; institutions of patronage.

Inspection general of prisons.

Consisting of two inspectors general of the first class; three of the second class; two inspectors general adjoints; one inspectress general of prisons; and two honorary inspectors general.

2d Bureau.—Financial administration of the prisons.

This is under charge of a *chef de bureau.*

Functions.—Economical services of all the establishments *en entreprise, ou en régie;* books of charges; bargains and adjudications; transfers of movable effects and *matériel;* industrial works; regulations of tariffs of charges; accounts; works of construction, reparation, and maintenance; liquidation of pensions; matters in dispute; budgets and accounts.

Service of the régies of the central prisons "de force" and "de correction."

In charge of an inspector general of first class, who is *directeur chargé du service,* assisted by a director and assistant director, for each of the three *circumscriptions.*

Central prisons "de force" and "de correction."

There are twenty-one of these located in that number of departments, and each under charge of a director.

Prisons of detention.

There are two of these, each under charge of a director.

Central prisons of correctional education in Paris, and under the charge of a director.

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4TH DIVISION.

Civil edifices and theatres.

This division is in charge of a *chef de division* and a *chef du premier bureau, chargé* of the service of civil edifices.

1st Bureau.—Civil edifices, studies, and projects.

In charge of a *chef de bureau.*

Functions.—Study and preparation of projects for construction of civil edifices and public monuments; execution of new works and works of *entretien;* council of edifices; *personnel* of architects, and formation of agencies charged with the supervision of the works.

2d Bureau.—Civil edifices, estimates, and accounts.

This is in charge of a *chef de bureau.*

Functions.—Revision of estimates, and of accounts connected with the works; regulation of the basis to serve for the regulation of the accounts; examination of the representations, claims, &c., of the contractors; keeping of the books relative to the use of the State funds appropriated to the works; regulation of the accounts.

Committee of revision.

This consists of two comptrollers.

Council general of civil edifices.

This consists of five inspectors general, one of whom is vice-president, nine honorary members, and eight auditors. The council is presided over by the minister, and in his absence, by the vice-president.

It examines the projects and estimates concerning the constructions and reparations of all the civil edifices of the empire, and the plans for the *alignement* (setting in line) of the streets and squares of Paris and the other cities; it also gives its opinion on questions of art and of accounts which are submitted to it by the various ministers; and pronounces on the *concours entre architectes.*

Preservation and maintenance of the public monuments.

The members of the council general of civil edifices are charged with the general inspection of works, whether in Paris, or in the departments.

This department of the "preservation and maintenance of the public monuments" is divided into six *circonscriptions,* each of which has allotted to it one or two inspectors general, an ordinary inspector, and an *agent comptable;* and each of which has also several architects.

Works of construction and of general restoration of public edifices.

The commission having these in charge consists of five inspectors general, each of whom has from two to five public edifices in charge, and each of whom has its architect.

Inspection general of the works in the departments.

This consists of five inspectors general, each having in charge a *circonscription* consisting of several departments.

3d Bureau.—Theatres not receiving grants from the government.

This is in charge of a *chef de bureau.*

Functions.—Theatres in Paris and the departments not receiving grants from the government; the appointment of directors and managers, (*entrepreneurs,*) regulations and supervision; indemnities to dramatic artistes; encouragement of dramatic and musical art; committees of examination of dramatic works; inspection of theatres.

Committee for examination of dramatic works, consisting of five members. Inspection of theatres, consisting of two members.

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Administration of Telegraph Lines.

Administration general.

Consisting of an administrator in chief, a first assistant administrator, and a second ditto.

Cabinet of dispatches.

In charge of an assistant administrator, a translator in chief, who is *chef* of the cabinet, assisted by a director of first class, who is assistant translator.

Functions.—Translation and composition of dispatches; works connected with the vocabulary; preservation and care of the telegraphic archives; dispatch of correspondence with the directors, and affairs therewith connected, whether of the cabinet of the administrator in chief, or of the cabinet of the administrator charged with the supervision of dispatches.

Bureau of the personnel and of signals.

This is in charge of a head clerk, (*chef.*)

Functions..—Presentation for situations in the appointment of the minister; admission to the supernumerary service; appointment to the situations of clerks, *stationnaires, surveillant, et pictou;* caution moneys; liquidation of pensions; supervision of telegraphic lines; verification of signals,

Bureau of private dispatches.

This is in charge of a head clerk, (*chef.*)

Functions.—Service of private dispatches; verification of the regularity and exactitude of dispatches for private individuals; verification of the charges received; accounts with the directors and head clerks (*chefs*) of the service in the telegraphic bureau; accounts with the government, and with foreign offices; accounts of money paid to the directors, and of the other expenses required by the service.

Bureau of "matériel."

This is in charge of a head clerk, (*chef.*)

Functions.—Maintenance and establishment of lines; estimates of constructions; revision of estimates of the inspectors; bargains; books of charges for adjudications; orders for furniture of the lines, and its reception; accounts of the *matériel;* improvements of the apparatus.

Bureau of accounts.

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation of the budget; extraordinary and supplementary grants from the State; *reports* of grants; applications for orders for payment; distribution of funds; revision of the memoranda of the inspectors; verification of the vouchers; accounts of the divisions; general accounts of the service; regular accounts of the *exercises clos.*

Administrative service of the telegraph.

In charge of a head clerk, (*chef.*)

Inspection general, consisting of two inspectors.

Inspection of the lines, in charge of a director of fourth class, principal inspector, and one inspector of first class, assistant principal inspector, and consisting of eight directors of first class, twelve of second class, fourteen of fourth class, and five *directeurs suppléants*, located in various parts of the country.

Private telegraphic bureaus.

In charge of five inspectors and *stationnaires.*

Secretaryship of inspections.

In charge of a head clerk, (*chef.*)

Functions.—Centralization of reports; supervision, and works of inspection connected with the prefectures, with the inspector general of charitable establishments, and establishments of *repression*, and with the telegraphic lines.

(*c* 1.)

GENERAL POLICE.

This is in charge of a director general of police.

Functions.—High police of the State; execution of laws relative to the general police, and to the security and tranquillity of the interior of the empire. Correspondence with the prefects, and the divers constituted authorities, in all that concerns the public security.

Supervision of the press, and of publications of every description.

Translation of foreign journals; *colportage;* supervision of the theatres; supervision of printing establishments and of bookselling. Delivery or withdrawal of printers' and booksellers' licenses; supervision of reprints (*contrefaçon*) in France and abroad; literary property; execution of international treaties relative to literary works and works of art; depot of books, journals, engravings, &c., &c., published in Paris and in the departments. Supervision of prisons and *maisons d'arrêt de justice, et de réclusion.* Legal supervision of liberated convicts; suppression of mendicancy and vagabondage; researches made in the interest of families; supervision of foreign refugees, and delivery of subsidies allowed to them by the State; distribution of aid for various causes. Commercial, sanitary, and industrial police; service of the *gendarmerie* in all that relates to the maintenance of public order; *personnel* of the departmental commissaries and of the commissaries of police.

The territory of the empire is divided into the three districts, (*arrondissements.*) Three directors general, one of whom is the prefect of police, work together every day with the director general. They are charged with the correspondence, with the preliminary examination, and following up (*instruction et de la suite*) of police affairs, in the departments which are assigned to them. They hold an audience every day to receive complaints, (*réclamations,*) addressed to the director general, which are sent to him immediately after the audience.

Directors General.

1st *Arrondissement.*

This consists of forty-seven departments, and is under the management of the *chargé* of the direction of the first *arrondissement.*

2d *Arrondissement.*

This consists of thirty-eight departments, and is under the management of the *chargé* of the direction of the second *arrondissement.*

3d *Arrondissement.*

This *arrondissement* consists of the department of the Seine, and the communes of the department of the *Seine and Oise,* indicated by the decree of 3d Brumaire, an. IX, which fixes the extent of the prefecture of police of Paris.

A Secretary General.

Cabinet of the Director General.

This is in charge of a *chef du cabinet,* who has a private secretary.

Functions.—Opening, analysis, distribution, and transmission of dispatches; private and unclassified business; applications for audience; honorific recompenses; telegraphic affairs; statistical affairs; *personnel*, (under the care of a director general;) appointment and dismissal of commissaries of police.

Bureau of Political Police.

This is in charge of a head clerk, (*chef.*)

1st DIVISION.—SECRETARYSHIP.

This division is under the immediate direction of the secretary general.

1st Bureau.—Central Bureau.

This is in charge of a *chef de bureau.*

Functions.—General information to be obtained; preservation and transmission of decrees, decisions, and ministerial circulars. Insertions in the "Bulletin des Lois;" insertions in the "*Moniteur.*" Legalizations; *bulletin official* of the police general; centralization of documents for the budget of the department; *matériel* and internal expenses; *personnel* of servants; preservation of the *mobilier;* works for the maintenance and repair of buildings; printing of the service of the central administration. *Atelier d'autographie;* archieves; collection of administrative documents and works; studies concerning ameliorations and questions of general utility.

2d Bureau.

This is in charge of a *chef de Bureau.*

Accounts.—Budget and annual accounts; general instructions and monthly distributions; registration of reports, and examination of all the accounts; centralization of administrative works to be presented to the *corps legislatif* and to the council of State, and replies to the observations of the court of accounts; accounts of the *exercises clos.* Operations and central books. Tables of salaries, and liquidation of the pensions of *employés* of the department; bureau of payment (*caisse*) of retiring pensions; keeping of books by double entry; memoranda, and state of expenses ordered and paid; great book of paying orders; recoveries; *reversements; reimputations; debits* to the State.

Orders of Payment.

Orders of payment of expenses from the general and special funds; verification and transmission of orders of payment on the treasury; delivery of letters of advice; auxiliary books; correspondence; cash office, (*caisse,*) in charge of a cashier. Payments made at Paris for the department; special books and accounts of these payments.

2D DIVISION.

1st *Bureau.—Police of general security.*

This is in charge of a *chef de bureau.*

Functions.—Police of general security; execution of laws relative to general police; public meetings and associations; questions relative to passports, to *livrets*, and to carrying arms; measures to be taken to insure the circulation of grains, and freedom of trade in the matter of food; measures to be taken in respect to dangerous foreigners; supervision of *condamnés politiques;* aid in various cases; exercise of the right of requisition; litigation (*conflits*) in police matters.

2d *Bureau.—Police of special security.*

This is in charge of a *chef de bureau.*

Functions.—Supervision of liberated prisoners, and designation of places for their residence. Execution of the decree of December 8, 1851, so far as concerns liberated prisoners in *rupture de ban;* execution of the law of July 9, 1852, concerning prohibitions to remain in Paris or Lyons; passports of indigent persons and *secours de route.* Suppressing of mendicancy and vagrancy. Supervision of prisons, and *maisons d'arrêt, de justice, de détention,* and *de réclusion.* Archives of the division.

3d *Bureau.—Administrative police.*

This is in charge of a *chef de bureau.*

Functions.—Administrative police; foreign refugees subsidized by the government; execution of the law of May 21, 1836, concerning lotteries; supervision and arrest of malefactors; measures to be taken for the prevention of fires; extradition of foreigners; researches made in the interest of families; authorization for residence abroad, given to civil and military *pensionnaires;* execution of the laws relative to the police of *cafés, cabarets,* and public places; supervision relative to the public health; to the labor of children in manufactories, and to the *bourses de commerce.* Expulsion of foreign malefactors.

DIRECTION OF PRINTING, BOOKSELLING, AND OF THE PRESS.

This is in charge of a director.

1st *Bureau.—Printing and bookselling.*

This is in charge of a *chef de bureau.*

Functions.—General supervision of printing and bookselling in France; writings and periodical collections consecrated to literature, to science,

and to the arts; licenses to letter-press printers, and to lithographic and copper-plate printers; foreign bookselling; verification of imported books; reprints, (*contrefaçons*,) literary property, and contraventions against the laws and regulations; *declarations* of the journals and periodical works; caution moneys; depot of all works of all kinds, published in Paris and in the departments. Examination of prints and engravings.

2d Bureau.—The press.

This is in charge of a *chef de bureau.*

Functions.—Supervision of the press of Paris, of the departments, and of foreign countries; translation of foreign journals; authorization of political journals; supervision of periodical sheets, and publications of every description; police of the theatres.

3d Bureau.—Colportage.

Functions.—General supervision of *colporteurs;* relations with the committee on the examination of books, writings, and engravings destined for *colportage;* stamping of authorized works.

Permanent committee, charged with the examination of books, writings, and engravings, destined for colportage.

This committee consists of a president, a secretary, two assistant secretaries, and nine other members.

Commissaries of printing and bookselling.

Consisting of two commissaries.

Inspecteurs, verificateurs of books coming from abroad.

Consisting of seventeen inspectors, stationed one at each of the principal French ports.

One physician to the department.
One assistant ditto.

Departmental commissaries.

Fifty-two in number, and stationed in that number of departments.

(*d.*)

Department of Finance.

Functions.—Administration of the public revenues; of the inscribed national debt and of the coinage; accounts of the finances of the State; establishment and regulation of the general budget of each year; pre-

sentation of all legislative bills on the subject of finances; assessment, apportionment, and collection of direct and indirect taxes; business management of the public domains and woods, of the post office, of the tobacco manufacture and sale, of the stamp offices, &c., &c., &c.; verification of the coinage and the value of the metallic currency; establishments, *régies*, and other enterprises which yield a product to the public treasury; operations of the funds; negotiations and business affairs of the treasury; relations with the bank of France, and with the syndical chamber of the stock brokers of Paris; supervision of the public cash bureaux, (*caisses*,) and of the responsible (*comptable*) collectors; verification of their accounts and of their vouchers, to be submitted to the judgment of the court of accounts; description, comptrol, and centralization of all the facts relative to the receipt and employment of public funds; inscriptions in the book of the inscribed national debt; pensions and caution moneys; matters in dispute, and judiciary agency; liquidation and settling by orders on the treasury of all the expenses of the various services of the finance, and of those not belonging to any special department; acquittance, comptrol, and verification of all public expenses the payment of which has been ordered by the ministers; appointment to administrative and financial situations, and of stock brokers at the Paris exchange; propositions for the appointments of functionaries or accountants which are in the gift of the emperor.

Cabinet of the Minister.

This is in charge of a *chef de cabinet.*

Functions.—Opening of dispatches; reserved affairs; applications for audience, &c., &c.

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Central Administration of the Department.—Division of the personnel and of general inspection.

This is in charge of a *chef de division.*

Bureau of personnel general.

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation of the portfolios of the minister; *personnel* of the bureaux of the department, and of the administration of finance; *personnel* of the accountants of the treasury, the receivers general and particular, of the paymasters, (*payeurs*,) and of the municipal receivers and collectors; *personnel* of the agents of direct taxes, and the agents of the financial *régies* in the departments, the appointment of whom is in the gift of the emperor or the minister; appointment of stock brokers at the Paris exchange and of the members of the court of accounts; reception and transmission of telegraphic dispatches; admissions and promotions in the order of the legion of honor; *congés;* assistance to ex-collectors and to the widows and orphans of collectors.

Bureau of Inspection General of Finances.

This is in charge of an inspector of finances, *chargé* provisionally of the functions of *chef de bureau.*

Functions.—Personnel of the corps of inspection general of finances: direction of the service and of the *mouvements.* Organization of annual accounts and preparation of instructions relative thereto; special missions in France, in the colonies, and abroad; following up of the reports of the inspectors; correspondence on this subject.

The inspectors of finances verify all the financial accounts, also the management and the *caisses* of agents and accountants connected directly or indirectly with the department of finances, and of the treasuries of the *invalides de la marine,* of the receivers of cities and communes, charitable bureaux, *monts de piété, dépôts de mendicité,* houses of detention, *haras,* (studs,) and all other public establishments. They also attend to the execution of the laws and ordonnances concerning the administration of finances, and especially the observation of the regulations which bear upon the collection of dues of all descriptions, the direction and *mouvement* of the funds, and their application to public expenses.

Each inspector general has for *collaborateurs,* or auxiliaries, one or more inspectors, of whom he directs the labors and the missions.

The bureau consists of ten inspectors general of finances, twelve inspectors of finances of the first class, twelve of the second class, fourteen of the third class, and twelve sub-inspectors.

SECRETARYSHIP GENERAL.

This is in charge of a secretary general.

Central Bureau.—Dispatches, archives, and counterseal.

This is in charge of a head clerk, (*chef.*)

Functions.—Registration of dispatches and their transmission to the proper divisions; countersigning and legalization of documents and signatures; depot and classification of laws, decrees, and decisions; dispatch and transmission of copies of said documents to the functionaries charged to unite in their execution; care of the archives of the department; of the former liquidation general of the public debt and of the former sinking fund, and correspondence relative thereto; distribution of the bulletin of laws; general information on the state of affairs treated by the department.

Special accounts of the expenses of the department.

This is in charge of a sub-director.

Bureau of Ordonnancement and of Accounts.

This is in charge of a head clerk, (*chef.*)

Functions.—Centralization and examination of documents relative to the budget of expenses of the department of finances; formation of the budget and of the explanatory tables; preparation of the decree of the annual apportionment of funds voted in the budget, and of the *elements* of the monthly distribution of funds; preparation of decrees and legislative bills concerning all applications for supplementary, extraordinary, and complementary funds; comptrol of the employment of funds; establishment of the memoranda of expenses liquidated, and to be settled by orders from the minister; also the examination of vouchers of the creditors of the department; preparation and delivery of ministerial ordonnances of payment and of *delegation;* keeping of the accounts of the department of finances; correspondence with the secondary *ordonnateurs;* establishment and publication of the definitive accounts of the year, of provisionary situations, and other annual documents concerning the budget of the department.

Bureau of matériel and of the interior service.

This is in charge of a head clerk, (*chef.*)

Functions.—Repairs and maintenance of the hotel of the department; furnishing of the bureaux, printing, and lithography; lights and fuel; care of the furniture; clothing of the servants; contracts and adjudications; liquidation of expenses and regulation of bills; inventories of the furniture of the hotel; propositions for appointments in the interior service; supervision of the agents of this service; police and military service of the hotel; lithographic and bookbinding establishments; purchase and distribution of books, plans, and maps, destined for the service of the bureaux, and the central library of the department; payment of urgent minor expenses; propositions for, and distribution of, assistance to the widows of the employés of the central administration, and the divers agents of the interior service.

"Régies" and Financial Administrations.

This is in charge of a sub-director.

1st Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Centralization and examination of all affairs submitted by the administrations of registration and domaines; of forests and coins; preparation of the decisions of the minister, of projects, of edicts, and decrees for these different services; correspondence with the ministers, the prefects, and other public functionaries; correspondence and decisions of the minister at the instance of communes and private individuals who have interests to discuss with these administrations; introduction and defence of appeals to the council of State; affairs relative the liquidation of the old civil list.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Same functions as first bureau in respect to the administration of the customs, indirect taxes, and dues from the tobacco establishment and the post office.

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Division of Financial Matters in Dispute.

This is in charge of a *chef de division*, justiciary agent of the public treasury.

Functions.—The supervision of all departments of the judiciary agency; examination and *visa* of all the judiciary significations and applications made to the public treasury, except those relative to *oppositions, transports*, or *main-levées amiables ou judiciaries* of said *actes;* defence of suits instituted against the treasury; disputes in regard to functions; the *personnel* of advocates, solicitors, notaries, and other ministerial officers attached to the treasury, and the regulation of their charges and fees; caution money in stock and real estate; care and renewal of mortgage deeds; recovery of debts of accountants and all other creditors of the treasury.

1st *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Work and correspondence relative to all litigious questions submitted by the different ministers, by the administration of finances, by public functionaries, by accountants; and all questions respecting the department of finances which are likely to lead to a judiciary action against the treasury; examination and solution of difficulties which may arise in the interpretation and application of the laws concerning matters in dispute; prosecutions for debt against receivers, paymasters, various accountants and furnishers; loans to *commerce* and to *industrie;* advances to railroad companies and to *associations ouvrières; personnel* of advocates, solicitors, notaries and other ministerial officers attached to the treasury, and regulation of their expenses and fees.

2d *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Defence of actions brought against the treasury; reception and annulment of caution money in State stocks and real estate; execution of the law of September 5th, 1807, relative to the privileges and mortgages of the treasury on the property of accountants; prosecutions for debt against the various contractors and adjudicators of works; against the registration collectors, and the collectors of postage; indirect taxes and customs; against officers and *sous officiers; effets divers, traites, coupes de bois* and *douanes;* arrears due for board and tuition from the pupils of the public schools; correspondence relative to information to be given to the former colonists of St. Domingo; keeping of the books of the judiciary agency, archives, state of individual accounts, annual accounts of debit and credit.

3d Bureau.

This is in charge of a head clerk, *conservateur* of *attachments.*

Functions.—Examination, reception, and annulment of attachments, and notices of conveyance and judgments, relating to the treasury; delivery of extracts from writs of attachment and certificates of *non-opposition ; visa* of all the orders and drafts on the central paymaster by all the ministers, or their delegates ; attachments of State stock and pensions in cases authorized by the law ; attachments of caution money payable either in Paris or in the departments.

The counsel of the judiciary agency consists of two advocates, two assistant advocates, two solicitors, one attorney, and one notary.

Direction of the "mouvement general" *of the funds.*

This is under the direction of an inspector general of finances, who is *chargé* of the direction.

Functions.—The state of the resources and wants of the public treasury, and the application of the receipts to the public expenses throughout the extent of the empire.

The execution of the orders of the minister of finances relative to negotiations, loans, emission of treasury certificates, and other public effects ; the direction of *viremens*, and of transport of money, bills, &c., according to the needs of the paying service at Paris and in each department. The regulation and account of the expenses of negotiation and of service. Keeping of the accounts current of the receivers general and other correspondents of the public treasury, and the regulation of interest and commissions allowed on the deposits, remittances, &c., which are presented to them. Preparation for the monthly distribution of funds between the departments, according to the decrees of the Emperor, for the employment of the *credits legislatifs.* The reception, registration, *visa*, and putting in the way of payment of ministerial orders ; transmission of authorization for payment, assignation of the necessary funds for the service of the paymasters and for the *subventions* called for by the collectors of the administrations of finance. Authorization of receipts and expenses, and for drawing funds from the central *caisse* of the public treasury. Sale and purchase of State stocks on account of inhabitants of the departments, in execution of the law of 14th April, 1819. The statutes and *personnel* of the directors and sub-directors of the national discount *comptoirs, sous comptoirs*, and *magazins publics de dépôt.*

Central Bureau.

This is in charge of a sub-director, *chargé* of the bureau.

Functions.—Reception of dispatches on their arrival ; archives ; general correspondence ; service at Paris ; monthly distribution of funds to the ministerial departments ; preparation of decrees and decisions ; *personnel* and *matériel* of the service of the treasury of the armies, and

of Algiers; authorizations *a la caisse;* sale and purchase of State stocks on the account of inhabitants in the departments; service of banks and savings banks; negotiations, loans, emission of bills and certificates, following up of the reports of the inspectors of finances; affairs reserved by the director; supervision of the national *comptoirs* of discount; examination and comptrol of the accounts rendered of operations; authorization of dividends; constitution of branches of the *magazins publics de dépôt.*

Bureau of paying orders.

This in charge of a head clerk, (*chef.*)

Functions.—Registration, and orders of payment delivered by the ministers; payment of these orders from the proper funds; periodical memoranda; advice on various questions.

Bureau of Instructions.

This is in charge of a head clerk, (*chef.*)

Functions.—Administrative correspondence on the affairs of the exterior service; orders to be given to receivers general and paymasters; instructions to these officers and to the paying treasurers of Algiers; supplying the *caisses de reserve;* authorization to the receiver general for orders on the central *caisse*, and for the *encaissement* of sums paid in on account of the receivers general.

Bureau of correspondence relative to the regulation of accounts current.

This is in charge of a *chef.*

Functions.—Special correspondence relative to the accounts current of the receivers general.

Accounts and accounts-current.—Bureau of account-books general.

This is in charge of a head clerk, (*chef.*)

Functions.—Accounts and accounts-current; examination and sorting of the correspondence; keeping of the journal and of the great account book, with its *developpements;* account of the expenses of negotiations; periodical summaries of the account books; daily state, and state every ten days of the accounts of the receivers general and comptrol, *par nature d'opération;* calculations for loans and other negotiations of the treasury; general tabular statements; liquidation of the interest of the floating debt and the expenses of the treasury.

Bureau of auxiliary account books.

This is in charge of a head clerk, (*chef.*)

Functions.—Keeping of the journals giving the particulars as to the amounts of drafts and the time they fall due; service of the transport of money (silver and gold) from the departments to Paris, from Paris to

the departments, and from one department to another; expenses of transport; journals of the issue and of the payment of drafts from the central *caisse* on the receivers general, and the drafts of the receivers general, and other correspondents of the treasury, on the central *caisse;* memoranda of notes payable and paid; verification of accounts; special journal of the *virements* of accounts between the receivers general.

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Direction of the inscribed National Debt.

This is in charge of a director and a sub-director.

This direction embraces the administration general of the funded debt; the *cautionnements* and pensions, whether from the general funds or the reserved funds; the liquidation of interest, of premiums, and of the sinking fund, (*amortissement,*) of loans effected for the public works. It is composed of five bureaux.

Central Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Interpretation and application of special laws concerning the inscribed stock, and also the jurisprudence of regulations and decisions relative thereto; preparation of the correspondence to be signed by the minister on these various subjects, and for those hereafter mentioned, viz: General questions and reserved affairs; supervision of the execution of regulations relative to stock brokers; administrative impediments; comptrol of loans; consolidations; comptrol of operations in what is called departmental stock, and verification of the annual accounts of receivers general to be presented to the court of accounts for this same stock; renewing and replacing extracts from the inscription; *rétablissement des rentes non viagéres portées aux portions non reclamées et frappées de la préscription quinquennale,* (re-establishment of life interests presumed to be extinguished;) preparation and preservation of the alphabetical repertory composing the "*double*" of the great book; researches and verifications as to the *origines majorats,* special laws, and correspondence relative to these subjects; central accounts; budgets and annual accounts of the inscribed debt; periodical statements and demands for *ordonnancement.*

Bureau of the great book, (*Grand Livre.*)

This is in charge of a head clerk, who is an *agent comptable.*

Functions.—Inscription of life interests and others created in virtue of law; daily transactions recorded in the great book, and transmission of extracts from the inscription of stock payable to order and to bearer; keeping of accounts opened with the receivers general and with the public and other establishments; powers of attorney and *quittances visées;* work preparatory to the settlement (*ordonnancement*) of arrears and accounts; tabular summaries according to the nature of the

stock; nominative bulletins to serve for the comptrol of the payments; account of additions and reductions to be rendered to the court of accounts.

Bureau of transfers and "mutations."

This is in charge of a head clerk, who is an *agent comptable.*

Functions.—Examination of demands for transfer; preparation of certificates to be transmitted to the bureau of the great book to serve as titles to new entries; delivery of extracts from new inscriptions, payable to order or to bearer; preparation of the account of transfers and *mutations* to be presented to the court of accounts; examination of certificates of property, and of other documents having for object *mutations, réunions, divisions, changements* of quality, &c., &c.; preparation of certificates to be sent to the bureau of the great book, to serve as a basis to the new entries.

Bureau of pensions.

This is in charge of a head clerk, who is an *agent comptable* and a *chef-adjoint.*

Functions.—Application of the legislation relative to pensions to be inscribed on the books of the treasury; liquidation of civil pensions to be submitted to the committee on finance; revision of pensions, military and civil, from the general funds; reversions to widows and children of former *donataires* dispossessed, and to widows of the veterans of the camps of Alexandria and of Juliers; inscription of pensions given as a national recompense; giving orders of payment for pensions of every description inscribed on the books of the public treasury, and of assistance for life, accorded to former *militaires* of the republic and of the empire, in execution of the decree of 14th December, 1851; execution of the general regulations of January 12, 1852, on the retiring pensions of functionaries and employés of the department of finances; and of the special regulations applicable to the employés of the *greffe*, and to the secretaryship of the court of accounts, and to the *caisses d'amortissement*, and of the *dépots and consignations*, of the former chamber of peers; and to the *couriers des postes;* liquidation of pensions and reversions from the reserved funds; presentation to the committee of finances; inscribing names of new pensioners; preparation of brevets; payment of arrearages; reports, correspondence, and instructions; accounts; and accounts to be rendered to the court of accounts and the committee on accounts.

Bureau of "Cautionnements."

This is in charge of a head clerk and assistant, *(chef and sous-chef.)*

Functions.—Application of special legislation, and of ordinances or decisions concerning the *cautionnements* in cash, and the privilege of second order accorded to *bailleurs de fonds; immatricule des cautionnements nouveaux;* delivery of certificates of inscription in the names of the *titulaires*, and of certificates of privilege to *bailleurs de fonds;* preparation of the annual tables of payment of interest and of reimbursement of capital; correspondence and accounts.

Direction of the General Financial Accounts.

This is in charge of a director and a sub-director.

Functions.—The maintenance, in all the accounts of public property, of a uniform system of book-keeping; centralizing their results; preparation of general accounts; following the movements, and comptrolling the daily proceedings of all the account departments connected with the ministry of finance; watching over the recovery of the impost duties; and all suits in connexion with the direct taxes.

This direction also brings together, in one statement, the elements of the different accounts respecting the revenues, the expenses, and the operations of the treasury, and arranges the results with a view to establish, at specified epochs, the state of each account, the condition of each part of the service, the table of receipts and expenses of the budgets, and the general situation and annual account of the administration of finances. It is also charged with all the works relative to the presentation of the general budget of the State to the *corps legislatif*, and of the laws for supplementary *credits*, and the definitive regulation of each year's accounts.

It verifies and transmits to the court of accounts the individual account of all the financial clerks, joining with them the special account of opetions for the transfer of funds, and the summaries general which serve as a basis for the comptrols presented by the ordinance of July 9, 1826, and to the declarations by which the court certifies the conformity of the results of its decrees on individual accounts, with the accounts rendered by the ministers.

Each year it places before the committee instituted by ordonnance of December 10, 1823, the necessary documents to arrange the accounts general of finances, and sees that they accord with all the elementary *comptabilities* of the *ordonnateurs* and the accountants.

This direction is also charged with the supervision of the municipal accounts and *caisses*, those of the hospitals, depots *de mendicité*, and other public establishments.

Central Bureau.

This is in charge of a sub-director, and a head clerk, *(chef.)*

Functions.—Journal and great book of the general accounts of the finances; periodical situations, and annual accounts of the administration of finances; relations with the central account department of the different ministerial departments; work relative to the preparation of laws on finances, and of the *tableau à l'appui*..

Preparation of the materials, and following up the work concerning the comptrols presented by the ordonnances of December 10, 1823, and July 9, 1826; surrender to the court of accounts of the special account of operations established by *virement d'ecritures*.

Bureau of the collection of direct taxes, and of the accounts of the collectors in the communes and public establishments.—General affairs.

This is in charge of a head clerk, (*chef.*)

Functions.—Supervision and direction of the service of collection, and of prosecutions in relation to direct taxes; accounts of the communes and of charitable establishments; liquidation of the *remisses* of collectors, and regulations of tariffs; examination of questions relative to the responsibility incurred by accountants in consequence of the robbery of funds, of balances, and on account of the non-fulfilment of contracts for cutting wood in the forests; and other engagements of the State, of which they have to see to the realization.—General affairs.

Bureau of the accounts of the receivers of finances.

This is in charge of a head clerk, (*chef.*)

Functions.—Comptrol of the management of the receivers general and particular of finances; verification of their account books, of their annual accounts, and of their vouchers; correspondence and instructions on the various services which are confided to them.

Bureau of the accounts of colonial treasurers and payers.

This is in charge of a head clerk, (*chef.*)

Same functions as preceeding bureau, as far as concerning colonial payers and treasurers.

Bureau of the accounts of the régies and financial administrations.

This is in charge of a head clerk, *(chef.)*

Functions.—The same as the two preceding bureaux, in all that concerns the *agents comptables* of the *régies* and financial administrations.

Service of the central paying cashier of the public treasury.—Central caisse.

This is in charge of a central sub-cashier, substitute for the central cashier.

Functions.—The central *caisse* of the public treasury is charged with the receipts and expenditure of the public treasury; it is also charged with the emissions and conversions of *valeurs*, which concern the service of the treasury; it sends *mandats* on all the departments in exchange for funds which it has received; it pays, on account of the receivers general the drafts which they have been authorized to draw on the treasury; receives deposits on interests which are offered to it, and which it is authorized to accept; it delivers acknowledgments for all the receipts made at Paris, and for all the moneys which are sent to it. The receipts and the *valeurs* should be *viséd immediately* at the comptrol of the *caisse.* The cashier is responsible for the operations made by agents placed under his orders, and is alone responsible before the court of accounts.

The operations of the central *caisse* are divided into *sub-caisses* and bureaux, as follows: Receipts in money against acknowledgments; treasury bonds, and grants on the departments; payments for the service of the treasury; *portfeuille* of the public treasury titles; money and public stocks deposited for *cautions;* receipts for money due on departmental debts in Paris, and on those to be paid in the departments; accounts.

Central Expenses.

This is under the charge of a central sub-payer, substitute for the central payer.

Functions.—The payment of all the expenses of the budget payable at Paris, whether on orders direct from the departments, or orders of payment from the various secondary *ordonnateurs* to which the ministers delegate funds.

The payment of perpetual *rentes* of every description; of life *rentes* of every class; of civil and ecclesiastical pensions; of the ex-peerage; of *donataires*; of soldiers; of soldiers' widows; and of national recompenses.

The work of *comptabilité* for the *bordereaux* and tables of payments to be furnished to the divers ministers; to the secondary *ordonnateurs;* for the *ordonnateurs* of the *comptabilité générale* of finances; for the current accounts, and also for the definitive account to be rendered at the end of each year by the central payer to the court of accounts.

Central Bureau and accounts.

This in charge of a *sous-chef.*

Bureaux for payment of Public Debt.

Depot of inscription of stocks (*rentes*) *avant l'rechéance;* payment of interest; payment of pensions. Sixteen sub-payers.

Bureaux for payment of the expenses of the Departments of Government.

Functions.—Payments on orders of the ministers; on orders of military intendants and *sous*-intendants, directors of artillery, of engineers, of fortifications, &c.; of the prefect of the department of the Seine; of the prefect of police; and of divers financial directors and administrators.

Five sub-payers, viz: Two for the department of finances; one for the departnent of war, comprising four bureaux; and one for the departments of foreign affairs, public instruction, and the service of worship; and one for the secretary of state and the department of the marine, composing the second bureau.

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Division of Comptrol General.

Execution of Articles 1, 2, 4, 5, *of the Law of April* 24, 1833.

This is in charge of a *cônroleur and a cônroleur central—Adjoint.*

This comptrol is exercised by the medium of agents delegated by the *chef de service* to sub-cashiers of receipt and expenses; to the bureaux of payment open to the public; and to the *agents comptables* of the inscribed debt.

The duties of the control are:

1st. To state, (*contradictoirement,*) after having seen to their regularity, all the receipts and expenses of the central cashier, and the various operations of the *caisse* which concern the public treasury;

2d. To verify and be assured that the payments made by the central paying cashier for the service of public expense were legally made, whether by *ordonnance*, *mandat de l'ordonnateur* certificate, of inscription, or some document in place of these, constituting a claim against the State;

3d. To see that every certificate of inscription on the books of the public debt, stocks, pensions, *cautionnements*, &c., results either from the grant of a right to this inscription, or for the exchange of a title previously annulled:

4th. To prepare a tabular summary of the operations of the treasury, to be submitted every evening to the minister, and to state (*contradictoirement*) the balance materially recognized in the *caisse* of the treasury, of which a key remains in the hands of the *comptroller central.*

1st section. Comptrol of the daily receipts and expenditure of the *caisse* of the treasury; *visa* of the *récipissés souscrits*, and the bills issued for the service of the treasury by the central cashier; *intervention aux procès verbaux d'éxpedition de fonds aux comptables extérieurs;* summary of operations, and *situation contradictoire* remitted each evening to the minister; declaration of conformity of the annual account rendered to the court of accounts, with the *resumé* of the *actes* of accountants.

2d section. Comptrol of the payment at Paris of the expenses of the departments, and of the public debt; application of the new dispositions regulated by the decree of 9th November, 1849, for the payment of *rentes; elements* of the justification of expenses, produced before the court of accounts, in place of *etats d'arrèrages supprimés;* daily statement for the minister of payments *contradictoirement constaté.*

3d section. Control and *visa* of certificates of inscription of stock on the great book; of certificates of inscription of pensions payable from the funds of the State; and for the reserved funds of the department of finance; control and *visa* of certificates of inscription of *cautionnements* and of certificates of privilege of the second order, delivered to the *bailleurs de fonds; visa* for the reimbursement of these *titres* after the existence of the debt, *contradictoirement constatée; resumé* of these divers operations sent every day to the minister; at the end of the year communication of the general results to the commission for the verification of accounts of the finances.

Administration of Direct Taxes.

This is in charge of a director.

Bureau central and du personnel.

This is in charge of a sub-director.

Functions.—General supervision of the service; centralization and examination of all the work executed in the division; opening, registration, distribution, and forwarding of dispatches, works of expedition, furniture of bureaux, &c.

Preparatory work for appointments, changes, dismissals, and disciplinary measures; examination and verification of notes relative to the agents of the departments; reports of the inspection general of finances; work concerning the admission of *postulants*; the *concours* for the *sur-*

numérariat and the examination of the supernumeraries; liquidation of salaries; indemnity for expenses of bureaux for the directors; for the expenses of the circuits of inspectors and comptrollers. and for the missions given to supernumeraries.

Congés, retiring pensions, assistance to widows and orphans of employés, &c.

Bureau du Départment et du Cadastre.

This is in charge of a head clerk, (*chef.*)

Functions.—Constatation des mouvements de la matière imposable; collection of the material necessary for the formation of the budget of receipts, so far as concerns direct taxes; preparation of legislative hills, and of circulars and instructions; apportionnement of taxes *foncière, mobilière, and personnelle*, and on doors and windows; examination of deliberations of the *conseils de répartition;* examination of applications of municipal and general councils for authorization to levy extraordinary imposts; statistical and other labors for the improvement of the *bases* of direct taxes.

Supervision of work connected with land surveying and appraisement; service of cadastral mutations and cadastral accounts; examination of reports of the inspection general of finances, and of the special verifications of the cadastre; fixing of the patent charges, (*droits de patente;*) verifications of *plans levés* by the comptrollers; supernumeraries and candidates to the supernumerary.

Bureau of Assessment and matters in dispute.

This is in charge of a head clerk, (*chef.*)

Functions.—Collection of the necessary facts for the formation of the budget of expenses concerning direct taxes; work relative to the preparation of the *matrices* and *rôles* of the four kinds of direct taxes, and of the *taxes des biens demain morte;* also of the compensation for the verification of weight and measures, and of the *prestation en nature* for parish roads, of the *redevance* of mines, and of the expenses of chambers of commerce and *bourses* of commerce.

Rôles specieux d'impositions locales; tables of the sum total of the rôles; tables of taxes unduly assessed, and of taxes irrecoverable; examination of the tables of allowances, reductions, remissions, &c., &c.; examination of the *procès verbaux* of losses; reimpositions; distribution of the funds of *non-valeurs;* accounts relative to reductions, &c.

Examinations as to claims and other contentious affairs in the matter of direct taxes; appreciation of the decrees rendered, in the first instance, by the councils of the prefectures: appeals to the council of state; correspondence relative to disputed affairs.

Agents attached to the central administration of the Department of Finances, viz:

1 *Agent de change* of finances.
1 Architect, having charge of the moveable effects of the department.
1 Physician.
1 Second physician.
1 Third physician.

Committee created by the law of June 29, 1835, for the liquidation and administration of the caisse de vetérance of the old civil list of Charles X.

This committee is also charged with the distribution of assistance accorded, as a gratuity, to the pensioners of the civil list of Charles X. This committee consists of a president, secretary, and fourteen other members.

The bureau of the commission is under the charge of a head clerk, (*chef.*)

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(*d* 1.)

DIRECTION GENERAL OF THE POST OFFICE.

This is in charge of a director general and ten administrators.

Cabinet of the Director General.

This is in charge of a private secretary.

Functions.—Opening and analysis of dispatches addressed to the director general, and transmission of these dispatches to the bureaux which they concern; affairs reserved for the private examination of the director general.

Bureaux placed under the immediate orders of the Director General.—Bureau of personnel.

This is in charge of a head clerk, (*chef.*)

Functions.—Reports, notes, and correspondence relative to agents of the post office; presentation for vacant situations in Paris and the departments; and nomination of agents of every grade; *constatation* of the services of post office agents; work preparatory to the liquidation of retiring pensions; assistance to agents of every grade in Paris and the departments, (postmasters and postillions excepted;) also to their widows and orphans; work relative to caution money.

Central Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Registration of the deliberations of the council, and delivery of *ampliations;* care of the archives.

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FIRST DIVISION.

This is in charge of an administrator.

1*st Bureau.—Interior correspondence.*

This is in charge of a head clerk, (*chef.*)

Functions.—Organization of the services *en malles* and *par entreprises;* tariffs; geological works.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation of conventions and treaties with foreign offices; correspondence relative to their execution.

3d Bureau.—Inspection and reclamations.

This is in charge of a head clerk, (*chef.*)

Functions.—General supervision of the service; *mouvement* of the employés of all grades; following up of the reports of the inspection general of finances, and of the inspectors of post offices; researches and correspondence relative to the reclamation of journals and letters.

4th Bureau.—Franking, contraventions, and rural service; expen es of the personnel in the departments.

This is in charge of a head clerk, (*chef.*)

Functions.—Correspondence relative to franking and countersigns; prosecutions in case of the fraudulent transport of letters; postal establishments; house distribution; various salaries and indemnities in the departments; organization and supervision of the rural service.

5th Bureau.—Verification of products.

This is in charge of a head clerk, (*chef.*)

Functions.—Verification of documents relative to products of every description.

6th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Examination of dead letters and *non-valeurs* of every kind; attention to reclamations of all descriptions.

SECOND DIVISION.

This is in charge of an administrator.

1st Bureau.—Relays.

This is in charge of a head clerk, (*chef.*)

Functions.—Creation and suppression of relays; fixing of distances; wages and indemnities to postmasters, (post horse-keepers;) assistance and pensions to postillions; supervision of the service of relays; preparatory work relative to the appointment of relay agents; service of couriers (*estafettes*) of the government.

2d Bureau—Transport of dispatches.

This is in charge of a head clerk, (*chef.*)

Functions.—Adjudication and supervision of services *par enterprises*

(by contract;) contracts for the construction and maintenance of post coaches (*malles postes*) and other carriages employed by the administration for the transport of dispatches; supervision of this *matériel;* liquidation of expenses relative thereto; administrative service of couriers; supervision of the service of the steamboats of the administration in the Channel; and of the execution of the provisions as to the charges annexed to the charters of postal service in the Mediterranean; liquidation of expenses relative thereto.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation of the budget; *ordonnancement* and verification of expenses; *détaxes* and reimbursements of sums overpaid.

4th Bureau—Matériel.

This is in charge of a head clerk, (*chef.*)

Functions.—*Matériel* and printing; care and maintenance of buildings and moveable effects; preparation of treaties with furnishers; care and preservation of archives; work relative to the service of postage stamps.

5th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Supervision and general accounts relative to the service of silver articles and money, whether at Paris or in the departments; correspondence relative to the service.

Active service of exploitation.

This is in charge of a *chef de service.*

Bureau of departures and arrivals.

This is in charge of a head clerk (*chef*) and three assistants, *chefs adjoints.*

Functions.—Reception and opening of mails on their arrival; making up of mails; work relative to letters passing through Paris; reception and *élaboration* of letters, journals, printed works, &c.; *à affranchir à charger, ou à recommander à destination des département et de l'étranger;* loading and unloading of carriages used for the transport of mails; *constatation* of the hours of departure and arrival; daily circuit of couriers, *chargeurs* and *commissionaires des cours.*

Bureau of distribution of letters in Paris.

This is in charge of a head clerk, (*chef,*) two assistants, (*chefs adjoints,*) and four inspectors.

Functions.—General distribution of letters from and for Paris; franking of letters for Paris and the departments; reception and dispatch of couriers, (*estafettes.*)

Section for franking of journals and other printed works for the departments, for foreign countries, Paris and the *banlieue*.—In charge of a head clerk, (*chef.*)

Section for franking and for registered letters for the departments, foreign countries, Paris and the *banlieue*.—In charge of a *sous-chef.*

Section of the *poste restante* and for the distribution of registered letters.—In charge of a *sous-chef.*

Section of dead letters and of reclamations for Paris.—In charge of a *chef.*

Functions.—Réclamation of letters from and for Paris; research after and transmission of reclaimed letters.

Cash bureau, (bureau de la caisse.)

This is in charge of a head clerk, (*chef.*) At this bureau are paid the drafts for money orders and for articles in silver, &c.; such articles are also deposited at this bureau, and here, also, is paid the price of places in the mail coaches.

Post horses.

This is in charge of a *maitre de poste.*

Inspectors of post offices in the departments.

The service of *exploitation* in Paris consists of a principal inspector and six assistant inspectors. In the departments it consists of an inspector for each department.

Service of the treasury and of the posts in Algiers.

Province of Algiers.

One paying treasurer, director, and twelve *payeurs* of different kinds.

Province of Constantine.

One paying treasurer, director, and eight *payeurs* of different kinds.

Province of Oran.

One paying treasurer, director, and six *payeurs* of different kinds.

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(*d* 2.)

ADMINISTRATION OF FORESTS.

This is in charge of a director general, who is president of the council of administration, and ten members of the council.

Bureau central and of the personnel.

This bureau is under the immediate orders of the director general of the administration, and is in charge of a head clerk, (*chef.*

Functions.—Opening, registration, distribution, and transmission of dispatches; appointments to the places of agents and forest collecting officers of the active and sedentary service; *concours* for admission to the imperial forester school; advancements, mutations, *congés*, interims, special missions, authorizations to appraisers, &c.; gratuities and assistance; notice of the death of *légionnaires* and pensioners; furniture for the bureaus and works for the library; preparation of the minutes of the deliberations of the council of the administration; work growing out of these deliberations; *repartition entre les agents des operations d'arpentage et de réarpentage, de balivage et de recolement;* examination of the reports of the general circuit of the *conservateurs* of the accounts of the management of the chief agents of the service, of the reports of the inspection general of finances, of the deliberations of the general councils of the departments; preparation of circulars and general instructions; direction of the studies of the *ecole impériale forestière concours* of aspirants to the grade of *garde général adjoint;* forest statistics; information to be furnished to the senate and the corps legislatif; distribution among the *conservateurs* of indemnities relative to the forest circuit and the circuit for sales; affairs reserved to the director general of the administration.

First Division.

Administrator.—1st *Bureau.*

In charge of a head clerk, (*chef.*)

Functions.—Civil affairs; questions of property and of servitude; administrative and judiciary instances; *cantonnements d'usagers;* repurchase of the rights of pasturage, &c.; exchanges; divisions; *affectations;* ceding of lands encroaching upon the borders of the forests; *dépaissance de bêtes à laine dans les fôrêts grevées de droits d'usage;* affairs of the former *compté* of *Dabo; locations de vides, ou de pâturages et tolerances dans les forêts domaniales;* payments *d'honoraires hors taxe.*

2*d Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Correctional instances; appeals, *pourvoirs en cassation;* abatement and commutation of sentences pronounced against delinquents and forests collectors; measures to be taken against insolvents; divers tables relative to the suppression of offences, fires, and constructions within the prohibited distance; creation and suppression of places (*emplois;*) changes in the circumscriptions of forest arrondissements: *mise en disponibilitè; descents en grade;* revocations, *mises en-jugement;* liquidation of retiring pensions; indemnities, &c.; interims, missions, and extra works; franks and countersigns.

Portfolio of charges relative to hunting; *amodiations; cession de baux.* Portfolio of charges for fishing licenses; *amodiations;* indemnities claimed

by farmers for interference with their legal rights, (*trouble dans leur jouissance,*) *resiliation de baux; flottabilitè* and navigability of rivers; modification of local regulations of the fishing police; attending to these affairs before the tribunals or the council of State.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Employ of funds destined for works of amelioration, seed plants, fencing, sawing, &c., &c.; subventions for departmental roads, parish roads, &c.; verification of estimates; payment of architects and contractors; examination of monthly tables setting forth the use made of public funds placed at the disposal of *conservateurs.* Cessions and exchanges of land for the establishment of roads; acquisition of various real estate to add to the domanial forests. Locations of houses or works; restoration to the administration of domains, of buildings useless to the forest service. Service of *gardes cantonniers; concession de menus products moyennant des prestations en nature;* dead leaves; quarries, &c. Sale of materials, boundaries, &c. *Amenagements* (*partie d'art;*) plans and charges of *amenagement;* verification *des arpentages and des rearpentages de coupes;* examination of reports as to the employ of their time by the agents charged with works of art.

Second Division.

In charge of an administrator.—1st Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Amenagements; ordinary and extra felling; extraction of dead, damaged, and decaying trees; cleaning up; lopping, cutting down to the ground, assorting, *balivage and martelage;* exploitation by *entreprises,* or by *economié;* measuring; application to the surveyors of the 52d article of the forest code—*dèlivrances usagères;* deliveries to the haras, to the crops of military engineers, the department of bridges and roads, to the custom house, &c., &c. Cutting down trees for the purpose of opening roads; forest *regime; soumissions et distractions;* drainings, alienations, exchanges, &c., &c., of the woods of the communes and public establishments. Indemnities and gratuities to *riverains* (persons living in forests) and other persons who assist in extinguishing fires in the forests.

2d Bureau.

In charge of a head clerk, *(chef.)*

Functions.—Portfolio of general and particular charges, and instructions as to the sale of wood cut in the forests; demands for reduction of price; questions relative to *folles-enchères,* to restorations, to the payment of contracts, and the expenses of adjudications, of stamps, and of registration; *mises en charge sur les coupes communales;* sales by retail and on the spot; adjudications for long periods in the forests of Cor-

sica; extraction of resin; *ecorcages de chènes, lièges;* sales of trees blown down, &c.; indemnities for delays in the delivery of *permis d'exploiter*, and for *tris de reserves; depaissance* in the forests not subject to the *droits d'usage;* locations of lands; temporary *passages*, and other tolerated privileges in the woods of the communes, and other public establishments; principal and accessary products of the forests; expenses of the administration of these woods; applications for the draining of woods which are private property; woods held as *apanage*, &c., &c.; choice in applications for the establishment of furnaces, and on applications for the importation and exportation of forest products. *Dèliverances de bois mis en charge sur les coupes pour le chauffage des preposès forestiers;* clothing, equipping and armament of the *preposès*, (collectors.) Verification of bargains, *fournitures*, reparations of tools, &c., &c; sale of useless papers,

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Formation of budgets; applications for supplementary grants of public funds; applications for the annulment of grants from public funds; monthly statements of the salaries of functionaries and *employés* of the central administration, of the forest school, and of the agents and collectors of the exterior service; expense of law suits in civil matters; expense of prosecutions *tombés en non-valeur*, of sequestrations, transport of forest prisoners, demolitions, &c., &c.; expense of correspondence, printing, surveying, &c., &c. Taxes paid for the maintenance of parish roads; monthly statement to be addressed to the minister. Application for funds judged necessary for the service of each month; keeping of the accounts of expenses paid on orders from the director general. Tables to be prepared relative to the periodical accounts. Tables to be prepared of individual accounts to be paid at the expiration of each term, &c., &c.

Temporary Bureau of Alienations.

This is in charge of an inspector, an advocate, and two engravers.

Imperial Forest School.

Established at Nancy.

In charge of a director, four professors, and two inspectors of studies.

The nature of this school is indicated by the name. There are thirty forest arrondissements, or districts, each under the charge of a *conservateur*, who has associated with him, in some instances, a sub-inspector.

(*d* 3.)

Committee on Coins and Medals.

This committee is charged:

1st. With judging the title and weight of money coined, and with the supervision throughout France of the execution of the monetary laws, the coining of money, and the assaying of works in gold and silver, also with the making of monetary coins, and the test-dyes (*poinçons de la garantie.*)

2d. With the delivery to assayers (conformably to the laws) of the certificates of capacity which are necessary for them before entering upon their functions.

3d. With giving opinion on difficulties relative to the title and mark of lingots and works of gold and silver.

4th. With the supervision of the operations of all the functionaries of the monetary *ateliers.*

It is charged also with a control over the preparing the wood for the postage-stamp cuts, playing cards, and bank notes, and also over the printing of the postage stamps.

It proposes the tariffs used to determine the rate at which gold and silver are received at the mints.

It assays also foreign gold and silver, newly manufactured, whenever it judges suitable, for the purpose of observing variations.

When required either by the tribunals or by the administrative authorities it causes to be verified altered coins, and those which it is pretended are false.

Finally, it attends to the verification of the value of lingots assayed in the bureaux of *garantie,* and to the appraisal of the works of gold and silver.

This committee also, according to the terms of the ordonnance of March 24, 1852, has a supervision of the making of medals of gold, silver, and bronze; and it prepares the tariffs, states the *titre,* and authorizes the delivery and sale of medals, after having observed the same formalities as those prescribed for the judgment of coined gold and silver.

The commissioner of the government and the director of the making of coins at the mint in Paris fulfil, so far as the making of medals is concerned, the same obligations as those imposed by the law for the coining of money; the making of medals is also under the supervision of a special comptroller.

The correspondence relative to the functions of the committee on coins and medals is addressed to the president of the committee.

Monetary Museum.

This establishment, formed since the union of the medal mint with the coin mint, possesses a collection of all the coins, medal-dies, *pièces de plaisir,* and tokens (*jetons*) which have been struck in France since the time of Charles VIII.

There is also in the museum a depot containing a large quantity of coins and dies belonging to various publishers, companies, and societies.

No new medal, *pièce de plaisir*, or counter or token, can be struck without authorization from the minister of the interior, or anywhere except at the mint of Paris.

The exhibition rooms are open to the public Tuesdays and Fridays, and tickets are given for Mondays and Thursdays.

In order to purchase medals comprised in the catalogue, application should be made to the bureau of sale established at the mint.

The committee on coins and medals is organized as follows:

1st. A president and two commissaries general at the Paris mint.

2d. Bureaus of the committee, under the direction of a head clerk, (*chef.*)

3d. Assay laboratory, consisting of a verificator of assay and two assayors.

4th. Engraving general of coins, consisting of an engraver general, an assistant engraver general, a *contrôleur-verificateur et à la fabrication et à la comptablilité des coins et poinçons*, and an assistant to the engraver general, who is charged with the preparing the wood for the postage-stamp cuts, and playing-card cuts, &c.

5th. Monetary museum.—In charge of a *conservateur.*

6th. A consultative committee of engravers.

This committee, which is in connexion with the committee on coins and medals, was established by a decree of the minister of finance on the 4th of July, 1832.

It is composed of the president of the committee on coins and medals, who presides, and of five other members chosen by the minister of finances from a list of candidates elected by the engraver of medals, to wit: one sculptor and one painter, members of the academy of fine arts, and three engravers of medals who have executed models and struck medals exhibited at the Museum of the Louvre, or who have gained a prize for the engraving of monetary coins. The duties of this committee are to give advice on the reproduction of coins not connected with the service of the State, and serving for the manufacture of medals; in the selection of artists to whom this reproduction may be confided, on the price which shall be allowed them on the reception of the works ordered, and on the improvements which may be made in respect to the making of coins and medals. The committee is partially renewed every two years by two or three of the members going out alternately, which members are not immediately re-eligible.

7th. Mints.

The number of mints for the coining of money in France was reduced in January, 1838, from thirteen to seven. Each one of these mints have a monetary letter to distinguish their coins. Each director has also his peculiar mark. The functionaries in each of the mints consist of a *directeur de la fabrication*, a *contrôleur au change*, and a *contrôleur au monnayage.*

8th. *Bureaux of guarantee.*

This is in charge of an inspector, with an assayor of the bureau of guarantee at Paris.

The number of the bureaux of guarantee in the departments of France is eighty-eight. The *personnel* of each bureau consists of a comptroller and a receiver connected with the *contributions indirectes,*

and an assayer placed under the immediate orders of the committee on coins and medals.

9th. Assayers of commerce, consisting of six members.

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Exterior service of direct taxes.

Directors.—(One for each department,) whose functions consist of preparatory labor, and labor of expedition relative to the assessment of direct taxes; preparing the census; preparing the tax *rôles* and *matrices;* the examination of reclamations; and labor connected with the *cadastre.*

Inspectors.—(One for each department,) who are charged with the supervision of these various works.

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Receivers General and Particular of Finances.

N. B. In the principal towns of each *arrondissement*, where the "receiver general" resides, there is no "particular receiver."

There is one receiver general for each department, also from three to five particular receivers, and from three to ten collectors.

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Payeurs extérieurs of the imperial treasury.

These payers are charged with acquitting the public expenses in the departments and the sea ports; they are appointed by the emperor, on the nomination of the minister of finances.

The number and residence of these *préposés* is regulated by the minister.

The *payeurs extérieurs* are divided into first class, second class, third class and fourth class, according to the importance of their duties, there being a payer of one of these classes for each department.

(*d* 4.)

Direction General of Registration and of Domains.

This is in charge of a director general and three administrators.

Bureaux placed under the immediate orders of the director of the administration.—Bureau of personnel.

This is in charge of a head clerk, (*chef.*)

Functions.—Organization of the administration; preparation of work relative to appointments, and to the execution of decrees issued in respect to them by the minister or the director of the administration; correspondence relative to the *employés* of every grade; work relative to the admission of *postulants;* the *concours* for the supernumerary, and the examination of the supernumeraries; opening and verification of

periodical notes relative to the labor and the conduct of agents in the departments; formation of the *listes d'avancement*; determining the amount of caution money, and the average value of the bureau; *prélèvements* for the benefit of the *caisse de retraites;* information applied for by the minister as to the general expenses of the administration; examination and following up of the deliberations of the council of administration relative to the *personnel*, the expenses, the retiring pensions, the *débets*, the creation and suppression of places, the reorganization of bureaus, assistance to the widows and orphans of employés, &c.; opening of dispatches concerning the *personnel;* and the general supervision of the service.

Bureau of matters in dispute.

This is in charge of a head clerk, (*chef.*)

Functions.—Examination of the deliberations of the council of administration in matters in dispute; "*instructions*" in cases to be brought before the court of cassation; circulars and general instructions; collection of judiciary and administrative decisions interesting to the administration; budget of receipts and comparison of revenues, *produits;* legislative bills and decrees; information applied for in petitions to the government; library, archives, and *matériel.* Affairs reserved by the director of the administration; opening of dispatches, except those concerning the *personnel;* and the general supervision of the service.

1st Division.

This is in charge of an administrator, assisted by three head clerks, (*chefs.*)

Functions.—Supervision and order of work of the *employés* of all grades in the departments; measures to be taken for the verification of accounts; examination of the minutes of the verification of various managements; *fixation des debets et apurement des régies;* examination of the reports of superior employés on the management of each *comptable;* following up of the reports of the inspection general of finances; application of the responsibility incurred by the receivers and the superior employés; *cautionements* in real estate of the *conservateurs* of mortgages; *congés*, retiring pensions; assistance to widows and orphans of employés; establishment and *mouvements* of employés; examination and transmission to the "inscribed public debt" of documents relative to caution money; budget and *ordonnancement* of expenses; dismissals and disciplinary measures; creation and suppression of places; reorganization of bureaux.

Stamps. Supervision of the *atélier général;* contraventions and fines, excepting those within the province of the second division; damages and interest adjudged to the State; law expenses.

2D DIVISION.

This is in charge of an administrator, assisted by three head clerks, (*chefs.*)

Functions.—Fees of registration of *actes civils, publics, et sous seings-privés;* contraventions against the laws respecting these fees, and in regard to the *notoriat,* the code of commerce, &c.; fees of registration of judiciary, extra judiciary, and administrative acts; fees relative to *mutations par décès;* seal fees to the treasury; *greffes* and mortgages.

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3D DIVISION.

This is in charge of an administrator and four head clerks, (*chefs.*)

Functions.—Domains of the State; their *régie,* conservation and alienation when they are not appropriated to any public service; discussion of all questions of property concerning the State; acquisition and exchange of real estate on account of the State; deductions of *acquereurs; lais et relais de mer:* islands and islets; sequestered goods; *successions vacantes;* property without owner; *successions en desherence;* waifs; accounts to be rendered of former *saisies réelles;* rents and accounts due to the State; sale of movable effects of the State, and of all objects without use to the different departments; sale of objects in the registry offices; annual and incidental inventories of moveable property belonging to the State, the departments, and the public establishments; questions of property relative to the woods and forests of the State; rights of usage, *cantonnements,* recovery of forest produce, and produce of the *futaies; ancien domaine extraordinaire;* transmission of dotations; supervision of the *droits de retour* to the profit of the State; council in matters of dispute, consisting of two advocates of the imperial court.

Officers and agents of the administration, consisting of two advocates, two supplementary advocates, one notary, one solicitor, two architects, and a stock broker.

Directors, inspectors, and verificators of the registration and of domains in the departments; there being a director, an inspector, and a verificator for each department.*

Superior *employés* of the registration and of domains detached for the service of Algiers; consisting of a director, an inspector, *chef de service,* and eighteen verificators, one of whom is *chef de service.*

Conservation of mortgages.

These consist of from three to seven for each department.

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* The verificators have no fixed residence.

(*d* 5.)

Direction General of Indirect Taxes.

In charge of a director general, with six administrators, members of the council of administration.

Division of the personnel and central bureau.

This is in charge of a *chef de division.*

Functions.—Nominations for places in the gift of the Emperor and of the minister; appointments to places, and of officers in the custom-house administration; appointment to all situations, and to the *debits de tabac*, in the administration of indirect taxes; admission to the supernumerary corps; moral *signalements*, and tables of advancement; decorations; reception and transmission of dispatches.

1*st Bureau.*

This is directed by the *chef de division.*

Functions.—*Personnel* of the custom-house, and of the central bureau.

2*d Bureau.*

This is in charge of a head clerk, *(chef.)*

Functions.—*Personnel* in connexion with the indirect taxes, *(cadre supérieur,) debits de tabacs.*

3*d Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—*Personnel* connected with the indirect taxes, (*cadre secondaire.*)

1st Division.

Tariffs, colonies, and entrepots; commercial archives. In charge of an administrator.

1*st Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Custom-house tariff; its application and results; exception to the general regime; treaties of commerce and of navigation; conventions relative to literary property; reimbursement of duties unduly collected, and reduction of duties on account of damages at sea; return of French merchandise from abroad; particular regime relative to the importation of arms, of books, of machines and mechanical apparatus into *propriétés limitrophes*, the country of Gex, to Corsica, and other islands near the littoral; regime of indigenous sugars; collection of duties, and the various questions therewith connected.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Regime of the French colonies and establishments beyond the sea; maritime navigation; shipwrecks and salvages; police of manifests; brokerage; *prises maritimes;* victualling of ships; custom-house depôts; transit; coasting trade; plumbing; *emprunt* of foreign territory; *suite des acquits à caution* relative to the various regimes of the custom-house; regime of temporary importations; *drilles;* police of *paeges.*

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Statistics of commerce and of the merchant marine; preparation of the general table of the commerce of France; statistics of divers matters relating to the service of indirect taxes.

2D DIVISION.

Service general; custom-houses and indirect contributions. This is in charge of an administrator.

1st Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation of the budget of the director general, in its *ensemble.*

The following matters come within the province of this bureau when they concern the direction on land, the direction of Paris, the inspection of Lyons; and to the 2d bureau when they concern maritime directions, and the colonies of Algiers; creation, suppression, and organization of bureaux and of budgets; *régie* charges fixed for salaries; expenses of rent and of bureaux; execution of the service by the chiefs and *employés* of the sedentary and active divisions, and their respective functions; conduct of *employés;* acts of devotedness; medals of honor; pecuniary recompenses and indemnities; divisions of authorized emoluments; congés; dismission and *degradation* of employés in the appointment of the administration; repression of contraband; examination of the general reports of the service, and reports of the circuits of the directors; following up of the reports of the inspector general of finances; *concours des douanes aux services publics;* administrative *conflits;* political affairs; general police; military organization of the customs; regime of the circulation in the *rayon,* with the exception of the police of *paçages;* establishment of factories within the *rayon* of the customs.

2d. Bureau.—Seaports and coasts.

This is in charge of a head clerk, (*chef.*)

Functions.—Same as those of the first bureau, with the exceptions above indicated. Regime of the circulation on the *littoral* of Corsica. Questions relative to the collection of sanitary dues.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—The same as those of the first and second bureaux, so far as concerns the service of indirect taxes, in the circumscriptions where this service and that of the customs are placed under the authority of a single *chef.*

4th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Liquidation and *ordonnancement* of expenses of the direction general in their *ensemble;* special accounts; applications for public funds and subventions; *virements* of accounts; credits and discounts on custom-house duties and of the tax on the consumption of salt; revision of the table of *régie*-charges; and, generally, whatever relates to the accounts. Barracks; equipments; service of the *masse* and health-service. *Materiel;* construction and reparation of *immeubles* and of *embarcations;* purchase and care of utensils; transport of funds, packages, &c.; unforseen expenses; inventories of moveable and immoveable effects; topography of places subjected to the supervision of the service; geographical documents for its use.

3D DIVISION.

Custom-house matters in dispute; premiums; salt and fisheries. This is in charge of an administrator.

1st Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Actions growing out of seizures, and contraventions relative to the custom-house legislation, and division of their product; affairs relative to the credits of custom-house duties, or *sels en suffrance;* authorization for the *mise en jugement* of custom-house *employés;* all questions relative to the application of custom-house laws in judiciary matters; application of the rules in regard to prescriptions.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Premiums for exportation, by reimbursement of duties and of tax on the consumption of salt used for meats and butter, and on *sal amoniac.*

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Production of salt in its *ensemble;* discovery and *exploitation* of salt springs; establishment of salt works; making of *ignigene*

salt; soda and sulphate of soda works; salt refineries; establishments for making nitre of salts; application of the tax on the consumption of salt; importations, exportations, and extraction of salt; coastwise trade; police of the *rayon* and of the salt establishments of the interior. Grand fishery, (whale fishing, &c.,) and premiums or immunities therewith connected; small fisheries and salt provisions; regulations and rules relative to the preparation of fish, whether at sea or on shore; *tocque;* shipments; annual distribution of the special funds of 350,000 francs; and, in general, all that is connected with the salt service, with the exception of premiums accorded for the exportation of salt butter salt meats, and *sal amoniac.*

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4th Division.—General Service.

This is in charge of an administrator.

1st *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Preparation and interpretation of laws and regulations relative to the *regime* in regard to drinks and public carriages. Questions relative thereto.

2d *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Direction of the service in matters of indirect taxes; creations, suppressions, and displacements of employments, and of bureaux; dismissals, *degradations,* and *congés* of employés; periodical correspondence with the directors. (These functions belong to the second bureau, so far as thirty-three departments are concerned.)

3d *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—The same as those just indicated in regard to twenty-eight departments.

The second and third bureaus have also within their province discharges and restitutions of duties; *apurement de droits constatées;* fixing of the premiums of *apurement,* and of complementary indemnities, whether for *buralistes* or for the collectors of octroi duties; verification of the managements (*gestions*) and fixing of *debets.*

4th *Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Examination of the minutes of seizures, of compromises, and of tables of *repartition;* liquidation of judiciary expenses fallen into *non-valeur;* following up of all affairs liable to be carried before the tribunals or abandoned, whether in matters correctional, criminal, or of

simple police; appeals to the Council of State; breach of trust; appropriation of funds; prosecutions relative to *debets*.

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5TH DIVISION.

Octrois; guarantee; interior navigation; ferry-boats, &c.; caution money; resignations.—In charge of an administrator.

1*st Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Regime and service of the navigation of streams, rivers, and canals; tariff of charges for interior navigation, and their application, special regime of boats and ferry-boats, of tolls, of guarantees and of charts, and questions relative to these subjects; relations of the agents connected with the indirect taxes to the railroad service.

2*d Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Discussion of tariffs and regulation of *octrois;* projects of decrees; fixing of the charges for lodging troops in towns; charges for collections; adjudication of *baux à ferme;* restitutions and discharge of duties; apportionment of subscription funds allowed by the *traites de gestion.*

3*d Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Service of resignations and of caution money for all the agents of the customs, and of the indirect taxes, and correspondence relative thereto; general control of the custom-house brigades.

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6TH DIVISION.

Tobacco and gunpowder.—In charge of an administrator.

1*st Bureau.*

This is in charge of a head clerk, (*chef.*)

Functions.—Direction of the service in the leaf-tobacco warehouses, and tobacco in the manufactories; opening and examining the goods; composition of tobacco to be manufactured; application of machines; processes of manufacture; principle and regulation of the expenses of *exploitation;* acquisition of real estate; locations; adjudication of works and of *fournitures;* workmen's salaries; creation and suppression of employments, so far as concerns the service of the establishments; medical service; regulation of the interior police.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Culture of tobacco in France; service of tobacco in Algiers; purchase of exotic tobacco; examination of minutes of sampling and minutes of appraising; importations, transit, exportation of leaf and manufactured tobacco; correspondence with the consuls of France; translation of documents in foreign tongues.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Distribution of leaf tobacco amongst the manufactories; orders for, and distribution of, gunpowder; transport of tobacco and powder; instructions and regulations in regard to the shipwrecks at sea; service of the entrepots of tobacco and powder; construction and reparation of powder magazines; creation of *debits; congés* to *employés* in the tobacco service.

4th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Collecting of the materials for the budget, and of the supplementary credits relative to the tobacco service; registration and *visa* of consular treaties; verification of the accounts of the manufactories, of the magazines, and of *entrepots* of tobacco; also the accounts of *entrepots* of powder; correspondence relative to this last service; preparation of annual accounts to be submitted to the legislative powers, and of the *résumés* for the court of accounts; keeping of the books connected with them.

Judiciary Counsel.

Consisting of three advocates and one notary for the customs; and four advocates, one solicitor, one notary for the indirect taxation and the tobacco service; three physicians.

(*e.*)

COURT OF ACCOUNTS, (*Cour des Comptes.*)

Functions and Organization.—The court judges the accounts of public receipts and expenditure, which are presented to it by the receivers general of finances, the payers of the public treasury, the registration receivers, and the receivers of the administrations of stamps, of domains, of the customs, and of the salt tax, the receivers of indirect taxes, the directeurs comptables of the post offices, the directors of the mints, the central paying cashier, and the agent responsible for the tranfer of funds.

It judges, also, the annual accounts of the treasurers of the colonies;

of the *agent comptable* of the receipts and expenditures of consular chancelleries; of the treasurer general of the invalids of the navy; of the *agent comptable* of the *traites de la marine;* of the stewards of lyceums; of the *agent comptable* of the transfer of *rentes* inscribed in the great book of the national debt; of the *agent comptable* of the great book and of pensions; for the augmentations or reductions, each year, in the total of the inscribed debt; of the order of the legion of honor, of the *caisse d'amortissements*, and that of *depôts et consignations;* of the *monts de piété*, the communes, hospitals, and charitable establishments having revenues determined by the laws and regulations.

According to the terms of the law of 6th June, 1843, and of the ordinance of the 26th August, 1844, it decided on the annual accounts of the *agents comptables* of the *matiéres de l'etat.*

It judges appeals made before it against decisions pronounced by the councils of prefectures, concerning the annual accounts of the receivers of communes, hospitals, and charitable establishments whose revenue is less than 30,000 francs.

It decides on the applications made by the *comptables en radiation, réduction*, on translation *d'hypothéques.*

It pronounces judgment as to fines and penalties fixed by the laws and regulations against accountants who are behindhand in presenting their accounts.

Conformably to the law of 27th June, 1819, and to the ordinance of July 9th, 1826, the court establishes every year, by a general declaration, the result of the comparison which it institutes between the accounts published by the ministers for the preceding year and the decisions rendered in the individual accounts of accountants, both as to the exactitude of the results and the legality of the public receipts and expenditures.

This declaration is communicated to the *corps legislatif.*

Public declarations in the same form are received on the *comptes-matiéres.*

Finally, according to the article 22 of the law of September 16th, 1807, the views as to reform and amelioration resulting from the examination of the court, as to the receipts and expenditures of each year, form the subject of a report to the emperor, accompanied by justificative documents.

This reported, deliberated, and decided on by the three chambers, is remitted to the emperor by the first president of the court.

According to the terms of article 15th of the law of 21st of April, 1832, the report prepared each year by the court of accounts, in virtue of article 22 of the law of 16th September, 1807, is printed and distributed to the members of the *corps legislatif.*

Every three months a table of the state of the labors of the court is addressed by the first president to the minister of justice, to be communicated to the emperor.

The ministers and the accountants, *comptables*, can, within a delay of three months, appeal against the decisions of the court of accounts, for violation of forms or of law, before the council of state.

The appeals of the ministers must first be authorized by the emperor.

In case of the annulment of a decision, the affair is sent before one of the chambers which has not taken cognizance of it.

The court takes rank immediately after the court of cassation, and enjoys the same prerogatives.

It is composed of a first president, three presidents, eighteen master counsellors, eighteen *conseillers référendaires* of the first class, and sixty-two *conseillers référendaires* of the second class.

Connected with the court of accounts there is an imperial *procureur general*, a *greffier* in chief, and three *commis greffiers*.

For ordinary business the court is divided into three chambers.

The first president presides over the assembled chambers, and when he deems suitable over each chamber. He distributes the accounts to the *référendaires*, and indicates the chambers to report on them. Applications for the communication of documents are addressed to him; and, according to the case, he decides on the matter, or refers it to the chambers. He has charge of the police and of the general supervision, and conducts the correspondence with the ministers. In cases of necessity his place is occupied by the senior president.

The presidents have the direction of the business of the chambers; each one of them distributes to the master counsellors who compose the chamber the affairs upon which they are to report. The wording of the decisions prepared by the *conseillers référendaires rapporteurs*, is submitted to their examination and *visa*.

The master counsellors are distributed among the three chambers.

On the distribution of the reports to them by the president of the chamber, it is their business to verify the work of the counsellors *référendaires*, and to express their opinion on the propositions made in the reports, or which result from their examination and final discussion.

The *conseillers référendaires* are charged with the verification of the accounts, and they can hear on this subject the *comptables* or their attorneys; they report to the chambers; they give their opinion, but they have no deliberative voice. When the examination of the account requires the assistance of several *référendaires*, a *référendaire* of the first class has the direction of the work, and makes a report to the chamber in presence of the *référendaires* who have assisted in its preparation.

The *référendaires* of the first class are present in turn, and in number equal to the master councillors, at public ceremonies and deputations.

The *ministère public* of the court is exercised by a procureur general.

The procureur general sees that the accountants (*comptables*) present their accounts within the delay fixed by the law, and calls for the application of the penalty against those who are behindhand.

He sees if the chambers hold their sittings regularly, and if the *référendaires* are exact in the performance of their duties. The application *en main levée, reduction et translation d'hypotheques*, are always communicated to him.

He manages, before the court, the revision of decrees as to errors detrimental to the public treasury, in the accounts of the departments and communes. It is to him that the prefects should address the accounts, the regulation of which is contested, and also the documents relative to the matter, and the application for the communication of documents.

He can receive communication of all accounts, in which he thinks his official action necessary. He is heard before any decision is pronounced in the charges of forgery or collusion against the accountants (*comptables.*)

He sends copies of decisions to the ministers; and corresponds with them as to the execution of decisions, and for all information which they apply to him for.

The greffier in chief officiates at the general assemblies; his place is filled at the chambers by the *commis greffiers.* He receives directly from the accountants all accounts and documents. He keeps the various registers of the court, verifies and acknowledges the reception of accounts and documents, and is the depositary of all papers. He signs and delivers copies of decisions and certificates, and extracts of all acts and papers containing information emanating from the *greffe*, and from the archives and depots. He signs and sends off the correspondence prepared by the *référendaires*, and approved by the presidents of the chambers. The *greffe* is open to the public every day except Sundays and holydays, from 2 to 4 o'clock.

The accounts and documents are deposited with, or addressed to the *greffe* by the accountants.

Huissiers are instituted for the service of the court.

(*g.*)

Department of Public Instruction and of Worship.

Functions.—Public instruction; preparation and execution of laws; decrees and regulations concerning public instruction; administration of schools supported by the funds of the State, of the departments, and of the communes; acceptance of donations and legacies which are made to them; supervision and inspection of free establishments.

Administration General.—Imperial council of public instruction; inspectors general of superior instruction, of secondary instruction, and of primary instruction.

Administration Academic.—Rectors, inspectors, and secretaries of academies; academic councils.

Administration of Superior Instruction.—Faculties of theology, law, medicine, of sciences, and letters; superior schools of medicine and of pharmacy; payment of the professors of these schools, of which the receipts are paid into the treasury; diplomas of preparatory schools of medicine and pharmacy; medical juries.

Administration of Secondary Instruction.—Lyceums; gratuitous scholarships, (*bourses imperials,*) departmental and communal; distribution of the government school fund, (*subvention;*) administration of the private property (*fortune personnelle*) of each of these departments: communal colleges; division of the State funds (*subventions*) accorded to them.

Administration of Private Instruction.—Inspection of private instruction; brevets of capacity; public primary school for boys and girls; asylums (*salles d'asile;*) assistance given to the *communes* for the construction of school-houses; assistance given to religious associations devoted to instruction.

Administration of Scientific and Literary Establishments.—Institute of France, and imperial academy of medicine; college of France; musuem of natural history; bureau of longitudes; school of living oriental languages; *ecole des chartes;* school of Athens; libraries of Paris and the departments; depot of legal works, (*depôt légal;*) encouragement to scientific and literary societies; committee of history and of the language and arts of France; publication of unpublished documents of the history and arts of France; missions and voyages; subscriptions, indemnities, and assistance to literary men, (*secours litteraires.*)

Worship.—Preparation and execution of laws, decrees, regulations, and decisions concerning worship; proposition to the emperor of nominations to the archbishoprics and bishoprics of the empire, to the canonicates of St. Denis, and to the *bourses* (gratuitous scholarships) in the seminaries; presentation to his majesty for the acceptance of appointments made by the bishops to ecclesiastical titles; publication of bulls, briefs, and rescripts of the pope, (*saint siège;*) appeals, as in case of abuse of privilege, (*appels comme d'abus;* matters in dispute respecting worships, (*contentieux des cultes;*) "religious congregations" of men and women, (*congrégations réligieux d'hommes and d'femmes;*) authorization for the acceptance of donations and legacies made to ecclesiastical establishments; circumscriptions; assistance to communes for the reparation of their churches and *presbyteries;* temporal administration of diocesan establishments; works for the construction and preservation of cathedrals, bishops' residences, and seminaries; committee of inspectors general of diocesan works, (*travaux;*) committee of arts and religious edifices; affairs of authorized religious worship, not Catholic, reformed church of France, confession of Augsburg, Jewish worship, territorial circumscription of Presbyterian councils, of consistories, and of synagogues; presentation for approval by his majesty of the remuneration of ministers and pastors; central council of reformed churches; direction of the confession of Augsburg; central Israelitish consistory.

Secretaryship and Cabinet.

This is under the direction of a chief.

1st Bureau.

Cabinet of the minister; subscriptions; missions and historical labors. Under the immediate direction of the chief of the secretaryship.

1st section. Private cabinet of the minister; opening of the correspondence; reserved affairs; private correspondence of the minister; applications for audience; legion of honor.

2d section. Subscriptions to works of science and literature; indemnities and assistance to learned men (*savants*) and men of letters; missions and voyages; French school of Athens; publication of unpublished documents relative to the history of France; historical committee instituted in the departments for this publication.

2d Bureau.—Scientific and literary establishments.

This is under the charge of a chief.

Institute of France and imperial academy of medicine; college of France; museum of natural history; bureau of longitudes; observatory of Marseilles; school of living oriental languages; *ecole des chartes;* scientific and literary societies; French and foreign congresses; schools of midwifery; public libraries of Paris and the departments; distribution among these libraries of works subscribed to, and from the *legal depôt*; publication of the general catalogue of the manuscripts of libraries of the departments.

3d Bureau.—Minutes of the imperial council, and archives, registration of dispatches.

This is under the charge of a chief.

1st section. Preparation (*redaction*) and depot of the minutes of the imperial council of public instruction; depot of the decrees of the emperor, and of the decisions of the minister; editing and distribution of the *Bulletin Administratif de l'Instruction Publique;* insertions in the *Bulletin des Lois,* and the *Journal Général de l'Instruction Publique;* relations with the council of State, and with the grand chancellor of the legion of honor; legalization of the signatures of the functionaries of public instruction; classification and preservation of the archives; administrative library.

2d section. Registration of correspondence on its arrival; distribution of the correspondence to all the services of the central administration; registration of correspondence at its departure; service of postal franchise, and communication with the administration of finance in all questions of this character.

Libraries of the departments, under charge of a librarian; collections of scientific (*savans*) societies, under the charge of a conservator.

Depot of books.—Depot of subscriptions, and of unpublished documents relative to the history of France; legal depot, under charge of a sub-chief, styled *chargé du depôt.*

The admistration of public instruction is organized into a division of general and academic administration, and superior and secondary instruction with four bureaux; and a division of primary instruction, with three bureaux.

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1st Division.

General and academic administration; superior and secondary instruction; under the direction of a chief.

1st Bureau.

General administration and gratuitous scholarships, (*bourses.*)

Functions.—Constitution of the imperial council of public instruction; appointment of inspectors general, rectors, inspectors, and secretaries of academies; liquidation of retiring pensions of these functionaries

constitution of academic councils; authorization of classical works; liquidation of the expenses of the inspection general of the academies; imperial, departmental, and communal gratuitous scholarships (*bourses*) for the lyceums and colleges; deductions (*degrêvements*) for the board for the fitting out (*trousseau*) of imperial free scholars, (*boursiers impériaux;*) assistance to the former functionaries of the university and their widows; distribution of the funds for the payment of Frenchmen not on duty, (*en disponibilité,*) and those on half pay; matters in dispute.

2d Bureau.

Superior instruction. In charge of a chief.

Functions.—Administration and *personnel* of the various faculties; application for exchange or *collation* of grades; transmission of diplomas; superior schools of pharmacy; preparatory schools of medicine and pharmacy; application for authority to exercise the practice of medicine in France; accounts of the faculties and of the schools of pharmacy; remission of charges for inscriptions and diplomas; superior instruction in Algiers.

3d Bureau.

Secondary instruction. Under charge of a chief.

Functions.—Administrations and *personnel* of the superior normal schools, of the imperial lyceums, and communal colleges; competition (*concours*) for admission to the normal schools; competition for admission (*agrégation*) to the lyceums; regulation of the budget of colleges; distribution of State funds (*subventions*) allowed to the colleges; liquidation of retiring pensions of the functionaries of the lyceums and colleges; affairs relative to the secondary and free establishments of instruction; secondary instruction in Algiers.

4th Bureau.

Economical administration of the lyceums. Under charge of a *chef de section*, who is chief.

Functions.—Economical administration and accounts of the superior normal schools and the lyceums; the appointment of stewards (*econômes*) and head clerks (*premiers commis*) of the stewardship, (*economat;*) liquidation of the pensions (*retraite*) of these functionaries; caution money, or bail (*cautionnements*) of the stewards; accounts of the management (*gestion*) of the lyceums; distribution of the State funds (*subvention*) allowed for the regular expenses (*dépenses fixes*) of the lyceums; establishment and organization of new lyceums; remission and exemption of school fees, (*frais d'etudes;*) indemnity for fitting out, (*trousseaux.*)

2D. DIVISION.

Primary instruction. Under charge of a chief.

1st *Bureau.*

Boy's primary schools.

Functions.—Nomination of inspectors of primary instruction; liquidation of the retiring pensions of these functionaries; examination of candidates for the office of inspector; committees charged with these examinations; committee for the supervision of the normal schools; appointment of directors, assistant masters, free pupils *(elèves boursiers)* of these establishments; affairs relative to religious associations of teachers, and to societies devoted to the encouragement of primary instruction; honorific distinctions to teachers; *pourvoirs des instituteurs interdits;* assistance to former teachers; classes of adult boys; free teachers; committees of examination for the deliverance of teachers' certificates of capacity, (*brêvets de capacité*;) primary instruction in Algiers.

2d. *Bureau.*

Materiel, and disputed affairs, *cours des arts*, primary instruction. Under charge of a *chef.*

Functions.—Liquidation of salaries and of expenses of the circuits (*tournées*) of primary inspectors; regulation of the departmental budgets; fixing the budgets and verification of expenses of the primary normal schools; establishment of communal schools; grants from the funds of the State for the acquisition, construction, and repair of school houses; funds of the State (*subventions*) allowed for the expense of location of school houses and the salaries of communal teachers; examination of the taxes *(impositions*) voted by the municipal and general councils, *ou établies d'office*, in the communes and in the departments, to provide for the obligatory expenses of primary instruction; general establishment of the employ of funds affected to primary instruction.

3d *Bureau.*

Girls' schools and asylums, *(salles d'asiles.*) Under the direction of a chief.

Functions.—Primary normal schools for girls, and preparatory normal courses of instruction for female teachers; primary schools, communal and private, for girls; girls' boarding schools (*pensionnats*) adult classes; superior committee, and general delegates for asylums (*salles d'asile*;) infant asylums (*crêches*;) honorific recompenses to instructresses and directresses of asylums; allowance (*allocations*) for the acquisition and repair of school houses for girls, and to asylums; assistance to former instructresses and directresses of asylums; affairs relative to religious communities and associations of instructresses; examining committees for the delivery of certificates (*brevets*) of capacity of instructresses; authorization of books of primary instruction.

Administration of Worship.

The organization of this department consists of the direction general of the administration of worship, with two divisions; and a division of central accounts of public instruction and worship, with three bureaux.

I.—*Direction General of the administration of Worship.*

This is under charge of a director general.

Cabinet of the Director General.

This is under charge of a *chef.*

Functions.—Opening and registration of the dispatches on their arrival, and their distribution to the bureaux; sending off dispatches; *personnel* of the bureaux, and regulations of the internal affairs, (*l'orde intérieur;*) weekly situation of the affairs of the direction; applications for audience; reserved affairs; committee of arts, and religious edifices.

1*st Division.—Catholic worship.*

This is in charge of a *chef de division.*

1*st Bureau.*

Personnel of the clergy and ecclesiastical police. This bureau is under the charge of a *chef.*

Functions.—Promotions to the cardinalate; nomination to archbishoprics, bishoprics, canonicals of St. Denis, to the functions of treasurer to the grand seminaries, and to the free scholarships (*bourses*) in the same establishments; presentation for acceptance by the emperor of nominations to ecclesiastical titles; promotion of curates from the second class to the first; expenses of establishment of cardinals, archbishops, and bishops; expenses of ecclesiastical titularies; indemnities for diocesan visits, *binage*, or double service; application of the decree of November 17, 18, relative to curates temporarily absent (*eloignés*) from their parishes; casual assistance to ecclesiastics and former *réligieuses;* apportionment of the funds (*crédit*) allowed for the annual assistance of *congrégations réligieuses;* nomination of free scholarships founded in the boarding schools, and certain religious communities of women; temporal administration of the chapter of St. Denis; keeping of the registers of matriculation of all the titularies nominated or approved by the government; tables of the *personnel* of the clergy and of the seminaries; publication of bulls, briefs, and rescriptions; *appels comme d'abus*, charges and complaints against the conduct of ecclesiastics; complaints of ecclesiastics against interference with the free exercise of their functions; statutes of cathedral chapters; *réunion* of curates to the chapters; secondary ecclesiastical schools; execution, as far as it concerns the administration of worship, of the decree of twenty-third Prairial, an. XII, on burials; collection and analysis of the votes of the councils general concerning

Catholic worship; questions of precedence; civil and military honors to render to cardinals, archbishops, and bishops; applications for decorations; legalization of ecclesiastical signatures; *personnel* of the clergy of Algiers and in the colonies; correspondence of the minister of the marine, and the superior of the "*seminaire du saint esprit*" in all that concerns the affairs of worship in the colonies.

Organization and revocation of the councils of the church property "*conseils de fabriques;*" necessary authorization for placing monuments and funeral inscriptions in the churches.

Care of the seal, *garde du timbre*; keeping of the register of the analysis of reports sent by the minister for the examination of the council of State; classification and preservation of the archives and of the library; statistical tables; depôt and dispatch of decrees and decisions by the emperor, of the decisions of the minister, and of the opinions of the council of State; communication to the *Bulletin des Lois.*

2d *Bureau.*

Parochial service, matters in dispute, *congrégations religieuses.* This is under charge of a *chef.*

Functions.—Matters in dispute relative to churches; employ or destination of their personal and real property, (*meubles* and *immeubles;*) acquisitions, alienations, exchanges, loans, and other transactions of these establishments; concession of seats (*bancs*) in chapels and *tribunes* in the churches; differences between the churches (*fabriques*) and the communes; removal (*distraction*) of the surperfluous parts of presbyteries; expenses of parochial worship; tariff of charges for oblations, and burials, funeral services (*pompes funebres*) authorization for acceptance of donations, legacies and *offres de révélation* to all the ecclesiastical and religious establishments.

Approbation and modification of statutes, and authorization of *congrégationes religieuses*, and the establishments connected with them; documents of sales, of acquisitions, of exchanges, of *constitution de rentes*, of transactions, loans, retrocessions, &c., concerning the *congregations religieuses* of men and women.

2d *Division.*

Catholic worship; temporal administration of diocesan interests; ecclesiastical circumscriptions in charge of a *chef de division.*

1st *Bureau.*

This is in charge of a *chef.*

Functions.—Temporal administration of diocesan establishments; acquisitions, exchanges, alienations, employ of funds, compromises (transactions) and other matters in dispute relative to these establishments; houses and retiring pension funds for aged and infirm priests; tarif of charges of the secretaryship of the bishoprics; yearly accounts of the seminaries; budget of the church property of cathedrals (*budget des*

fabriques des cathedrals;) circumscriptions of dioceses and patentes; erection of chapels of ease (*succursales*) and of curates of the second class; assistance to communes or to works (*fabriques*) for churches and presbyteries.

2d Bureau.

Diocesan works; State funds, (*subventions.*) This is under charge of a chief.

Functions.—Works for the construction or preservation of cathedrals, archbishoprics, bishoprics, and seminaries; acquisitions concerning edifices; examination and approval of plans, (*projets;*) adjudication of works; appointment and *personnel* of architects, and employ of funds affected by the "budget of worship" for diocesan expenses.

Furnishing of archbishoprics and bishoprics; *maitrises and bas chœurs* of the cathedrals; aid towards the acquisition of decorations, (*ornaments;*) rents for bishoprics and seminaries.

Section of worship not Catholic.

This is under charge of a *chef.*

Functions.—Exemptions on account of age, (*dispenses d'age,*) appointments, salaries, indemnities, succours, attributes, presidency and renewal of consistories, écclesiastical police, complaints against pastors, suspensions, revocations, residences, lodgings, worships not recognized; religious meetings, liberty of worship, various questions.

Organization and circumscription of consistorial and *oratorial* churches, and of synagogues, temples and presbyteries, and for constructions and reparations; administration of Protestant seminaries, and of the *rabbinique* central school; free scholarships (*bourses.*)

Goods and revenus of churches; donations and legacies, acquisitions, alienations, exchanges, compromises, (*transactions;*) investments in State funds, &c., &c.

II.—*Division of accounts central, of public instruction and worship.*

This is under charge of a *chef.*

1st Bureau.

This is under charge of a *chef.*

1st Section. *Functions.*—Ordering of expenses, verification and transmission of orders of payment on the treasury; expedition and remission to parties to receive money of letters of advice or orders for payment; control and verification of all vouchers produced in favor of orders for payment; tables of allowances (*credits*) addressed to the prefects; statement of the use made of state allowances (*situation d'emploi des credits.*)

2d Section. Inspection of the monthly memoranda transmitted by the prefects and paymasters (*payeurs;*) monthly distribution of funds; keeping of all the account books: liquidation of the expenses of the

personnel, and of the retiring pensions of persons employed in the central administration; general accounts of the pensions of the service of public instruction, and of the funds held back from retiring pension funds (*retenues exercées sur les traitements pour la retraite;*) preparation and making out of the budgets and accounts rendered.

2d Bureau.—Accounts central of worship.

This is under charge of a *chef.*

Functions.—Preparation of the budget of worship, of the general accounts, and of the various financial documents to be published; instructions and circulars on the "accounts" of worship; tables of state allowances (*credits*) sent to prefects for the execution of ministerial decisions; ordering of the expenses; transmission of the *ordonnances* (orders) to the minister of finance, and general reports of the accounts with the department of finance; tables of salaries, (*appointments,*) and liquidation of expenses of the *employés* of the central administration; verification and liquidation of accounts received from the prefects; verification of the memoranda (*bordereaux*) of the monthly financial accounts of the prefects and paymasters; keeping of the books by double entry; statement of the periodical state of expenses *susdatées* and *payées;* transmission of extracts from the *ordonnances* of payment, and of letters of advice of payment; material expenses of central administration.

3d Bureau.—Pension accounts.

This is under charge of a *chef.*

Functions.—General account of retiring pensions, and of funds withheld in the payment of pensions; administration of establishments founded by the English, (*fondations Britanniques;*) *personnel* of the central administration.

Service interieur, with a *chargé* of supervision, and a comptroller of expenses.

Agents attached to ministry of public instruction, viz: four advocates, one *avoué*, one notary, one architect, one assistant architect, and one physician.

Imperial Council of Public Instruction.

The imperial council of public instruction is composed as follows: The minister, president; three members of the senate, three members of the council of state; five archbishops or bishops; three members of non-Catholic religious sects; three members of the cour de cassation; five members of the military; eight inspectors general; two members of (the committee of) free instruction.

The members of the council are appointed and revoked by the emperor, on the proposition of the minister of public instruction and worship; they are appointed for one year.

The minister presides over the council, and determines the opening of the sessions, which takes place at least twice a year.

The councils may be called upon to give its opinion on the bills presented to the *corps legislatif* (*projets de loi*) on the regulations and decrees relative to instruction, and, in general, on all questions which may be submitted to it by the minister. It is necessarily called upon to give its opinion relative to examinations, to competitions (concours) and to the *programmes* of studies in the public schools, to the supervisions of the free schools, and in general, on all the decrees relative to the regulation of the establishments of public instruction; on the creation of faculties, lyceums and colleges, on aid and encouragement to be given to the free establishments of secondary instruction; on the books which may be introduced into the public schools; and on those which should be prohibited in the free schools, as contrary to good morals, to the constitution, or to the laws. It pronounces final decisions on the judgments rendered by the academic councils, in cases determined by article fourteen of the law of 15th March, 1850, on instruction.

The council presents a yearly report to the minister on the general state of instruction, on the abuses which may have been introduced in the establishments, and on the means of remedying them.

The inspectors general of public instruction are sixteen in number, viz:

For superior instruction, three members in the department of letters; three in the department of sciences; one in the department of law, and one in the department of medicine.

For secondary instruction, three in the department of letters, and three in the department of sciences; for primary instruction, two members.

The *commission supérieure* of asylums consists of a president, vice-president, secretary, assistant secretary, and one other. Connected with this commission are twenty-six lady commissioners; two ladies as general delegates, and one lady, special delegate for the department of the Seine.

Committee of the language and of the history of the arts of France.

This committee, instituted in the department in 1834, was reorganized by a decree of 14th September, 1852.

It is called upon to deliberate and give its opinion on the various propositions for publication proposed to the ministry the "*receuil de documents inédits rélatifs à l'histoire de France.*" It concerns itself not only with all the documents relative to the history, properly so called, of the French nation, such as *chartes*, chronicles and judicial registers, but also with all those which concern the history of the national language and literature, the history of sciences, philosophy, jurisprudence, political economy, and arts and monuments. It is presided over by the minister, and in his absence by the vice-president.

The committee holds its sittings the first Monday of every month, the three sections united under the presidency of the minister, and, in his absence, one of the vice-presidents. In addition each section meets once a month for the preparatory examination of questions to be submitted to the general meeting.

The committee consists of the minister, president, a vice-president, secretary of committee, honorary secretary, and forty-three members, thus: the

Section of philology has a president and eleven members.

Section of history, president and fourteen members, and one honorary member.

Section of archæology, president and fourteen members. There is also a secretary of committee and an honorary secretary.

French school of Athens.

This school was instituted at Athens by an ordonnance of Sept. 11th, 1846, for the study of the language, history, and antiquity of Greece. It is under the direction of a *professeur de faculté*, or of a member of the institute, who is appointed by the emperor. It has a section of fine-arts composed of—pupils from the Academy of France at Rome, selected by the minister of the interior.

The school of Athens is placed under the supervision and authority of the minister of France to the king of Greece.

The *personnelle* of the school of Athens consists of a director, four members of the school, and eleven former members.

Committes of arts and religieuse edifices.

This committee was instituted by a decree of the government, dated 16th December, 1848, and was reorganized by an imperial decree of March 7th, 1853. Its members are appointed by the minister of public instruction and worship. It is charged to give its opinion on the use which should be made of the funds allotted in chapters 9, 10, 11, 16, and 18 of the budget of the administration of worship.

Three inspectors general, appointed annually by the minister, are charged with the service of the diocesan works. They belong necessarily to the section of architecture and of sculpture.

This committee is under the charge of the director general of the administration of worship. It is divided into three sections:

1st. Section of architecture and sculpture, with nineteen members. 2d. Section of painted glass and religious ornaments, with six members. 3d. Section of organs and religious music, with ten members.

There is also a committee of inspectors of diocesan works, consisting of four members.

Also, a service of diocesan edifices, organized by a decree of the government of December 16th, 1848, and a ministerial edict of 12th March, 1849, determined the circumscription of the dioceses and the preservation of their edifices. There being fifty-five circumscriptions, each in charge of two or three members of the service.

(*f.*)

Department of Justice.

Functions.—Organization and oversight of all branches of the justiciary; relations to the emperor respecting all matters of regulation, administration of justice, statistics of the civil, commercial, and criminal courts, pardons, commutations, *réhabilitations;* exemptions on account of age, relationship and alliance in regard to marriage, and the exercise of judiciary functions; petitions for naturalization, and for permission to enter foreign service, &c. Orders and instructions to be forwarded to the courts and tribunals in all that relates to the execution of laws and regulations in the administration of civil and criminal justice; correspondence with the procureurs general on subjects submitted to the action, or confided to the supervision of the *ministère public.* Propositions relative to the appointment and promotion of functionaries in the order of the judiciary in the legion of honor; judiciary discipline; appointment of presidents of the courts of assizes; organization and *regime* of the *notariat;* creation and suppression of ministerial offices; international rogatory commissions, and extradition of malefactors; regulation of the expenses of the judiciary order, and of the central administration; measures relative to the promulgation of laws, forwarding of the *bulletin official;* imperial printing office.

The decisions of the imperial courts which pronounce or confirm the censure with reprimand, or the provisional suspension of a judge, are not put in execution till they have been approved by the minister of justice (*garde des sceaux*) who can also summon the members of the courts and tribunals, and also the officers of the *ministère public,* to appear before him, for the purpose of explaining the charges which have been preferred against them. The measures of discipline pronounced by the courts and tribunals against the officiers ministeriels are also submitted to the minister of justice.

The private cabinet of the minister.

This is under the direction of a *chef* and *sub-chef.*

Functions.—The opening of dispatches; distribution of the correspondence; reserved affairs; requests for audience; affairs not specially attributed to any bureau; and the private correspondence of the minister.

Secretaryship general.

This is under the direction of a secretary general.

Functions.—Direct supervision of all the business of the minister of justice; presidency of the council of administration, at which the secretary general fulfils the duties of commissary of the government for affairs of the seal; special direction of the *personnel* of the court and tribunals; discipline of the magistrature; *personnel* of the central administration; legion of honor; official honors and precedency; recording and distribution of dispatches; archives.

Division of the personnel.

This is under the direction of a sub-director and a *chef de bureau.*

Functions.—*Personnel* of the courts, tribunals, and justices of the peace; magistrature of Algiers and the colonies; *registres de pointe;* disciplinary measures; leaves of absence; *greffes.*

Bureau of registration and legalization.

This is under the direction of a *chef.*

Functions.—Analysis and registration of dispatches; information received (*renseignemens*) and the legalization of civil and judiciary documents for the colonies and foreign countries.

Bureau of archives.

This is under the direction of a *chef.*

Functions.—Preservation of the original drafts of laws; depot of imperial decrees, and decisions of the minister of justice; opinions of the council of state, and the principal opinions of the council of administration; the papers (*dossiers*) and circulars of the department of justice; preparation of the *Bulletin des Lois;* keeping of the register of promulgation; care of the library of the department; classification and communication of preserved documents.

The general organization of the department consists of a direction of civil affairs and of the seal, with three bureaux; a direction of criminal affairs and of pardons, with three bureaux; and a direction of accounts and pensions, with two bureaux.

I.—*Direction of civil affairs and those of the seal.*

This is under the charge of a director.

1*st Bureau.*

This is in charge of a *chef.*

Functions.—Correspondence relative to whatever concerns civil matters; rogatory commissions; disputes; publication of judgments in relation to absences and successions in escheat; declarations, (*denonciations*) before the court of *cassation*, for *exces de pouvoirs*, and appeals in the interest of the law; questions of judicial organization and of civil or commercial legislation; creation of tribunals of commerce, justices of the peace, temporary chambers in the imperial courts, and tribunals of the first instance; lists (*tableaux*) of advocates; statistical record of marriages, births, deaths, &c., or *état civil;* civil part of the official bulletin of decisions of the court of cassation.

2*d Bureau.*

This is in charge of a *chef.*

Functions.—Naturalizations; admission of foreigners to be domiciliated in France; *reintegration* to the quality of Frenchman; authorization to serve abroad; exemptions as to age, relationship, or alliance in respect to marriage; changes and additions as to name; *majorats;* dotations; regulation, reduction, and remission of judicial claims, (*droits de sceaux;*) *journal des savants; personnel,* and discipline of the referendaries to the seal of France.

3d *Bureau.*

This is in charge of a *chef.*

Functions.—*Personnel* of the advocates of the court of cassation, the advocates of the imperial courts and tribunals of the first instance, public appraisers and auctioneers, (*commissaires priseurs,*) *huissiers,* and *gardes du commerce;* police and discipline; creation and suppression of *offices ministériels; regime;* organization, and discipline of the notaryship; creation and suppression of notarial residences.

II.—*Direction of criminal affairs and of pardons.*

This is in charge of a director.

1st *Bureau.*

This is in charge of a *chef.*

Functions.—Prosecution for crimes, misdemeanors, (*delits*) and *contraventions;* supervision of the *instruction des procedures* and the execution of sentences; appeals *en cassation,* in the interest of the law; petitions as to the regulation of judges, and for their removal, (*renvoi*) in case of legitimate suspension; trial, (*mise en jugement,*) of the agents of the government; nomination of the presidents of the courts of assizes; questions relative to military and maritime tribunals; examination and execution of conventions concerning the extradition of malefactors; rogatory commissions; questions of the competence of criminal courts, (*questions de compétence criminelle;*) questions relative to costs of court, (*frais de justice;*) criminal department of the official bulletin of decisions of the court of cassation; examination of the jury lists.

2d *Bureau.*

This is in charge of a *chef.*

Functions.—Petitions for pardon and commutations of punishment; rehabilitations; collective pardons granted annually to persons in the *bagnes* and prisons; sending up to the court of cassation the appeals against decisions and judgments pronounced in criminal, correctional, and simple police cases; returning the decisions taken in these appeals.

3d *Bureau.*

This is in charge of a *chef.*

Functions.—Preparation of the general accounts of the administration of criminal justice, and of the administration of civil and commercial justice; collection of the judicial statistics published in foreign countries.

(The civil statistics are under the supervision of the directors of civil affairs.)

III.—*Direction of accounts and of pensions.*

This is under the charge of a director.

1st *Bureau.*

This is in charge of a *chef.*

Functions.—Preparation of accounts and of budgets; distribution of legislative *credits;* petitions for funds, (*demandes de fondes;*) ordering of all the expenses of the *personnel* and *matériel* on the continent and in Algiers; keeping of the writings, (*tenue des écritures;*) verification of the table of salaries, (*états de traitment;*) examination of the accounts rendered by the prefects; minor expenses of the courts and tribunals; examination of the claims as to resignation of office, (*droits à la retraite;*) liquidation and settlement (*mise en payement*) of pensions; examination of the accounts of surplus funds, (*fonds de retenu;*) allowance given to former magistrates and to former *employés* of the *chancellerie,* and to their widows and children; *matériel* of the department of justice.

2d *Bureau.*

This is under the charge of a *chef.*

Functions.—Verification, regulation, and ordering the payment of all the costs of court (*frais de justice*) in criminal, correctional, and simple police cases.

There is also connected with the department of justice a council of administration, consisting of the secretary general, who is president; the director of accounts and pensions; the director of civil affairs, and those of the seal; and the director of criminal affairs and pardons, and a secretary.

Functions.—This council, on the report of the directors of the service who compose it, examine (after they have been prepared in the various bureaux) all the matters connected with the following subjects: Sentences of death; appointment; promotion and recall of all the *employés* of the *chancellerie,* except those in the cabinet of the minister; the "fixation," creation, and changing of notarial residences; determination of the number of *officiers ministeriels;* creation and suppression of tribunals of commerce, and permanent or temporary chambers of other judicial tribunals; augmentation of the *personnel* of the tribunals; measures of discipline to be taken against the *employés* of the *chancellerie;* and propositions for the aggravation of the primitive measure against the *officiers ministeriels; majorats;* dotations and titles of nobility; loss

of salary (*privation de traitement*) incurred by magistrates and other officers of justice; increase of payment of the magistrature; division of the fees (*fonds de gratifications*) of the *chancellerie;* applications for pensions in those cases wherein they are not necessarily accepted or registered by the terms of the regulations; applications for assistance from former magistrates, former *employés* of the *chancellerie*, and their widows and children; regulation of the minor expenses and the bar, (*parquet;*) expenses of the courts and tribunals; contracts made by the *chancellerie.*

Also, all other affairs, when they originate (*ressortissent:*) 1st. In several of the "directions;" 2d. When they are sent before the council either by the minister of justice (*garde des sceaux*) or the secretary general, or when they are laid before it, of his own accord, by the *chef de service competent.*

In his quality of commissary of the seal of France, the secretary general communicates the conclusion arrived at by the "committee of the seal" (united to the council of administration by the ordonnance of October 31, 1830,) on matters (*majorats, dotations, &c.*) which were submitted to its decision.

The council meets at least once a week. Its decisions, resulting from a vote of the majority, are written out by the secretary, and submitted by the president to the minister, (*garde des sceaux.*)

There are twelve referendaries of the seal of France, having a *bureau*, consisting of a president, treasurer, and secretary.

The referendaries are charged exclusively to attend to (*poursuivre*) the delivery of letters patent relative to the *collation* of titles; the preparation of applications concerning *majorats* and dotations; and the payment into the treasury, on orders of payment delivered by the director of civil affairs, of the *droits de sceau.*

There are also connected with this department an engraver and a physician.

(g 2.)

The Imperial Printing Establishment.

Imprimerie which comes within the province of the department of justice, is under the charge of a director, whose cabinet is organized into five different "services," each in charge of a *chef*, and a department of oriental typography, under the charge of an inspector.

There is also a service of health, a service of buildings, and a committee for the examination of works which are proposed for gratuitous printing.

The functions of the establishment are, the printing, distribution, and sale of the laws, ordinances, regulations and documents (*actes*) of the government; minutes for the council of state and the cabinet of the household of the emperor; prints, bills, drafts, &c., emitted by the public treasury; making of cards, printing of *congés* for the troops, brevets, stamps, passports, &c. Service general of the departments and central and special administrations, the printing for which is paid from

the funds (*deniers*) of the State; printing of works of science and art, published, by special authorization, at the expense of the government; printing, at the expense of the authors, and by special authorization of the minister of justice, of works written wholly or in part in foreign characters.

The printers of Paris are authorized, by a decision of the minister of justice, to have set up and printed at this establishment any portion of works they have undertaken to print which are written in oriental characters, or in any of the peculiar signs and types which are found in the foreign department of the office.

(*j.*)

Department of Foreign Affairs.

Functions of the department.—The negotiation and execution of political and commercial treaties and conventions; relations with ambassadors, ministers, and diplomatic and consular agents, whether representing foreign countries in France, or representing France in foreign countries.

Cabinet of the minister and secretaryship.

This is under the direction of a *chef.*

Functions.—Opening of dispatches; personal correspondence of the minister; audiences; reserved works; proctocols; cypher, (*chiffre;*) departure and arrival of correspondence and of couriers; the centralization of tables, notes, and registers, relative to the *personnel*; statistics and translators.

Bureau of proctocols.

This is directed by a sub-director, *chef* of the bureau, who works directly in co-operation with the minister. This bureau has connected with it a

Bureau of departure and arrival of correspondence.

This is under the direction of a *chef*, which attends to the transmission of dispatches and conventions; letters of authorization, (*pleins pouvoirs,*) commissions, provisions, exequators, recall, and *récréance;* ceremonials and protocols; privileges, immunities and diplomatic *franchises* of ambassadors and foreign ministers; diplomatic audiences, decorations, &c.

This general organization of this department consists of a director of political affairs, and matters in dispute, with four sub-directions; a direction of consulates and commercial affairs; a direction of archives and of the *chancellerie*; and a direction of funds and accounts.

I.—*Direction of political affairs and matters in dispute.*

This is in charge of a director.

Functions.—Political affairs; questions of boundary, (*limites*) and of extradition; postal conventions; *personnel* of diplomatic agents, &c., &c.

Sub-direction of the North.

This is in charge of a sub-director.

Functions.—Correspondence and affairs concerning Great Britain, Russia, Prussia, Austria, the various German States, Belgium, the Netherlands, Sweden and Denmark.

Sub-direction of the South and America.

This is in charge of a sub-director.

Functions.—Correspondence and affairs concerning Spain, Portugal, the Italian States, Switzerland, and the States of North and South America.

Sub-direction of the Levant.

This is in charge of a *chargé* of sub-direction.

Functions.—Correspondence and affairs concerning the Ottoman Empire, Greece, the *Régences Barbariques*, Morocco, Persia, the East Indies, China, and the countries of Africa.

Sub-direction of matters in dispute, (*contentieux.*)

This is under the charge of a sub-director.

Functions.—The consideration of matters of dispute which should be arranged in conformity with diplomatic regulations; and those which result from claims preferred by French subjects against foreign governments, and by foreigners against the French government; postal conventions; treaties of extradition and matters therewith connected

II.—*Direction of consulates and commercial affairs.*

This is in charge of a director and two sub-directors.

Functions.—Commercial affairs; treaties of commerce and navigation; protection of French commerce in foreign lands; the claims preferred by foreign commerce against the French government; the regulation of the accounts of consular *chancelleries;* the *personnel* of consular agents and the dragomen of consulates.

Direction of archives and of the "chancellerie."

This is formed under the sub-direction of archives and of the bureau of the *chancellerie,* and placed under the charge of a director and sub-chief.

Functions.—The preservation and classification of all the correspondence of the department, of which it prepares an analytical table; collection of treaties and diplomatic documents of all kinds; depôt of decrees and decisions; researches for all documents and information required for the service of the department, and for all other service, both public and private.

Bureau of the "chancellerie."

This is under the direction of a *chef.*

Functions.—All passports except those of the cabinet; regularizations, *visa,* and the collection of fees (*droits*) connected with them; transmission of judiciary proceedings (*actes*) and rogatory commissions; the discussions of questions touching the state of births, deaths, marriages, &c., (*l'état civil,*) and the examination (*instruction*) of claims relative to matters of private interest, such as unsettled estates (*successions ouvertes*) in foreign lands, claims to be recovered (*les recouvrements*) from private persons, &c., &c.

This is the only bureau of the department of foreign affairs which is open to the public. It is accessible every day except Sundays and fête days.

IV.—*Direction of funds and accounts.*

This is under charge of a director and sub-director.

Functions.—General and particular works relative to the expenses of the department; correspondence with the political and commercial agents in all financial matters, and everything connected with them; keeping the accounts in double entry, and the books and registers prescribed by the ordinances and the special regulations; the liquidation of the expenses of the service of all the agents, also of the travelling expenses and other charges of couriers; diplomatic presents; retiring pensions, &c., &c.

The director is member of the consulting committee of matters in dispute, (*comité consultatif du contentieux.*)

There are connected with the department of foreign affairs one first secretary interpreter, two secretary interpreters, and one secretary interpreter for the language of China.

There is a "consulting committee on matters in dispute," consisting of a president, secretary, and four other members.

There is also an "agency of the department" at Marseilles, directed by an agent, and a judiciary council of the department, consisting of three members.

(*k.*)

Department of War.

Functions.—Recruitment, organization, inspection, police, discipline, *mouvements*, and operations of the army; administration of all the *personnel* composing it, (staff, troops of all arms, administrative services, service of health;) military recompenses; imperial military schools; imperial establishments of artillery and engineers; the *materiel* of these arms; *places de guerre;* imperial hotel of invalids and military hospitals; military journals and disciplinary establishments; military equipages and conveyances; provisions; forage, fuel, and clothing of troops; military beds; encampment; mounting of the horse-troops; harness; settlements and salaries of every kind. General and municipal administration of Algiers, (organization, administration of the *personnel* and the *materiel;* Arabian affairs; colonization; agriculture; domains; public works; mines; forests; various taxes; commerce; customs; statistics.) Military depôt, (geodesy, topography, drawings, engraving, historic works; military statistics, libraries, historical archives, map of France.) General accounts, (control and settlement of expenses, matters in dispute, budgets, general accounts; *comptes-matiéres*, pensions, succor;) the administrative archives of war; the civil condition (*état civil*) of the army; authentication (*constatement*) of services; the depôt of preservation of all documents therewith connected.

There are two *aides de camp* to the minister, and a staff consisting of nine persons.

Cabinet of the Minister.

This is under the direction of a *chef.*

Functions.—Opening, registration, and transmission of dispatches; centralization of work with the emperor; business connected with the franking privilege and the counter seal; public audiences; communication with the journals; reserved and secret affairs, and affairs not belonging to any bureau.

The general organization of this department consists of directions, each direction being subdivided into bureaux.

1*st Direction.—Personnel.*

This is under the charge of a director and a director-*adjoint.*

1*st Bureau.—General correspondence and military operations.*

This is under the direction of a *chef.*

Functions.—Correspondence with the civil and military authorities in all that concerns the interior service of the State; the maintenance of order and public tranquillity; general affairs; elections; apposition of the seals in all cases provided for by the edict of the 13th Nivose, an. X; interpretation of regulations common to all arms, and modifications

to be made in these regulations; application of the general laws of the State to the army; public ceremonies, reviews, and other military celebrations; honors and matters of precedence; matters in dispute, discipline of troops *en route*, in garrison, and in camps and *cantonments;* nomination of non-commissioned officers in active service to places in the public service, (correspondence with the competent departments;) national guards in all that concerns the department of war; police and annual inspection of the officers not on duty; military operations, military marches and manœuvres; stationing and movement of troops; camps and formation of *armées actives, assiette des gites d'étape;* effective of the army.

2d Bureau.—Staffs, military schools.

This is under the direction of a *chef.*

Functions.—General officers; staff corps; staff of fortified towns, (*places*;) *école impériale d'application* of the staff, (*personnel*, instruction and administration;) imperial polytechnic school, (*personnel*, instruction and administration;) imperial special military school of St. Cyr, (*personnel*, instruction and administration;) imperial military prytaneum, (*personnel*, instruction and administration;) shooting school, (*personnel*, instruction and administration;) regimental schools; military gymnasiums; musical gymnasiums.

3d Bureau.—Recruitment, ("*Conscription.*")

This is under the charge of a *chef.*

Functions.—Levy of recruits for the year, (*appel des classes*;) distribution of the contingent in the departments; operations of the councils of revision; incorporation of the recruits; voluntary enlistments and re-enlistments; liberation of soldiers who have completed their term of service; unlimited congés of discharge and of invalids; organization, direction, employment, and supervision of the received men of the army; *personnel* of depôts of recruitment.

4th Bureau.—Military tribunals.

This is under the direction of a *chef.*

Functions.—Judicial correspondence on civil and criminal matters; notification and classification of the decisions of councils of war; pursuit and prosecution of deserters and insubordinate soldiers; *gite* and *geôlage*; application of amnesties, pardons, and commutations of punishment; administration of *compagnies de discipline*; military penitentiaries; ateliers of persons condemned to the chain and ball, (*boulet*,) or to labor on public works; military prisons; extraditions; prisoners of war—their police and their exchange; naturalization of soldiers in active service.

5th Bureau.—Gendarmerie.

This is under the direction of a *chef.*

Functions.—Personnel, organization, *mouvement*, service, inspection, clothing, equipment, harness, and barracks of the departmental *gendarmerie*, of the *gendarmerie* of Africa, of the battalions of the picked *gendarmerie*, (*gendarmerie d'élite*) of the guard of Paris, and of the public forces of the interior, and of the armies; *gendarmerie* of the colonies; companies of veteran gendarmes; *sapeurs pompiers* of the city of Paris.

6th Bureau.—Infantry.

This is under the direction of a *chef*.

Functions.—Personnel and social statutes (*état civil*) of the regiments of infantry of the line, and of light infantry, of the battalions of the foot; *chasseurs* of the battalions of light infantry of Africa; of the regiments of *Zonaves*, of the companies of discipline, of the companies of non-commissioned officers and veteran fusileers, of the regiments of the foreign legion, and of the native corps of infantry in Algeria; *personnel* of infantry officers not on duty.

7th Bureau.—Cavalry, equipment.

This is under the charge of a *chef*.

Functions.—Personnel, and social and military statistics (*état civil*) of cavalry regiments, of native corps of cavalry in Algeria, and of companies of cavalry *de remonte*; imperial school of cavalry, *personnel*, accounts and admininistration; *personnel* of cavalry officers not on duty; organization, administration, and accounts of the *établissements de remonte*, of studs, (*haras*,) of depôts, and of stations of stallions in Algiers; *personnel*, organization, and social and military statistics (*état civil et militaire*) of veterinary surgeons of cavalry; maintenance of military pupils at the veterinary school at Alfort; equipment of cavalry; purchase of training horses and race horses for the cavalry schools, practice schools of artillery, and of engineering, and of the staffs; equipment of artillery, of the *train des parcs d'artillerie;* of engineering, and of the *train des equipages militaires;* purchase of mules (*mulets*) and other draught and pack animals for the service of these arms; equipment, *à titre onereux*, of general officers functionaries, of military *intendance*, of superior officers of all arms, of captains of cavalry and of the staff, for the horse which they must furnish at their own charge, and for the *gendarmerie;* sanitary arrangements relative to the horses in the various corps of cavalry.

2d Direction.—Artillery Service.

This is under the charge of a director.

1st Section. *Personnel.* This is under the direction of a *chef*.

Functions.—Personnel, organization, inspection, social, and military statistics of the officers, guards, *employés*, and troops of artillery; of the companies of veteran artillerymen, and of the trains of parks of artillery; harnessing of horses of artillery troops; regimental school of arms; appointment of master armorers of the corps of troops.

2d section. *Materiel* accounts. This is under the direction of a *chef.*

Functions.—Schools and *directions* of artillery; arsenals; forges; foundries; powder-magazines and saltpetre refineries; central depôt and museum of artillery; formation of equipages of artillery in station and in the country; armament of stations and of coasts; manufactory of arms and *ateliers* for reparation; armament of the troops and of the national guard; delivery of munitions; subscription for the maintenance of arms in the *corps;* manufactory of flags, standards, and of the *batons* of the marshals of France; manufacture of percussion caps; importation and transportation of arms; construction and maintenance of buildings and establishments used in the service of artillery; acquisitions, exchanges, and locations of immovable property; accounts of the expenses of the artillery service; accounts *matières* of the same service.

3d Direction.—Engineer Service.

This is under the charge of a director.

1st section. *Personnel.* This is under the charge of a *chef.*

Functions.—Personnel, organization, inspection, and social and military statistics of officers, guards, *employés,* and troops of the engineer service; of the companies of workmen and of veterans; regimental schools of engineering; *ecole impériale d'application d'artillerie et du génie,* at Metz; *directions* and arsenals of the engineer service; depôt of fortifications and gallery of plans in relief of the fortified places; *personnel* of the lock-keepers of the fortifications; of the porters (*concierges*) of the barracks and *pavillons,* and of the licensed *cantiniers* in the forts and citadels; harness of the horses of the troops of engineers; all the affairs relating to the service of the engineers (*personnel* and *matériel*) in Algiers and to the armies.

2d section. *Matériel* accounts. This is under the charge of a *chef.*

Functions.—Works of the fortifications and military establishments; works of the departments of the interior, of the marine, and of public works, so far as concerns the department of war; location of land and of buildings for military service; general location of the barracks of the troops and of the buildings of the military administration; subscription of the towns towards the expenses of the barracks; military domain; military *servitudes* in the limits of the fortified places; accounts of the expenses relating to the engineer service; accounts *matières* belonging to the same service.

4th Direction.—Administration.

This is under the charge of a director.

1st Bureau.

Intendance militaire, administrative, *personnel,* marching service, transportations, military equipages. This is under the charge of a *chef.*

Functions.—Administrative inspections; *personnel* and social condition (*état civil*) of the *corps de l'intendance militaire*; *personnel*, social condition and pay of the clerks in the bureaux of the *intendance*, of the officers and pupils of the administration of the service of the hospitals, of the clothing and encampment service, and of the service for military provisions; personal and social condition of the battalion of workmen (*ouvriers*) of the administration, and of the former *employés* and *sous-employés* of the administrative services of the army; *personnel*, social condition, and *matériel* of the corps of military equipages; marching service, including military trains, (*convois*,) *l'indemnité de route*, and expenses of the post and of couriers; furnishing of effects and small equipments to soldiers travelling alone; general transportation services in the interior and by sea.

2d Bureau.

Military pensions; fire materials, (*chauffage;*) under charge of a *chef.*

Functions.—Purchase of provisions necessary to secure the supply of bread and meats; salt, rice, vegetables, liquors, and provisions *de siège et de reserve;* subscriptions for the baking service, (with the accounts;) administration of the forage service, and of the lighting and fuel service; and the accounts of these various services.

3d Bureau.

Personnel of the health officers; military hospitals; civil hospitals; regimental infirmaries; invalids. This is under the charge of a *chef.*

Functions.—*Personnel* and *état civil* of the members of the council of health of the armies, and of the health officers of the troops and the military hospitals; military almoners; *personnel*, and *état civil* of military *infirmiers;* administration of the service of the military hospitals; whether in the interior or *aux armées;* subscription to the civil hospitals for the treatment of soldiers; sending of soldiers *(militaires)* to the springs, *(eaux thermales;)* regimental infirmaries; depots for the convalescent; accounts of these various services; *personnel*, administration and accounts of the *imperial hotel des invalides.*

4th Bureau.

Clothing; military beds; encampment; harness; under the charge of a head clerk, *(chef.)*

Functions.—Administration and materials for the clothing service; military beds and encampment for the *corps* of all arms, except the gendarmerie; *fixation et administration des masses d'entretien d'habillement de tous les corps de l'armee*, excepting the *gendarmerie;* regulations relative to uniforms; establishments of modèles-types of goods for clothing, and for *coiffure* of large and small equipments, and of the encapments; administration and *matériel* of the harness service, and establishment of modèles-types, so far as concerns the cavalry regiments; *fixation and administration de la masse d'entretien de harnachement et ferrage de la cavalerie;* military lodgings; the accounts of these various services.

5th Bureau.

Pay; examination of accounts; interior administration of the *corps* of all arms; under the direction of a *chef.*

Functions.—Pay and indemnities of all kinds in the service of the staffs, and of the *corps* of all arms; of the administrative *personnel* of the hospitals, excepting so far as relates to clothing and military provisions; gratuities *d'entrée en campagne;* expense of extraordinary missions; indemnities for loss of goods and horses by officers; *delegations; successions;* officers' debts; interior accounts of the troops; verification of examinations and discounts, *liquidation des masses individuelles,* so far as concerns the men who have been released from service.

5th Direction.—Affairs in Algiers.

This is in charge of a director.

1st Bureau.

General and municipal administration; Arabian affairs, with a *chef.*

Functions.—Organization of the government and of the general administration; general correspondence; foreign consuls; political refugees; transfer to France of persons under sentence; telegraph service; press and book service; political and administrative missions; scientific commissions; official publications; prefectoral and communal administrations; commissaries of police; regulations of administration, and of the municipal police; city common sewers; salubrity; social statistics, *(état civil;)* militia; medical service, hospitals, and civil *hospices;* charitable establishments; pawnbrokers' establishments, *(monts de piété;)* prisons; cemeteries; theatres; public establishments; budgets of the communes; administration of justice in Arab territory; levying the taxes; census and *mouvement* of the native population; *directions* of the bureaux *Arabes;* interpreters; chiefs and native agents; organization and administration of the military service; *indigènes (présents;)* indemnities and assistance to natives; natives imprisoned for political reasons; voyage of natives to France; pilgrimage to Mecca; Mussulman worship; Mussulman schools; organization of the service of the courts of justice in concert with the competent minister; civil and criminal administration; organization of the service of public instruction and worship, in concert with the competent minister; legislation; *personnel; matériel;* budget and accounts, and statistics of the services connected with this bureau.

2d Bureau.

Colonization; agriculture; domains, with a *chef.*

Functions.—Recognizance and constitution of property; creation of *centres de population agricole;* city and country grants; colonization *(peuplement)* passages *en Algiers;* depot and location of agricultural colonists and laborers; topographic operations; legislation and rules

relative to agriculture; clearing of lands; nurseries and cultures; agricultural institutions; model farms; agricultural premiums and encouragement; improvement in races of horses and cattle; direction of the service of registration and of domains; location, alienation, exchange, and appropriation to the civil or military public service of domanial property; *apposition* and main *levée* of sequestration; *personnel, matériel,* accounts, and statistics of the services of colonization, of nurseries, of laborers' depots, of topographic operations, and of registration of domains.

3d Bureau.

Public works, mines, forests, various taxes. Under direction of a *chef.*

Functions.—Bridges and causeways; roads, bridges, and drainage; aqueducts and canals; toll-bars; irrigations; maritime works; lighthouses and beacons, *grande* sewerage; parish roads of *colonization;* expropriations by reason of public utility; civil buildings; construction, maintenance, and reparation of edifices used in the public services; furnishing of materials; adjudications and contracts; explorations and grants; forage; artesian wells; geological researches; workshops, (*usines;*) water, (*prise d'eau;*) steam-engines; railroads. Recognizance, management, preservation, and grants for improvements of the woods and forests; water police, (*police des eaux;*) administration and collection of the product of the service of the various imposts; Arab imposts; licences and patents; various charges; *personnel, matériel,* ———, accounts, and statistics of the services connected with this bureau.

4th Bureau.

Commerce, custom-houses, statistics. Under direction of a *chef.*

Functions.—Commerce; research after and discussion of the means of extending and fortifying the commerce of Algiers with France, and with foreign nations; commercial relations between France and the natives of Tell, of Algerian Sahara, of Tunis and of Morocco. Preparation of the laws and regulations relative to internal and external commerce; importations and exportations; custom-house tariffs, *entrepots;* maritime service, fisheries; *mouvement* and police of navigation; maritime communications; fishing for coral; sanitary service; chambers of commerce; *concours à l'etablissement des tribunaux de commerce;* creation and police of *bourses de commerce;* renumeration of stock brokers and *courtiers de commerce;* charges of *courtage;* banks and offices of discount; chartered corporations, (*sociétés anonymes,*) savings' banks; insurance offices, and committees of supervision of these establishments; mutual benefit societies among the workmen; societies of encouragement for commerce; institution of fairs and markets; examination of regulations relative to the communal police at the fairs, markets, ports, and other public places; legislation on breadstuffs; account of the regulating prices of importation and exportation of grains; price currents of grains; free circulation of grains. Regime and tariff of slaughter-houses; examination of the regulations of the mayors for bake-houses, meat-shops, and the

sale of eatables generally. Public exhibition of the products of industry; patents; insalubrious and inconvenient establishments; *personnel* of the *employés* in the establishment for the verification of weights and measures; administration and collection of customs; *mouvement* and census of European population; centralization and publication of statistical documents, especially of the situation of French establishments. Legislation, *personnel*, budget and accounts of services connected with this bureau.

6th Direction.—War Depot.

Under charge of a director.

1st section. Geodesy, topography, drawing, and engraving. Under charge of a *chef*.

Functions.—Revision, classification, and preservation of astronomical and geodesical calculations; editing of the scientific part of the "*memorial*" of the war depot; preservation of astronomical, geodesical and topographical instruments, &c.; preparation and *mise au net* of topographical materials for all the charts and drawings; execution of military water-color drawings, designs, &c.; engraving of all the charts, and retouching of the plates, coloring of engraved maps; *magazin* of charts and *livres du fonds* of the depot; purchase and preservation of copper plates; copper plate printing; printing of the "*memorial*" of the depot, and of works to be published. Autography of departmental charts; purchases of books, charts, historical documents, &c., for the library and the archives of the depot; administration and accounts of expenses relative thereto.

2d section. Historical works, military statistics, library, historical archives, charts and plans. Under charge of a *chef*.

Functions.—Classification and preservation of archives relative to the military history of France; editing of accounts of military operations since 1792; history of regiments since their creation, and generally of all historical works; examination and classification of the principal military and topographical works executed annually by the regiments; collation of documents relative to military statistics; examination of military works and writings published in foreign countries; editing of the historical and military part of the "*memorial*" of the depot. Preservation of the manuscript archives of the depot prior to 1792, and of the library and general collection of manuscripts and engraved charts; preservation of water-colored military sketches, paintings, and works of art.

7th Direction.—General Accounts.

This is under charge of a director.

1st Bureau.

Contrôle of expenses; matters in dispute; general budgets. Under direction of a *chef*.

Functions.—Examination and discussion of matters in dispute, also, of general questions, and questions of regulation as to the accounts;

establishing of budgets; revision and control of the expenses of all the services; regulation and *main-levée* of caution money; debts to the State.

2d Bureau.

Funds, orders of payment, and general accounts. Under the direction of a *chef.*

Functions.—Apportionment of general funds; supervision of the employ of *credits;* delivery of orders of payment and of *delegations;* keeping of the books by double entry; establishment of the general accounts of each year.

Responsible Agency, (Agence Comptable.)

Under charge of a responsible agent.

Functions.—Payment of the salaries of head clerks, (*chefs,*) and clerks; of the wages of the *gens de service;* of the minor expenses relative to the service of the hotels and bureaux of the department; assistance given to *anciens militaires,* and widows and orphans of *militaires* residing in Paris; and generally all the expenses of an urgent character.

3d Bureau.—Compte Matières.

Under direction of a *chef.*

Functions.—Centralization and verification of *comptes-matières* of all the services; works *d'ensemble* to be produced before the court of accounts, &c., so far as concerns this branch of public accounts.

4th Bureau.—Pensions. Assistance.

Under direction of a *chef.*

Functions.—Liquidation of military retiring pensions, and of the pay, pensions, and gratuities of invalids; civil pensions to the functionaries and *employés* of the war department; payment of pensions and annual assistance to widows and orphans; retiring pension treasuries connected with the war department; assistance general and special.

5th Bureau.—Internal Service.

Under direction of a *chef.*

Functions.—Personnel of head clerks, (*chefs,*) *sous-chefs,* clerks, and *gens de service;* works for the reparation and maintenance of buildings and hotels of the war department; supplies and general expenses of the central administration; guard and apposition of the seal of the department; printing for all the services of the war department; lithography; Expenses relative to the publication of the official military "*Journal;*" applications for situations on the part of old soldies, and their transmission to the proper departments of the public administration. This bureau consists of nine members.

6th Bureau.—Laws, archives, decorations.

This is under direction of a *chef.*

Functions.—Registration and notification of decrees and reports approved by the emperor; care and classification of laws, decrees, decisions, regulations, instructions, and circulars; of the portfolios, (*dossiers,*) and of the documents which are no longer required for the regular work of the bureaux; of the archives prior to January 1, 1816; of the archives of the order of St. Louis and of the *mérite militaire;* of the portfolios (*dossiers*) of deceased officers, or of officers resigned or dismissed; of the registers of matriculation and comptrol of *corps licensiés;* of the former *matricules* renewed in the corps of all the armies; of the registers of social statistics (*l'état civil*) kept by the military authority in foreign parts of the servitors of the empire; of extracts from these registers and of *actes mortuaires* prepared in the interior concerning *militaires* and *employés militaires;* delivery of duplicates, certificates, tables of service, &c., &c., and extracts from all other documents deposited in the archives; archives of the *corps de troupe,* of the military divisions and *intendances,* of armies in active service, &c.; translations in foreign languages; editing and distribution of the official military journal "*Bulletin des Lois;*" service of the committees of the staff, of infantry, of cavalry, and of the gendarmerie of Algiers; and of temporary committees; decorations and military medal; editing of the collective reports to the emperor for being placed on the retired lists; on the lists of *non activité,* resignations, &c.; editing and publication of "*L'Annuaire Militaire;*" almanac imperial, so far as concerns the war department.

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Committees and Councils.

Consultative committee of the staff.

The committee is organized conformably to the ordonnance of June 12, 1841. It consists of a president, secretary, six members, and six adjunct members.

Consultative committee of infantry.

This committee is composed, according to the decrees of 20th and 26th May, 1849, of five generals and one *intendant militaire,* and is organized with a president and secretary.

Consultative committee of cavalry.

This committee is composed, according to the decree of 20th and 26th May, 1849, of five generals of division and one *intendant militaire,* and is organized with a president and secretary.

Consultative committee of the gendarmerie.

This committee was organized by decree of December 16, 1851, and consists of a president, secretary, and five members.

Consultative committee of artillery.

The composition and functions of this committee are fixed by decree of 11th March, 1850. It consists of a president, secretary, and nine members.

Consultative committee of fortifications.

The composition and functions of this committee are fixed by decree of March 11, 1850. It consists of a president, secretary, and seven members.

Consultative Committee of Algiers.

The composition and functions of this committee are fixed by decree of 17th December, 1851. It consists of a president, secretary, (with a vote,) and nine members.

Council of health of the armies.

This council is composed of three or five members.

Veterinary committee.

This committee is charged with the examination of all the propositions which concern the health and care of the horses of the army. It consists of a president and honorary president, a veterinary surgeon, charged with the functions of secretary, and nine members.

Mixed committee on public works.

This committee, created by an ordonnance of the 18th September, 1816, was reorganized by the law of April 7, 1851. It is charged to deliberate and give its opinion on affairs which are submitted to its examination, and which concern the department of public works, the department of the interior, the war department, and the department of the marine, on the works of public utility which are projected in the military *zone* of the empire. It is composed of four councillors of state; a president of the committee; of two inspectors general of military engineering; of an inspector general of artillery; of two inspectors general of other arms; of two inspectors general of bridges and causeways; of an officer general of the marine; of an inspector general, member of the council of maritime works; and of a secretary *archiviste*.

The secretaries of the committees of engineering and of artillery, of the council of the admiralty, of the council of the works of the marine, and of the council general of bridges and causeways, assist at the sittings but have no vote.

(k 1.)

COUNCIL OF STATE.—SECTION OF WAR AND THE MARINE.—(*See council of state.*)

Central depot of artillery.

The direction of the "*Central depot of artillery*" includes, whether for the supervision of the works, or for the execution of the orders

of the minister, the *atelier de precision*, and of models of arms; the museum of artillery; the archives; the library; and the collection of plans, charts, and drawings.

The officers and *employés* attached to these various establishments are under the orders of the general of division, president of the committee on artillery, who is director of the depot.

Powder and saltpetre service of France.

At the arsenal. Under the charge of a director, sub-director, and two others. This service is sub-divided as follows:

Central bureau.

With a *chef de correspondence* and a *chef de compatabilité.*

Powder-mills and refineries, (united.)

With three inspectors and three commissaries.

Powder-mills.

With an inspector, and one or two commissaries at the various depots.

Refineries.

With one or two inspectors, and one or two commissaries at the various depots.

Percussion cap manufactories.

With a director and three members.

(*k* 2.)

IMPERIAL HOTEL DES INVALIDES.

This establishment was founded by an edict of Louis XIV, April, 1674.

Government.

An honorary governor; a governor; a "*commandement,*" consisting of a commandant, a major, seven adjutant majors, and one sub-adjutant major; an "*administration,*" consisting of two members; a "*council of administration,*" consisting of the governor, who is president, a secretary, and eleven members; an "*administrative service,*" consisting of a director and ten adjutants of administration; a department of "*worship,*" consisting of a chaplain, and a first and second chaplain; a "*service of health,*" consisting of twenty physicians; and a "*service of buildings,*" consisting of two members, viz: an architect and an *inspecteur-vérificateur.*

(*i.*)

Department of Public Works.

Functions.—Imperial corps of bridges and roads, and of mines. Appointment to administrative situations connected with the public works; proposition to places of functionaries, the appointment of which is reserved to the emperor. Imperial highways, and departmental roads, excepting, so far as the last are concerned, the questions of accounts reserved to the department of the interior; river navigation; protection against rivers and torrents; canals; control of chartered canals; maritime ports of commerce; lighting the coasts; ferry-boats; downs; syndical associations for the draining of marshes, and works of irrigation; regulations of the works (*usines*) in streams, and of mettallurgic establishments, (*usines;*) search after mines; grants of mines; police of mines; quarries, &c.; measures of precaution against accidents by steam; railroads; construction of chartered railroads; control of improvements, (*exploitations;*) accounts of expenses. One secretary general.

Private cabinet of the minister.

This is under the direction of a *chef du cabinet.*

Functions.—Opening of dispatches; private correspondence; applications for audience; reserved affairs.

Central administration.

This administration is divided into six divisions, each of which is sub-divided into bureaux.

1st Division.

Secretaryship, general and personal. In charge of a secretary general.

1*st Bureau.*

Secretaryship general. This is under the direction of a *chef de bureau.*

Functions.—Registration and distribution of dispatches on their arrival; sending off of dispatches; *re-union* of the work for the council of state and for the signature of the emperor. Preservation and dispatch of decrees, and their insertion in the "*Bulletin des Lois.*" Depot of ministerial circulars and instructions; interior expenses of the department; *personnel* of servants, (*gens de service;*) care of the furniture, (*mobilier;*) works for the maintenance and reparation of buildings; subscription lists; printing for the service of the central administration; control of printing for the service of bridges and roads. Franking privilege and counter seal; centralization of budgets, and of applications for extraordinary funds, and supplementary *credits*; general questions, and business not specially connected with any division.

2d Bureau.

Personnel of the central administration, and of the corps of bridges and roads. Under the direction of a *chef de bureau.*

Functions.—Employés of the central administration; imperial school of bridges and roads, and appointment of professors; classification of the pupils; annual missions; engineers of bridges and roads; conductors *enbrigadés*, and auxiliary conductors; navigation guardians, and lock-keepers; annual distribution of secondary agents in the service of bridges and roads. Appointments and promotions in the imperial order of the legion of honor. Liquidation of retiring pensions; distribution of assistance; annual composition of local councils instituted in each department for the division of the funds allotted for the works of bridges and roads, at the charge of the treasury; general measures and examination relating to all questions connected with the *personnel* of the central administration and of the active service.

3d Bureau.

Personnel of the corps of mines and divers services. Under the direction of a *chef de bureau.*

Functions.—Imperial school of mines; Saint Etienne school of mines; practical school of masters—workmen miners (*maîtres ouvries mineurs*) at Alais. The appointment of professors and classification of pupils; appointment of out-door pupils, (*externes;*) of foreign pupils, and of free pupils at the school of mines; delivery of certificates of capacity, (*brevets de capacité;*) engineers of mines, &c.; appointments, advancements, and decorations; liquidation of the bureau expenses, of circuit expenses, and of retiring pensions; mine guardians; harbor-masters and officers, (*maritime service;*) *personnel* of the port service, (interior navigation;) *personnel* of the administrative engineers of railroads in operation; appointment of inspectors of commercial management of railroads, of commissaries and sub-commissaries of the service of supervision of the same roads.

4th Bureau.—Central statistics.

This is under the direction of a *chef de bureau.*

2D DIVISION.

Roads and bridges. Police of transportation. (*Roulage,*) under direction of a *chef de division.*

1st Bureau.—Imperial roads.

Functions.—Matériel, and matters in dispute connected with the service of imperial roads and the bridges therewith connected. Distribution between the departments of the funds destined for works at the charge of the State. Execution of laws and regulations respecting the *grande* sewerage, so far as concerns the imperial roads; and the matters in dispute therewith connected, so far as concerns the imperial and departmental roads.

2d Bureau.—Departmental roads and police of transportation, (roulage.)

This is in the direction of a *chef de bureau.*

Functions.—Matériel, and matters in dispute in connexion with the service of the departmental roads. Execution of laws and regulations on the police of transportation; correspondence relative to communal works upon which the opinion of the council of bridges and roads is solicited by the minister of the interior, of agriculture, and of commerce.

3D DIVISION.

Navigation and ports under the direction of a *chef de division.*

1st Bureau.

This is in charge of a *chef de bureau.*

Functions.—River navigation; works for the amelioration of navigable rivers and streams; maintenance and improvement of towing paths; establishment of quays and ports; navigation studies. *Matériel* and administration of ferry boats; works for protection against rivers and torrents. Organization of syndical associations for the works connected with mill-dams.

2d Bureau.

This is in charge of a *chef de bureau.*

Functions.—Maritime navigation; works for the maintenance and amelioration of maritime ports of commerce; lighting of the coasts; establishment and maintenance of light-houses and beacons; dikes, and sea works; construction and maintenance of canals.

3d Bureau.—Navigable streams.

This is in charge of a *chef de bureau.*

Functions.—Water regulations for the establishment, or regularization of manufactories (*usines*) on navigable or unnavigable streams. Draining of marshes; examination of projects; charters and organization of syndical associations for draining works; water regulations relative to irrigation. Chartering of canals for irrigation; organization of syndical associations for draining works.

4TH DIVISION.

This is under charge of a *chef de division.*

1st Bureau.

This is under direction of a *chef de bureau.*

Functions.—Railroad studies, execution of works, materials, and matters in dispute.

2d *Bureau.*

This is under direction of a *chef de bureau.*

Functions.—Technical *exploitation* of railroads; police, supervision of *matériel* employed in the improvement of railroads.

5TH DIVISION.

Mines under charge of a *chef de division.*

1st *Bureau.*

This is under the direction of a *chef de bureau.*

Functions.—Research and charter of mines; examination of the ground and subterranean topography; supervision and police of mines, ores, turf pits, and quarries; chartered and other corporations; steam engines; steamboats.

2d *Bureau.*

Functions.—Metallurgic works; statistical documents on the mines and works (*usines;*) regular accounts; annals of the mines; geological map of France and of the departments; agronomic maps; geological and mineralogical collections; chemical laboratories; mine rents; questions connected with the customs and imposts; technical questions, &c.

6TH DIVISION.

Accounts, and settling of accounts, (*ordonnancement;*) under the immediate direction of a *chef de la division.*

Functions.—General measures relative to accounts; periodical accounts of receipts and expenses; provisionary situations; supplementary and extraordinary grants of public funds; accounts of *exercises clos;* correspondence with the minister of finance and with the court of accounts; keeping of the books by double entry; auxiliary books; monthly balance sheets; transmission of orders of payment and of *ordonnances de délégations;* notices to persons who are to receive money, to prefects, and to engineers; keeping of the general summary of orders of payment, (*ordonnances,*) and of the auxiliary books; treasury of the department for current expenses.

2d *Bureau.—Accounts of Bridges and Roads, and of Mines.*

This is under the direction of a *chef de bureau.*

Functions.—Examination of the special statements of accounts concerning the *services* of engineers of bridges and roads, and of the engineers of mines; distribution of funds; accounts of the *personnel* of bridges and roads; accounts of retiring, and other pensions; correspondence relative to the *debits* of the contractors, (*entrepreneurs;*) correspondence with the prefects and engineers on the preceding.

Depôt of Charts and Plans.—Archives.

This is under the direction of an engineer in chief.

Judiciary Councils of the Department.

Consisting of six members.

Committee on Light-houses.

Consisting of ten members, and presided over by the minister.

Imperial Corps of Bridges and Roads.—Inspectors General and Divisionary.

Consisting of eight inspectors general and twenty divisionary inspectors.

Council General.

The inspectors general, as well as the divisionary inspectors charged with the inspection general of the hydraulic works of the marine, are permanent members of this council, which is presided over by the minister, and consists besides of a vice president, a secretary, and eight members. The members are changed every six months.

The "section of the council general charged with the examination of summary and current affairs," is appointed for a year, and consists of a "section of roads and bridges," consisting of a vice president, two secretaries, and six members; a "section of navigation," consisting of a vice president, two secretaries, and seven members; and a "section of railroads," consisting of a vice president, a secretary, and seven members.

Divisionary Inspections.

This department is subdivided into sixteen inspections, each one of which has in charge several departmental divisions, and is under the direction of a divisionary inspector.

Ordinary Service.

This consists of eighty-six engineers in chief of bridges and roads; i. e., one for each department of France.

Special Service.

This is organized under five heads, viz: rivers, canals, maritime works, hydraulic service, and railroads. These various services are in charge of engineers in chief, who are stationed over the country according to circumstances.

There is a special "service for Algiers," under the orders of the minister of war, and an "ordinary service," consisting of two engineers in chief, and one engineer with a department of "hydraulic works for the port of Algiers," under the charge of an engineer in chief.

Imperial School of Bridges and Roads.

This is placed under the authority of the minister of public works, and directed by an inspector general, director; and by an engineer in chief, inspector of studies, assisted by the school council.

The instruction is under the charge of inspectors general, engineers in chief, divisionary engineers, directing engineers, *chefs des travaux géographiques*, professors, &c, &c., eighteen in number.

Mines.

Directed by a council general, consisting of a secretary and nine members, who are inspectors general of 1st class and of 2d class. The council is presided over by the minister.

This department is organized under six heads, viz: "Service of mines in the departments," consisting of eight inspectors general stationed respectively in the north, northeast, east, central, and southeast, southwest, west, and northwest; and three engineers in chief, stationed respectively at L'Orient, Rochefort, and Toulon. A "service of mines by mineralogical sections," consisting of seventeen engineers in chief, stationed respectively one in each section, (*arrondissement*,) a "special and divers service," subdivided under several heads, viz: "Supervision of steam engines in the department of the Seine," managed by an engineer in chief and an ordinary engineer; "quarries of Paris and of the department of the Seine," managed by an engineer in chief and two ordinary engineers; "works for the consolidation of the quarries under the town of Fécamp," managed by an engineer in chief and ordinary engineer; "geological and meteorological studies on the torrents of the Alps," managed by an engineer in chief;" "topography of the coal basin of Valenciennes," managed by an engineer in chief; "topography of the coal basin of Aubin," managed by an engineer in chief; "study of the ground composing the coal basin of Autun," managed by an engineer in chief; "topography of the anthracite deposite of Sarthe and Mayenne," managed by an engineer in chief; "*imperial manufacture of Sevres porcelains*," directed by an engineer in chief; "*service of mines in Algiers*," under the orders of the minister of war, and managed by three ordinary engineers; "central committee on steamboats," consisting of a president, secretary, assistant secretary, eleven members, and an adjunct member, and composed chiefly of inspectors general, engineers and members of the academy of sciences; "*committee on the mine annals*," consisting of a president, two secretaries, an assistant secretary, and thirteen members, and composed chiefly of inspectors general, engineers, &c., &c.

Imperial School of Mines.

The *administration* consists of an inspector general, director of the school; and an engineer in chief, director of the studies.

The instruction department is under the charge of thirteen professors, chiefly engineers in chief, engineers, &c., &c.

The *bibliographical collections* are in charge of a *conservateur*, and an engineer in chief, and an engineeer, one of whom is an assistant *conservateur*.

The bureau of assay of mineral substances is in charge of the ordinary engineers, the first of whom is called *chargé* of the direction of the bureau.

The service of health is in charge of a medical surgeon.

School of master-workmen miners at Alais.

This school is placed under the inspection of the engineer in chief of the mineralogical section of Alais, and is managed by an engineer, who is *director.*

Port officers.

These are forty-one in number, and are composed of captains and lieutenants, who are located, from one to six, in a port, according to circumstances.

Inspection of ports.—Interior navigation.

This is under charge of an *inspector principal of ports.*

(*i* 1.)

DIRECTION GENERAL OF AGRICULTURE AND COMMERCE.

This is under the charge of a director general.

Bureau of general statistics of France.

This is under the direction of a *chef de bureau.*

Functions.—Quinquenniel census, and annual *mouvement* of the population; permanent cantonnal committees on statistics; centralization of documents for continuing the general statistics of France; publication of these documents; service of the statistics of mutual aid societies, and of the treasury of the retiring pension list.

I.—DIVISION OF AGRICULTURE.

This is under the direction of a *chef de division.*

Bureau of agriculture and veterinary instruction.

This is in charge of a *chef de bureau.*

Functions.—Inspection of agriculture; imperial schools of agriculture; farm schools; cowpens and sheepfolds; colonies, and agricultural asylums; imperial veterinary schools; examination of the works and regulations connected with the expenses of these establishments; veterinary medicine; epizootie; regulation of the charges for the treatment of epizooty.

Bureau of encouragement of agriculture, and of assistance.

This is in charge of a *chef de bureau.*

Functions.—General agricultural council; consultative agricultural chambers; preparation of the laws and regulations relative to agriculture; agricultural associations; agronomical missions; competitions (*concours*) as regards fat animals (*de boucherie,*) breeding animals, agricultural products, &c., &c.; encouragement of agriculture; perfection of rural industry; drainage; irrigation; sanitary arrangements; rural police; cultivation of waste lands; planting of trees; centralization and publication of agricultural information; subscription to agricultural collections and agronomical works; silk husbandry; compensation for losses by epizooty, hail, inundations, fires, &c., &c.

Bureau of Subsistances.

This is in charge of a *chef de bureau.*

Functions.—Legislation on breadstuffs; tables of the regulating prices of importation and exportation of grains; general prices current (*mercuriales*) of France and foreign countries; free circulation of grains; establishment of fairs and cattle markets; reference in matters of regulation as to bakers, butchers, slaughter-houses, &c., &c., and as to the sale of eatables at fairs and markets; provisioning Paris; markets and coal and wood-yards.

Inspection of Agriculture.

This consists of six inspectors general.

DIVISION OF HARAS, (*Studs.*)

This is in charge of a *chef de division.*

Bureau of Haras, (*Studs.*)

This is under the direction of a head clerk, (*chef.*)

Functions.—Administration in reference to studs and depôts of stallions; approval of the expenses and examination of the accounts of these establishments; committee on the stud-book; general regulations; purchase and distribution of stallions; organization of the service of equipment; approbation of private stallions; prizes for approved stallions; prizes for mares of indigenous and approved race; race-courses; encouragements to *industrie chevaliere;* statistics relating to horses.

Two inspectors general of studs, (*haras.*) Four inspectors of arrondissement.

DIVISION OF INTERNAL COMMERCE.

This is under the charge of a *chef de division.*

1st Bureau; Commerce.

This is under the direction of a *chef de bureau.*

Functions.—Preparation of laws and regulations relative to internal commerce; chambers of commerce; *concours* for the establishment of tribunals of commerce, and approbation of the list of *notables* for consular elections; creation and police of *bourses de commerce;* nomination of stockholders in the departments, and of *courtiers* merchant brokers throughout France; merchant brokers' charges; chartered corporations; savings banks; municipal officers; *tontines* and committees for the supervision of these establishments; provident societies and mutual aid societies among the workmen; societies for the encouragement of commerce; reference in the matter of commercial police; regulations at fairs, markets, ports, and other public places; and the exercise of professions practiced in the streets or on the highways; societies of the *credit foncier,* and examination and approbation of their statutes.

2d Bureau; Industry.

This is under the direction of a *chef de bureau.*

Functions.—Preparation of laws and regulations relative to arts and manufactures; consultative committee on arts and manufactures; national conservatory and national school of arts and trades; central school of arts and manufactures; industrial schools; societies for the encouragement of manufactures; *conseils de prud'hommes;* patents of inventions; designs and marks of fabrics; workmen's *livrets;* work of children in the manufactories; public exhibition of the products of industry; public regulations concerning *silk;* encouragement of manufactures; industrial statutes.

3d Bureau; Sanitary and Industrial Police.

This is under the direction of a *chef de bureau.*

Functions.—Sanitary police; consultative committee on the public health; sanitary commissions and agencies; *lazarets,* quarantines, &c.; correspondence relative to the state of the public health in France and abroad; encouragement for the creation of model bath-houses and washing establishments; epidemics: relations with the imperial academy of medicine; encouragement and propagation of vaccination; regulations as to the police of medical professions; remedies for secret diseases; general measures relative to salubrity; police and *regime* of establishments of mineral springs; examination and approbation of regulations relative to these establishments; nomination of medical inspectors of State establishments; *subventions;* dangerous, unwholesome, and inconvenient establishments; the metrical system: verification of weights and measures.

DIVISION OF EXTERIOR COMMERCE.

This is under the direction of a *chef de division.*

1st Bureau; legislation, tariffs, and custom-houses in France.

This is under the direction of a head clerk, (*chef.*)

Functions.—Superior council of commerce, of agriculture, and of manufactures; researches and discussions as to the means of extending and fortifying the commerce of France with its colonies and with foreign countries; preparation of tariffs and custom-house laws, and also of commercial and navigation treaties, and remonstrances which may be made as to their application; institution and *regime* of *entrepots* and of docks; maritime fisheries; whale, cod, and herring fisheries, &c., &c.; liquidation of premiums; salt provisions; appraisers and sworn jurors for the examination of questions relative to the application of the tariff, and to researches in the interior for prohibited *tissues;* relations with the consultative committee of arts and manufactures; publication in the *annals of exterior commerce, &c., &c.*

2d Bureau; commercial legislation, and foreign tariffs.

This is in charge of a head clerk, (*chef.*)

Functions.—Centralization of documents on commercial and maritime legislation of foreign countries; also their commercial treaties; translation, study, and appreciation of tariffs of customs and navigation of these countries; questions concerning their application to the commerce of France, and remonstrances relative thereto; publication in the *annals of exterior commerce.*

3d Bureau; "mouvement" general of commerce and navigation.

This is in charge of a *chef.*

Functions.—Centralization of documents concerning the navigation, commerce, and manufactures of France, of its colonies and of foreign countries; study and appreciation of the results established; permanent committee for the annual regulation of the accounts of the custom-house; study of industrial exhibitions in foreign countries, and measures to be taken in the interest of the French exhibitors; publications in the *annals of exterior commerce.*

DIRECTION OF THE ACCOUNTS.

This is in charge of a director.

1st Bureau.—Central operations and accounts.

This is in charge of a *chef de bureau.*

Functions—General instructions as to accounts; preparation of budgets, annual accounts, and provisional situations of the *exercises;* applications for funds; *reprises,* reversions, and *debits;* transmission of orders of payment to the treasury; delivery of letters of advice; administration of the retiring pension fund of the department, of the opera, of the conservatory of music, of prisons, of the *haras,* of the schools of arts and trades, and of weights and measures; liquidation of pensions to the *employés* of the department; tables of the salaries of the central administration, and of the state of the various services: work relative

to the "*observations*" of the court of accounts; keeping of the books by double entry; sorting of the monthly *memoranda* of prefects and paymasters; changing (*virement*) of funds voted by the State.

2d Bureau.—Settling of accounts.

This is in charge of a *chef de bureau.*

Functions.—Examination, verification, and payment of expenses from the funds of the several budgets; supervision of the employ of the public funds; payment of expenses belonging to the *exercises clos*, and the *exercises périmés;* auxiliary books; preparation of the annual statement of receipts and expenses; liquidation of salaries aud indemnities of the administrative functionaries of the department.

3d Bureau.—Departmental accounts.

This is in charge of a *chef de bureau.*

Functions.—Ordonnances de délégation of departmental funds; direct orders of payment for creditors residing in Paris; and of expenses payable from the common funds; verification of the quarterly statements of the eventual products of the departments: modification of the budget of the departments by *virements*, or by state allowance of supplementary funds; regulation of accounts of departmental expenses; regulation of reports after the close of the regular accounts, correspondence on the subject of all questions of accounts of departmental funds; establishment of the portion of the annual accounts concerning the departmental services.

4th Bureau.—Comptabilité des matières.

This is in charge of a *chef de bureau.*

Functions.—Centralization of *comptes matières* of all the establishments connected with the department; verification of the acccounts, in cash, of responsible agents of these establishments; results to be produced before the court of accounts; special accounts of the *exercises clos* and the *exercises périmés;* preparation of decrees and legislative bills relative to this service; formation of *états nominatifs* of creditors, and transmission to the minister of finance.

Central treasury.—(Caisse.)

Under the direction of a cashier.

Functions.—Payments made by the cashier at Paris and in the departments; account-books and accounts of those payments.

Matters in dispute.

In charge of six advocates and public officers attached to the department.

Counsel of the general direction of agriculture and commerce.

Viz: an advocate of the imperial court attached to the direction for the purpose of attending to litigious questions, and especially matters connected with the *credit foncier*. One physician to the department.

Council general of agriculture.

Consisting of eighty-six members, (one for each department,) appointed from the consultative chambers; and fourteen members appointed outside the consultative chambers.

Professional instruction in agriculture.—Imperial schools of agriculture.

Imperial school of agriculture at Grignon, in charge of a director, sub-director, accountant, and having six professors.

Imperial school of agriculture at Grand Jouan, with same organization as school at Grignon.

Imperial school of agriculture at Saulsaie, with same organization as school at Grignon.

Imperial sheep folds and cow folds.

Consisting of a sheep fold at Rambouillet, Montcavrel, and Gevrolles, each under the charge of a director; and a cow fold at Pin and Saint Angeau, each also under charge of a director.

Farm schools.

One in each of the eighty-six departments under the charge of a director.

Imperial veterinary schools.

One at Alfort, in charge of a director-professor, and having five professors, three *chefs de service*, one recorder, one surgeon, and one honorary physician; one at Lyons, in charge of a director-professor, and having four professors, three *chefs de service*, one recorder, one physician, and one honorary physician; one at Toulouse, in charge of a director-professor, three professors, three *chefs de service*, one recorder, one physician, and one honorary physician; all the schools being under the directorship of an "inspector general of veterinary schools and national sheep folds."

Administration of haras.—(Stud establishments.)

Consisting of a permanent committee on "*haras*," composed of seven members; a permanent committee on the register of matriculation of the stud book, composed of ten members; one director *de haras*; and the directors of stallion depots, consisting of twenty-four members.

II.—Commerce and Manufactures.

Superior council of commerce, agriculture, and manufactures.

This council, established by a decree of February 2, 1853, gives its opinion on all questions which the government judges proper to submit to it; especially on legislative bills and decrees concerning custom-house tariffs; on projects of commercial and navigation treaties; on the commercial legislation of the colonies and of Algiers; on the system of encouragement of the maritime fisheries; and on questions of colonization and emigration.

This council is composed of the minister of the interior, who is president, a vice-president, a secretary, (having a vote,) and 16 members.

Consultative committee on arts and manufactures.

Consisting of a secretary and six members, and five honorary members.

Permanent committee for fixing the annual amount of customs to be included in the table of the commerce of France.

This committee is under the presidency of the director-general of agriculture and of commerce.

It is divided into four sections, as follows:

1st section. Direction and centralization of the work.

This section consists of a vice-president, two secretaries, and five members.

2d section. Agricultural and exotic products.

This section consists of a secretary and fourteen members, there being from one to three members for each of the following subjects: farm products; grains and seeds; beasts; *corps gras;* grains and flours; exotic productions; alcoholic productions.

3d section. Mineralogy, metallurgy, and woods.

This section consists of a secretary and eight members; there being two members for wrought metals, and one each for crude metals, bituminous coals, wood for building, &c., fire-wood, exotic woods, building materials.

4th section, Threads and tissues.

This section is divided into five committees, viz., one on each of the following subjects: general facts; sample types; silks, silk manufactures, and lace, (*passementeries;*) wools, crude hairs, threads, textures, and felt; flax, hemp, and other crude, prepared, spun, and woven filaments; spun and woven cotton.

The section is composed of thirty-two members, including president and secretaries; and each member serves on one or more of the above mentioned committees.

5th section. Raw material for fabrication, and various manufactured articles.

This section consists of a president, secretary, assistant secretary, and twenty members, and is sub-divided into six bureaux.

1st Bureau.

Printing types and characters; stationery; painted papers.

2d Bureau.

Drugs and dye stuffs; colors and chemical products.

3d Bureau.

Sadlery and coach building; hairs for hats; brush manufacturing.

4th Bureau.

Straw hats; *ex parte* manufactures; mercery; toys, and artificial flowers.

5th Bureau.

Pottery and porcelain; glasses and crystal; jewellery, *(bijouterie,)* and Parisian manufactures.

6th Bureau.

Bronzes; hardware and cutlery; arms.

(*i* 2.)

Imperial Conservatory of Arts and Trades.

This establishment is for the reception of models—full or reduced size—or, in place of these, drawings and descriptions of machines, instruments, agricultural implements, and apparatus used in the industrial arts. Thirteen public and gratuitous courses of lectures are given at the conservatory, and there is also a gratuitous school for instruction in drawing, and in descriptive geometry.

The halls and galleries of the collection are open to the public on Sundays and Thursdays, from 10 to 4 o'clock. Foreigners are admitted, on the presentation of their passports, Tuesdays, Wednesdays, and Saturdays, from 11 to 3.

The library of the conservatory is open to the public every day, except Monday, from 10 to 4.

By a ministerial decision of April 28th, 1848, the depôt of prototype standards of weights and measures, which formerly existed at the department of commerce, was conferred to this conservatory, where now take place all the verifications and operations therewith connected.

The conservatory is organized thus:

Administration, consisting of a *professeur administrateur;* an engineer charged with the service of experiments with machines; a responsible agent, (*agent comptable;* a *conservateur;* a librarian and an assistant librarian.

Weights and Measures.—In charge of an assistant *conservateur.*

Public Lectures.—High instruction. In charge of fourteen professors, who constitute a *council of improvement.*

Course of Lectures of the Small School.

In charge of three professors.

Imperial School of Arts and Trades.—These schools are under the authority of the minister of public works. Their object is to give practical instruction in the mechanic arts, with a sufficient amount of theoretical instruction to enable the pupils to exercise them intelligently.

The pupils, to the number of 300 per school, are nominated by the minister; 675 of them are supported wholly or in part at the expense of the government; 280 are boarding pupils, paying 500 francs per year.

By a decree of December 19th, 1848, which is still in force, there was allowed to each department, one free scholar; two scholars paying but one-fourth price; and two scholars at half-price. The "Society for the Encouragement of National Industry" has the privilege of six free scholarships and two scholarships partially free.

This institution is under the general direction of a provisional *chargé* of inspection of the imperial school of arts and trades, who has under him an honorary director of the schools of arts and trades, and an architect of the three schools.

These three schools are as follows:

Imperial school of arts and trades at Chalons sur Marne; imperial school of arts and trades at Angers; imperial school of arts and trades at Aix; and each under the charge of a director and an engineer, *chargé* of the works.

The "Appraising Commissioners," for the verification, in case of litigation, of merchandise offered at the custom-houses, consists of four members.

The institution of this commission—which dates back to a decree of August 5th, 1810, was renewed and completed by the 19th article of the law of 27th July, 1822.

At the instance of the minister, the appraisers are charged to state their opinion on the doubts and difficulties which may arise relative to the kind, the origin, or the quality of products, whether in relation to duties, bounties, and colonial privileges, or to other cases which do not devolve upon the sworn jury created by the 59th article of the law of April 28th, 1816.

The minister adds to this commission in each case brought before it, and according to the character of the case, at least two merchants or manufacturers, who have a consultative vote.

The committee of appraisers comes within the province of the bureau of custom-house legislation of France.

Sworn Jury.

This jury, created by the law of April 28, 1816, is charged with the examination of contraband merchandise.

It consists of a president, a vice president, eighteen members, and a secretary, who is head of the bureau of custom-house legislation of France.

(N. B. The examination of spun cotton, of tissues, of knit cotton and wool, and of other prohibited foreign fabrics, the search or the seizure of which may take place throughout France.)

Consultative Committee on the Public Health of France.

This committee is under the direction general of agriculture and commerce.

It consists of a president, secretary, and seven members. There are also eight functionaries authorized to assist at the meetings of the committee, and have a deliberative vote, and two who have a consultative vote.

Inspection of Mineral Springs.

This inspection consists of from one to eleven members for each of the various departments where there are mineral springs, making in all one hundred and eighty-three members.

(*l.*)

Ministry of State and of the Household of the Emperor.

Cabinet of the Minister.

Under the direction of a *chef du cabinet* and a private secretary.

Functions.—Opening and regulating dispatches; transmission of correspondence to the various services of the ministry; departure of couriers; applications for audience; *service d'affaires; suite à donner;* relations with the *Moniteur;* analysis of French and foreign newspapers; permissions to visit the palaces, imperial establishments, &c.

This ministry is organized under two general heads, viz: ministry of the household of the emperor and ministry of State.

Ministry of the Household of the Emperor.

Functions.—General administration of the servants of the crown of every description; preparation of the general budget of expenses and receipts; applications for all places and employments in the household of their majesties, save those excepted by the regulations of each service, these being in the gift of the grand officers of the crown; regulation of all expenses; auditing and final approval of all contracts; delivery of all official *brevets;* regulations for each department of the service; examination of the differences and regulation of the disputes which may arise between the various services; administration of the public domain, forests, and edifices, parks, gardens, furniture, libraries;

imperial museums, imperial manufactories supported by dotations from the crown, and the private domains of their majesties; supreme care and supervision of all the moveable effects (*valeurs mobilières*) of the various services; propositions to his majesty for pensions from the funds of the civil lists; prizes for race-courses, and encouragement given to the arts in their relation to the household of the emperor.

Secretaryship General.—Secretary's Bureau.

This is under the immediate orders of the secretary general, and directed by a chief, (*chef de bureau.*)

Functions.—Reception and classification of correspondence transmitted by the minister; delivery of brevets; general correspondence and relations with the grand officers of the crown; general regulations; keeping of the registers of matriculation of all the services; centralization of all presentations relative to the *personnel* of the service; appointment of all persons employed; classification and preservation of the decrees of his majesty and orders of the minister; forwarding copies of official documents, alms, and *congés;* pensions on the civil list; inspection of the various services of the household; interior service and decorations; archives of the crown.

There are also connected with this bureau a keeper of the archives and inspector of services.

The general business of the ministry of the household of the emperor is organized into a division of buildings and of dotation mobilière, with two bureaux; a division of general accounts, with two bureaux; and a general administration of domains and forests, with two divisions; and an administration of the establishments of the crown, with a direction general of museums, &c.

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I.—Division of Buildings and Dotation Mobilière.

This is under the management of a chief of division.

Bureau of Buildings.

This is under the direction of a *chargé du bureau.*

Functions.—Works for the construction and maintenance of palaces, buildings, parks, nurseries, and gardens; authorization of expenses; regulation of adjudications; tenders and contracts; presentations relative to the personnel of architects, inspectors, agents and gardeners; liquidation of expenses.

Bureau of "Dotation Mobilière."

This is under the direction of a *chef du bureau.*

Functions.—Examination of propositions and projects relative to the expenses of manufactories; furniture, libraries, &c.; authorization of

expenses; regulation of adjudication and tenders; orders and contracts; presentations relative to the *personnel;* liquidation of accounts.

In addition to these two bureaux, there is an

Inspection and Controle.

This is under the charge of a comptroller in chief of buildings.

Functions.—Revision of estimates, plans, and contracts; examination of the general and particular specifications of charges relative to the works; opinion as to tenders, orders, and contracts; regulation of the works; revision of memorials; examination of complaints, (*réclamations.*)

Connected with this "inspection and controle," there is a comptroller of the expenses of furniture.

II.—Division of General Accounts.

This is in charge of a *chef de division.*

Bureau of payment, (*ordonnancement.*)

This is under the charge of a sub-chief, *chargé du bureau.*

Functions.—Control and inspection of bills of expenses; examination of disputed accounts; orders on the treasurer general of the crown, and the paymasters, (*receveurs payeurs;*) delivery of cheques of payment; advance of funds to *agents compatibles;* recoveries; annulments; deductions, (*réimputations,*) inventories; also the books and correspondence concerning orders on the treasury.

Bureau of accounts and expenses.

This is in charge of a *chef du bureau.*

Functions.—Preparation of the general budget of receipts and expenses of the household of the emperor; apportionment of *credits;* execution of decrees and regulations concerning accounts; books of central service; comptrol of the periodical statements of accounts; *comptes-matières* of all the services; accounts rendered of receipts and expenses; regulation and liquidation of retiring pensions.

General Administration of Domains and Forests.

This is under the direction of an administrator general.

1*st Bureau.—Division of forests.*

This is under the direction of a sub-*chef, chargé du bureau.*

Functions.—Centralization of work relative to presentations for the various employs; service relative to the race-courses; uniforms and armaments; *contributions* and government allowances (*subventions*) for keeping in order parish roads; liquidation of expenses.

2d *Bureau.*

This is under the charge of a sub-*chef*, who is *chargé du bureau.*

Functions.—Management of forests and woods; wood cutting; sale of wood cut in the public domain; agricultural economy of the public lands; lopping and felling trees; works in the forests; making contracts for the minor products of the public lands; regulation of payments in kind; agricultural works in the rural domains; sheep-folds of Rambouillet, &c., &c.

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III.—Division of Domains and Matters in Dispute.

This is under the direction of a *chef de division.*

1st *Bureau.*

This is under the direction of a sub-*chef*, *chargé du bureau.*

Functions.—Administration (*régie*) of domains; leases; various *locations;* grants and rents; making out accounts relative to the economy of the products of the public domain.

2d *Bureau.*

This is under the direction of a sub-*chef*, *chargé du bureau.*

Functions.—Civil and administrative matters in dispute; questions as to property, and the claims of third parties; rights growing out of general usage; exchanges; acquisitions; and *constructions à distance prohibée;* following up of suits; petitions; appeals; remissions and mitigations of sentence; withdrawing suits; regulation of indemnities for injuries committed; recovery of disputed debts.

Connected with this division there are also an inspector general of libraries of the crown, an architect to the emperor, and four advocates of the household of the emperor; three ministerial officers (legal) of the household, viz: one notary to the emperor, and two other legal officers.

Administration of the Establishments of the Crown.

Direction general of the imperial museums at the Louvre.

This is under the management of a director general.

Functions.—Preservation of all works of art placed in the palaces of the Louvre, the Luxembourg, Versailles, and the imperial residences; classification of the imperial collections; annual exhibitions of the works of living artists; and the distribution of medals and other recompenses awarded to the exhibitors; also propositions for the encouragement of the arts in their relation to the household of the emperor.

The director general has under his orders seven *conservateurs* and one

chef de l'atelier de restauration des statues at the Louvre; an assistant conservateur at the Luxembourg; at Versailles; and an "inspector of public exhibitions; also a *directeur inspecteur*, *inspecteur adjoint*, and sub-inspector for the *mobilier* of the crown.

The imperial manufactories are in charge of this administration. There are an administrator and a chief of works of art connected with the imperial manufactory of porcelain and painting on glass at Sevres; an administrator and director of dyeing at the imperial manufactory of tapestry of the Gobelins; and an administrator connected with the imperial manufactory of tapestry at Beauvais.

The imperial library of the Louvre, also, in this administration, has a *conservateur administrateur*, a conservateur and four librarians.

The service of the imperial palaces, buildings, and domains of the crown, (under the same administrator,) has in charge the palace of the Tuilleries, and the Louvre, with a military commandant, a second commandant, a steward, (*regisseur*,) a librarian, an architect, an assistant architect, and the architect of the Louvre; the palace of the *Elysée* with a commandant, an assistant commandant, a steward, a librarian, and an architect; the *Palais Royal* with a commandant, adjutant, steward, and architect; the palace of *St. Cloud* with a commandant, adjutant, steward, librarian, and architect; the palace of *Meudon* with a commandant, adjutant, steward, librarian, and architect; the palace of *Versailles* with a commandant, two adjutants, a steward, a librarian, an architect, and a director of the fountains; the palaces of *Trianon* with an adjutant, a steward, and an architect; the palace of *Rambouillet* with a commandant, an adjutant, a steward, and an architect; the palace of *Fountainbleau* with a commandant, an adjutant, a steward, a librarian, and an architect; the palace of *Strasburg*, with a commandant, a steward, and an architect; the palace of *Compeigne* with a commandant, adjoint, steward, librarian, and architect, and the palace of *Pau* with a commandant, steward, and architect.

The service of the treasury of the crown, (the same administration,) consists of a central cashier, at Paris, and a paymaster, (*receveur payeur*,) at Versailles, Compiegne, Rambouillet, and at Fontainbleu.

The service of the forests and domains, (the same administration,) consists of an inspector at Paris, Fontainbleu, Versailles, Compiegne, St. Germains, and Rambouillet, and an inspector of the forest, at Laigne, in Compiegne.

The committee of matters in dispute consists of the vice-president of the Council of State, who is president, the first president of the imperial court of Paris, two counsellors of the court of cassation, and one advocate of the household of the Emperor.

The committee instituted for the verification and auditing of the accounts of the management of the imperial civil list consists of a president, secretary, and four other members.

(*l* 1.)

Ministry of State.

Functions.—Relations of the Senate and the *corps legislatif* with the Emperor and the Council of State; correspondence of the Emperor with the various ministers; counter-signature of decrees appointing ministers, president, vice-presidents, secretary, and *grand referendaire* of the Senate, and appointing president, vice-presidents, and *questeurs* of the *corps legislatif;* counter-signature of decrees convoking and adjourning the Senate, and convoking, proroguing, adjourning, and dissolving the *corps legislatif;* convoking the high court of justice; counter-signature of decrees concerning matters not specially belonging to any ministerial department; the wording and preservation of the minutes of the council of ministers; and of the taking of oaths to the Emperor; the exclusive direction of the official part of the *Moniteur;* administration of the Council of State; the legion of honor; the archives of the empire; administration of the fine arts; of the academy of France at Rome; the special school of fine arts; the gratuitous school of design, and the works of art and decoration of public edifices; preservation of historical monuments; the imperial theatres; conservatory of music and of declamation; branches of the conservatory; and completion of the Louvre and its approaches.

Secretaryship general.

This is under the direction of a secretary general.

Secretaryship.

This is under the charge of a *chef de section.*

Functions.—Registration; *personnel* of the central administration; preparation of the budget; legislative service; relations with the *grands corps de l'etat;* legion of honor; imperial archives; service of dispatches; copies of official documents, (ampliations;) minutes; solicitations for employment; archives of the ministry; library; interior service.

This secretaryship has also an *archiviste bibliothécaire.*

This ministry is organized under three general heads, viz: fine arts, theatres, and service of buildings.

I.—*Fine arts.*

This is under the direction of a *chef de section.*

Bureau of fine arts.

Under the special direction of a *chef de section.*

Functions.—School of fine arts at Paris; schools of Rome and Athens; schools of design at Paris and in the departments; museum of the hotel Cluny and of the Thermes; the acquisition and preservation of

marbles; erection of monuments, statues, &c.; publication of works of art, and subscriptions; orders for paintings, statues, and medals; encouragement of fine arts and indemnities to artists; inspection of fine arts.

This section has also a "*conservateur des souscriptions.*"

Bureau of historical monuments.

This is under the direction of a *chef.*

Functions.—Research for antiquities, and care of historical monuments; appointment of the *credits* allowed for this service; relations with the committee charged to examine the historic or artistic interest of the ancient monuments of France, and to give its advice in the grants asked to insure their preservation.

Inspection of fine arts.

This is in charge of three inspectors.

Inspection of historic monuments.

This is under the charge of a director general.

II.—*Theatres.*

This is under the direction of a *chef de bureau.*

Functions.—Imperial theatres; imperial conservatory of music and declamation; musical schools of Toulouse, Lille, Metz, and Marseilles; appointment of directors; regulations and supervision; indemnities to dramatic authors and artists; encouragement to dramatic and musical art; treasuries of *rétraites*, and pensions of the conservatory and the opera.

There is also a commission of the government for the lyric theatres and the imperial conservatory of music and declamation; a *commissaire administrateur* of the theatre Français, and a commissary of the government for the *Odeon* theatre.

III.—*Service of buildings.*

Under the charge of a chief of battalion of engineers, inspector general of works, who is called *chargé de la direction du service.*

Functions.—Study and preparation of projects; administration of buildings; execution of new works, and keeping them in repair; liquidation of expenses; disputed claims. Preparation and revision of designs, (*dévis;*) series of premiums and conditions for the execution of works; examination of the claims of contractors, (*entrepreneurs.*)

Accounts.

This is in charge of a *chef de bureau.*

There are also a political editor, with a translator and secretary; a *juris-consulte* and two ministerial officers of the legal profession, viz: a notary and an advocate; also a doctor and an assistant doctor.

There are also architects for the ministry of State; the union of the Tuilleries to the Louvre; school of fine arts; imperial academy of music; magazine of decorations; school of design; palace of archives; monuments of the rue d'Anjou; Odeon theatre; conservatory of music; academy of France at Rome; and for the chauteau de Saverne.

Commission of the control of works.

Cosisting of a president, secretary and ten members.

Permanent committee on historical documents.

Consisting of a president, vice-president, secretary and fifteen members.

Imperial archives.

This vast depot, the formation of which dates back to 1789, contained, at first, only the archives of the national assembly; later, there were added to it the accounts *(titres)* preserved in a large number of public and private depots, established by the original decree of March 6, 1808, in the palace which it now occupies on the ground of the former hotels of Clinar, Guise and Soubise; it is destined to receive all documents of general interest which are connected with the history, legislation, and administration of France.

The imperial archives contain at this moment, according to an account taken the 10th of February, 1851, 238,518 cases, *cartons*, files, registers, portfolios, volumes, plans and charts, divided into three sections, and placed, as well as the other parts of the service, under the direction of a keeper general, appointed by the emperor, on the nomination of the minister of state. The most curious of the documents which it possesses is an original diploma of the year 625. The imperial archives increase every day by deposits from the various State departments.

The establishment is divided into three sections and a secretaryship.

Historical section.

This is under the charge of a chief.

Functions.—Depôt of charts and supplements; historical documents dating back to the seventh century; precious documents, especially ecclesiastical, such as cartularies, bulls, documents of the Paris and other churches, and concerning church property, parishes, monastic establishments, &c.; mixed papers, such as military orders, papers; previous establishment of public instruction; genealogical documents, &c., &c.; collections of impressions and dies of seals, from the fifth century to the present time.

Administrative section.

This is under the direction of a chief.

Functions.—Ancient council of state, council of Lorraine, ordonnances, letters patent, *bons*, and brevets of the king; constitutional regime of 1791; the convention; the executive directory; the consulate; the empire; the constitutional regime of 1814; the *pays d'état;* ancient bureau of the arts of Paris; farmership general; *régie des arts;* ancient ministry of the house of the king; deposits from the minister of the interior, of agriculture, commerce, public works, public instruction and worship, and of war. The ancient chamber of accounts of Paris, (memorials, homages, confessions, and censures;) titles distributed by the departments, cantons, and communes; tax rolls; tenders for national property; papers relative to the domains and apanage of princes; documents relating to ancient religious establishments and various congregations, (of nuns, friars, &c.,) of the city of Paris; sequestrations; confiscations; escheats; court rolls, *(plans terriers;)* topographic charts; division of France into departments, &c.

Legislative and judicial section.

This is under the direction of a chief.

Functions.—Laws, ordinances; edicts, orders, letters-patent, imperial decrees, whether printed or in manuscripts; authentic copies and notes of the minutes of the ancients; notable and national assemblies; documents annexed to these minutes; papers of representatives *en mission*, and of committees of the *constituante* of 1789, and the convention; senate; chambers of peers; chamber of deputies; *constituante* of 1848; legislative assembly, &c.

Grand chancellery; secretary of the king; *prevoté et requetes de l'hotel;* grand council; privy council; commissaries extraordinary; councils superior; parliament of Paris; *chatelet* of Paris; courts and various jurisdictions; court of *aides et des monnaies;* bureau of finances; constableship; admiralty; waters and forests; bureau of the city of Paris; salt depot; *chambre des batimens et des domes, &c.;* tribunals extraordinary; court of peers; payments for the ministry of justice.

Secretaryship.

With a keeper of archives, *(archiviste,)* a responsible secretary, and an order-clerk—*secretaire-compatable et commis d'ordre.*

Functions.—Registration; seal; classification and preservation of dispatches; information *(renseignemens;)* bulletin of researches; transmissions; order and distribution of work; administrative correspondence; accounts; furnishers; *matériel;* direction of the internal service; supervision of works; and reparation of buildings.

(m.)

Administration of the Department of the Seine and of the City of Paris.

Department of the Seine.

The department of the Seine is composed of a portion of the Isle de France. It is environed on all sides by the department of the Seine

and Oise. Its superficial extent is 475 *kilomètres*, or 47,500 hectares, (117,340 acres.) Its population, according to the last census, is 1,422,065; of which 1,053,256 belong to the city of Paris; 233,792 for the arrondissement of St. Denis, and 135,011 for the arrondissement of Sceaux. There are a prefecture of the department, a prefecture of police, two sub-prefectures, twenty cantons or districts under a justice of the peace, and eighty-one communes.

The first military division comprises the diocese of Paris, and the *réssort* of the imperial court of that city.

Prefecture, at the Hotel de Ville.

This is in charge of the prefect of the Seine, who has a secretary general.

Cabinet of the prefect.

This is in charge of a *chef du cabinet.*

Bureau of fine arts, of "matérial," and of fêtes.

This is in charge of a head clerk *(chef.)*

Functions.—Fine arts; orders for, and preservation of, objects of art belonging to communal establishments; fêtes and public ceremonies; maintenance and preservation of the moveable effects of departmental and municipal establishments; expenses of *matériel;* printing; furnishing of the bureaux of the prefecture, of schools, and of asylums; local reparations at the Hotel de Ville. Supervision of guardians and servants connected with the city of Paris; subscription funds (for *matériel.*)

An architect of public fêtes and an architect inspector of fine arts are attached to this bureau.

Council of prefecture.

This consists of five members and a secretary.

Municipal and departmental committee.

This is appointed by decree of the executive power; it consists of thirty-six members, forming the municipal council of Paris, and eight members for the arrondissements of St. Denis and Sceaux.

Archives and Secretaryship of the municipal and departmental communes.

This is in charge of a *secretaire archiviste.*

Bureau of the prefecture.—Secretaryship general.

This is under the immediate direction of the secretary general.

1st Bureau.—Secretaryship general, "personnel," commerce, agriculture, statistics.

This is in charge of a head clerk, *(chef.)*

Functions.—*Personnel* of the bureaux of the prefecture; salary of the employés; liquidation of pensions; reception and distribution of the general correspondence; transmission of dispatches; commerce; patents of invention; chamber and tribunal of commerce; the Exchange, (*Bourse;*) councils of *prud'hommes;* merchandise and insurance brokers; chartered corporations (*sociétés anonymes;*) exhibitions of the products of industry; agriculture; consultative chambers of agriculture; horse-races.

Statistics; committee on statistics; *mouvement* and census of the population.

Legalizations, adjudications, drawing by lot of the *obligations* of the city of Paris, and of the department; mixed affairs.

Chamber of Commerce of Paris, (sitting at the *Bourse.*)

This chamber is composed of the prefect of the Seine, who presides over it when he is present, and of twenty-one elective members, who are renewed by thirds, every two years. They are re-eligible at the expiration of a first triennial term; but, after six years of service they are non-eligible until after an interval of one year. It is the duty of the chamber of commerce to give its opinion and advice on the means of increasing the prosperity of commerce, to expose the causes which prevent its progress; to indicate its possible resources; to oversee the public works relative to commerce and navigation, and to see to the execution of the laws and decrees concerning contraband goods.

Supervision of ports and of navigation.

This consists of five commissaries.

Archives and Secretaryship.—Library of Commerce, with suitable officers.

2d Bureau.—Archives.

This is in charge of an *archiviste.*

Functions.—Care and preservation of the archives of the prefecture; classification of ministerial decrees and decisions; archives of civil statistics for the epochs anterior to 1st Messidor, an. III; (19th June, 1795,) preservation of municipal and departmental *titres du domaine,* and of the plans of public monuments; keeping of the repertory of *artes* to be registered.

Judiciary agency and matters in dispute.

This is in charge of a judiciary agent of the prefecture.

Functions.—Matters in dispute in the department, and the city of Paris; reception and *visa* of *significations,* memoirs, and applications for authorization to plead; supervision and following up of litigious affairs;

correspondence with advocates and other ministerial officers; verification of the memoranda of charges in judiciary matters; signification of *congés* given by the department and the city of Paris, in matters of location; examination of projects of acquisition, alienation, exchange of location, and other acts involving the interests of the department and the city of Paris; convocation of the consultative committee, and keeping of the registers of its deliberations.

Consultative committee.

This consists of a president, *secretaire-archiviste*, and eight other members, all members of the legal profession.

Counsel.

This consists of seven members, called ministerial officers; and two other counsellors.

1st Division.

General administration; collection of municipal taxes; hospitals; State domains; public instruction, worship, &c., &c. It is in charge of a head clerk, (*chef.*)

1st *Bureau.*

Departmental and communal administration. It is in charge of a head clerk, (*chef.*)

Functions.—Administrative *personnel;* formation of tables of the renewal of the general council, cantonal councils, and municipal councils; installation of these councils; appointment of mayors and assistant mayors in the capitals (*chefs lieux*) of the arrondissements, and in the communes where the population exceeds six thousand souls; presentation of candidates for the functions of mayor and assistant mayor in the other communes; administration of the oath; salaries of administrative functionaries; work connected with nominations and promotions in the order of the legion of honor.

Civil statistics; transmission of *actes;* relations with the committee for the inspection and verification of deaths; preparation of the decennial tables; naturalizations; *réhabilitations.*

Circumscription of arrondissements, cantons, and communes; administration of rural communes; burials and *pompes funèbres;* cemeteries; expenses of courts, tribunals, justices of the peace, and other magistrates of Paris; collection of administrative *actes;* general affairs.

Inspection of the service of the verification of deaths.

This consists of three medical inspectors for every three arrondissements; four supplementary medical inspectors; one inspector for the *pompes funèbres* and *inhumations;* and one inspector and one *géometre* for the cemeteries.

2d Bureau.—Collection of municipal dues; property in the city and department.

This is in charge of a head clerk, (*chef.*)

Functions.—"Octroi" of Paris; slaughter-houses; *caisse de Poissy;* public weighing, measuring, and guaging; *halles*, markets, and *entrepôts*, (administration and collection;) charges for places and provisioning locations in the public streets; charges for positions (*stationnement*) on the Seine; preparation of ground plans, &c., of property of the city and of the department; the preservation of title-deeds of municipal and departmental domains, and of the plans of public monuments, letting of properties belonging to the city of Paris and the department; *servitudes* of these various properties; product of the public streets, roads, sewers, &c., &c.

Direction of the "Caisse de Poissy;" public weights; collection of municipal dues; slaughter-houses.

1st. Caisse de Poissy.

This *caisse*, or treasury, is administered by the prefect of the Seine, and governed (*régie,*) by a director, who has under him a cashier, a sub-paying cashier, a receiver, and a collector.

It is charged to pay, in cash, and before the market closes, for all cattle bought at the markets of Sceaux, Poissy, and the veal market, by the butchers of Paris.

It can also make loans of these amounts to the butchers within the limits of the credit opened with each of them by the prefect of police.

2d. Public weights, collection of municipal dues; slaughter-houses.

The service of public weights is divided into two parts; the first comprises the operations of weighing, measuring, and guaging, in the *halles*, markets, wood-yards, and ports. The second comprises, first, the operations of weighing, measuring, and guaging *à domicile*, as required by commerce or by the officers of justice; second, measuring of liquids by means of a decating apparatus established at the general *entrepôt* of wines and spirits; third, the admeasurement of stones destined for public and private buildings.

The collection of the duties on wholesale transactions in produce at the *halles* and market, is administered directly by the prefect of police; but the supervision and control of the collection of these duties are exercised by particular inspectors appointed by the prefect of the Seine, and placed under the orders of the director.

The director also attends to the collection of the charges for stalls, &c., in the retail markets; prepares the account of the recovery of rents of the communal houses, and is charged with the care of the slaughter-houses, (*abattoirs.*)

The inspectors of public weights, and collection of municipal dues are six in number.

3d Bureau.—Public assistance.

This is in charge of a head clerk, (*chef.*)

Functions.—Hospitals and asylums; direction of assistance at private houses; pawnbrokers' establishments; abandoned children; appointment of pupils or apprentices to the midwives; encouragement of vaccination, and of charitable establishments; direction of the bureau of nurses; administration of the *tontines d'epargne.*

Epidemic physicians.

Namely, a physician in chief; a physician of the arrondissement of St. Denis; and another for the arrondissement of Sceaux.

Administration of "Tontines."

This is under the supervision of the prefect.

The *tontines*, called savings of *employés* and artisans, are governed (*régies*) by three administrators, (whose services are gratuitous,) selected from the municipal administration of the city of Paris; they are under the orders of a director. There is also a cashier to the administration.

4th Bureau.—Domain of the State.

This is in charge of a head clerk, (*chef.*)

Functions.—Administration of the domain of the state, sales and locations; domains *engagés;* sequestrations in cases provided by the laws; lifting (*main levée*) of mortgages against débtors to the States; successions in escheat; sale of waifs and objects abandoned; restitution of their products to the rightful owners; liquidation of the expenses of the *pound;* lease of fishing privileges; liquidation of the expenses of criminal justice; preparation of tabular accounts of deceased fundholders and pensioners of the State; preliminary formalities in judiciary cases prosecuted in the name of, or against the State; the following up of litigious matters; declinatory pleas and *conflits;* expropriation and acquisition of property required for fortifications and other State uses; domanial archives, and those of former *consignations*, and *saisies réelles.*

5th Bureau.—Public instruction.

This is in charge of a head clerk, (*chef.*)

Functions.—Public instruction and worship; academy of Paris; faculties of law and medicine; learned societies; medical jury and list of physicians; *visa* of the diplomas of doctors and midwives; examination of aspirants to the polytechnic, military, and naval schools, and schools of the waters, forests and mines; administration of the college Rollin, and the college Chaptal; administration of the communal buildings connected with public instruction; primary instruction, and

institutions and boarding schools of young ladies; workshops, (*ouvroirs*,) and asylums; communal free scholarships in the colleges of the State, and other establishments of public instruction; correspondence and expenses relative to public worship.

Special course of mutual instruction, founded by the city of Paris.

This is in charge of a professor for the *instituteurs*, and a lady professor for the *institutrices*.

The course is in operation every three months. The instruction includes reading, writing, arithmetic, grammar, and also linear drawing and the elements of practical geometry; in the school of *cléves-maitresses*, dress-making (*la couture*) is instituted for linear drawing. In order to be admitted to this school it is necessary to present a certificate of morality from the mayor.

Normal singing school, (cours normal de chant,) founded by the city of Paris.

This is in charge of a director and a professor.

Normal school for instruction in the management of asylums, (cours normal pour la méthode des salles d'asile.)

This is under the charge of a directress.

Lady delegates, (dames déléguées.)

For the inspection of the institutions and boarding schools for young ladies; consisting of four ladies.

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2D DIVISION.

Bridges and roads; waters and pavements of Paris; streets, canals, railroads, thoroughfares, (*grand voirie*,) &c., &c.; architectural works; this is in charge of a head clerk, (*chef*.)

1st Bureau.—Bridges, roads, and "voirie vicinale."

This is in charge of a head clerk, (*chef*,) and assistant, (*sous-chef*.)

Functions.—National and departmental routes; bridges in and out of Paris; railroads; works on the Seine and the Marne; canal St. Maur; canal St. Maurice; boats and ferry-boats; towing-paths; streams; mills and works, (*usines*;) parish roads, town, and city *voirie*.

1st section. Service of bridges and roads, *grandes routes* and parish highways; in charge of an engineer-in-chief, and three engineers.

Navigation from Paris up the Seine.

This is in charge of an engineer-in-chief, and engineer.

Paris bridges and Seine navigation in and below Paris.

This is in charge of an engineer-in-chief, director, and four engineers, one of whom is specially charged with statistical researches as to materials.

Navigation of the Marne, and the canals of St. Maur and St. Maurice.

This is in charge of an engineer-in-chief, and two engineers.

Railroads.

1. Paris and Strasburg railroad, in charge of an engineer-in-chief.
2. Paris and Lyons railroad, in charge of a divisionary inspector of bridges and roads, an engineer-in-chief of the 1st section, and an engineer.
3. Paris and Rennes, and Paris and Orsay, in charge of an engineer-in-chief.
4. *Chemin de ceinture*, (railroad around Paris,) in charge of an engineer, performing the functions of an engineer-in-chief.

2d section. Parish and communal roads. Arrondissement of Sceaux, in charge of a principal road surveyor, (*agent voyer;*) a second ditto for the cantons of Sceaux and Villejuif; and another second for the cantons of Vincennes and Charenton. Arrondissement of St. Denis, in charge of a principal road surveyor, (*agent voyer;*) and two second ditto, one for the cantons of Neuilly and St. Denis; the other for the cantons of Courbevoye and Pantin.

2d Bureau.—Waters and pavement of Paris.

This is in charge of a head clerk and sub-clerk, (*chef* and *sous-chef.*)

Functions.—Canals of the Ourcq, of St. Denis, and of St. Martin; aqueducts, hydraulic machines, Artesian wells; distribution of water supply of Paris; fountains; sewers; levelling, paving, &c.; plantations; laying of gas pipes.

Engineers and Inspectors of the Municipal Service.

Consisting of a director; two engineers-in-chief, one for the first division, (right bank of the Seine,) the other for the second division, (left bank of the Seine;) six engineers, allotted to that number of sections, each section comprising a quarter (*quartier*) of Paris; one inspector of waters for each of the two above-mentioned divisions; and one inspector of machines and canals.

3d Bureau.—Highways, Railroads, &c., (Grand Voirie.)

This is in charge of a head clerk and assistant clerk, (*chef* and *sous-chef.*)

Functions.—Preparation of the plan of Paris; publication of plans of *alignement*, and correspondence relative thereto; creation and enlargement of public ways; acquisitions, expropriation and demolition of houses; naming and numbering the streets and houses of Paris; relations with the committee on indemnities and that on "alignements;" direction of the funds appropriated to this service; reserved domainal affairs; execution of the law as to insalubrious dwellings; execution of the plans of Paris; deliverance of permissions for *alignements* and *voirie;* police of constructions; prosecution in cases of contravention; relations with street commissioners, (*commissaires-voyers,*) and with the consultative bureau of the *voirie;* preservation of the inscription of names of streets, and of the general numbering of Paris.

Service of the Plan of Paris.

Consisting of a conservator of the plans of Paris, a verifying geometer, and four other members.

Administrative Committee of Alignements.

This committee was instituted for the study and revision of plans of *alignement* for all the public streets of Paris; for the examination of projects for enlarging and opening streets to be executed by the city or by private individuals, and giving its opinion on all the difficulties which may arise as to the execution of *alignements.*

This committee consists of the head clerk of the 2d division, who is president; the head clerk of the bureau of the *grande voirie,* who is vice-president; two divisionary street commissioners, (*commisairès-voyers,*) the *sous-chef* of the *grande voirie,* tho conservator of the plans of Paris, and a secretary.

Committee on Indemnities.

This committee was instituted to give its opinion on the regulation of indemnities growing out of the enlarging of the public thoroughfares and the opening of new streets.

It consists of the prefect, who is president, five members of the municipal committee, the head clerk of the 3d division, the head clerk of the bureau of the *grande voirie,* two divisionary street inspectors, (*commissairès-voyers,*) the judiciary agents, and the *sous-chef* of the bureau of the *grande voirie,* who is secretary.

Service of the Grande Voirie of the City of Paris.

This consists of two divisionary street commissioners, (*commissairès-voyers,*) twelve commissioners for the arrondissements, (one for each,) one private inspector of the *voirie* for each of the twelve arrondissements, and the *sous-chef* of the bureau of the *grande voirie,* who is secretary.

The divisionary street commissioners (*commissairès-voyers*) give their opinion on the reports of the street commissioners of the arrondissements, and on the affairs which are communicated to them. The street commissioners of the arrondissements make their respective reports on the

applications for permission to construct or repair, they verify the execution of the *alignements*, and they report contraventions of every description. The private inspectors of the *voirie* are attached to the street inspectors of the arrondissement, to aid them in the exercise of their supervision. The divisionary street commissioners and the street commissioners of the arrondissements meet together every Tuesday, and form themselves into a bureau of consultation. This bureau is presided over by the head clerk (*chef*) of the division, or, in his absence, by the head clerk (*chef*) of the bureau of the *grande voirie*. The bureau of consultation gives its opinion on all the affairs which are submitted to its examination by the divisionary street inspectors. This bureau is also charged to give its opinion on the defects in construction in new buildings, signalized to them by the street commissioners, and to indicate to the builders and to the owners the necessary rectifications. On their refusal to conform themselves to such indications, minutes of the facts of the case are sent to the bureau of the *grande voirie*, that it may be proceeded with *de rigueur*. A register of the deliberations is kept.

4th Bureau.—Architectural Works and Quarries.

This is in charge of a head clerk and assistant clerk, (*chef* and *sous-chef*.)

Functions.—New constructions; works for the maintenance of existing edifices; Hotel de Ville and the mayoralties of Paris; churches, temples, presbyteries, and diocesan edifices; the exchange and the court-houses; lyceums and establishments of primary instruction; *halles*, markets, *entrepôts*, and slaughter-houses, (*abattoirs;*) walls of Paris, and octroi-buildings; prisons, depôts of Saint Denis and of Villers Cotterets; barracks of the gendarmerie and of the *sapieurs pompiers:* guard-houses and public promenades; reserved granaries; cemeteries; reports with the committee on architecture; quarries under Paris; supervision of quarries throughout the department.

Architectural Works of the Department of the Seine, and of the city of Paris.—Ordinary Service.—Personnel.

1st section. Comprising the hotel of the prefecture of the Seine; the edifices consecrated to public worship; squares and promenades; communal buildings, and municipal establishments of public instruction.

This service consists of an architect in chief; a second architect; six inspectors; one sub-inspector; and three conductors.

2d section. Comprising the buildings of the barriers; the city walls; the road round Paris; the Octroi hotel; the *entrepôts;* the *pataches* and bureaux of inspection connected with the Octroi; the police and navigation; the general entrepot of wines, spirits, &c.; the cemeteries, and slaughter-houses.

This service consists of an architect, three inspectors, one sub-inspector, and a conductor.

3d section. Comprising the prisons of the department; the depôts of St. Denis and of Villers Cotterets; the *Morgue*;* the barracks of the

* Where dead bodies are exposed for recognition.

gendarmerie of the Seine, and of the sapeurs pompiers; the *maison d'arrêt* of the *garde nationale*, and the *corps de garde*.

This service consists of an architect, four inspectors, and two sub-inspectors.

There is an inspector of plantations who is attached to the various sections.

Works in the Communes of the Arrondissement of St. Denis.

This is in charge of an architect.

Works of the Communes of the Arrondissement of Sceaux.

This in charge of an architect.

Service Extraordinary.

This service consists of numerous architects, inspectors, sub-inspectors, and conductors, who are charged, according to circumstances, with special works at the various hotels belonging to the city, churches, mayoralties, court-houses, prisons, seminaries, barracks, school-houses, barriers, &c., &c.

Committee on the Revision of Estimates.

This consists of a comptroller of architectural works, and three revisers.

Inspection General of the Quarries of the Department.

Consisting of an engineer in chief of mines, who is inspector general of quarries, and two inspectors *particuliers* of quarries.

The functions of this inspection are the general supervision of quarries which are being worked in the department; the execution of regulations respecting them, and the direction of the works of consolidation in old quarries under and outside of Paris.

3D DIVISION.

Direct Taxes; Elections; Recruiting Service; and the National Guard.

This is in charge of a chief of division.

1st Bureau.—Administration and recovery of Direct Taxes.

This is in charge of a head clerk, (*chef.*)

Functions.—General measures relative to the administrature and recovery of impost duties; *personnel* of the agents of the service; private receivers and collectors; assessment and apportionment of the impost; executions and tax *rôles;* general state of the collections; direction of the funds remitted to the receivers and collectors, and the funds of restitution of the communal centimes; committee for districting the city of Paris; measures relative to annual changes as to goods liable to impost duty; and to the establishment of *rôles de patentes; cadastre;* local and

extraordinary taxes; *personnel* of prosecuting agents; direction of prosecutions; rate of charges; complaints entered against the collectors or their agents; *réclamations pour cause de garantee;* privilege of the treasury; making of the registers for the keeping of the accounts.

One auctioneer appraiser, (*commissaire priseur vendeur,*) is attached to this bureau.

Committee on the Apportionment of the Taxes, (Contributions.)

This committee is charged with the apportionment of direct taxes in the city of Paris; with the valuation (assisted by the comptroller of taxes) of the revenue of all the houses newly built, and of all the additions made to old houses; with the taking of the census (assisted also by the comptrollers) of persons liable to taxation on their moveable effects; with assisting (under the delegation of the prefect) the mayors of the arrondissements in the execution of *matrices de patentes;* with attending (assisted by the comptrollers) to complaints of all kinds concerning the direct taxes, and giving their opinion on each; with the verifying (in the collecting bureaux) the collection of signatures (*emargements*) on the *rôles*, and of the notification of the reduction of taxes; and, finally, with the registration and delivery of licenses, and with the delivery of extracts from the tax book.

The committee is composed of five commissary apportioners, and twenty-two assistant apportioners.

2d Bureau.—Matters in dispute in relation to taxes.

This is in charge of a head clerk, (*chef.*)

Functions.—Examination and acceptance of applications for deductions of all kinds in relation to direct taxes; also of accounts of *quotas* unduly imposed, and of *quotas* irrecoverable, prepared by the collectors; labor relative to the examination, and the judgments relative to these matters; contradictory appraisals; decisions of the council of the prefecture; ordering and settling of deductions; appeals to the council of state; work relative to vacant houses; losses in consequence of inundations, fires, &c.; employment of the funds of *nonvaleurs.*

3d Bureau.—Elections and juries.

This is in charge of a head clerk, (*chef.*)

Functions.—Direction of the operations relative to the electoral lists; establishment of the general list of electors of the department of the Seine, in alphabetical order; establishment of the general list of individuals domiciliated or born in the department of the Seine, but deprived of their electoral rights by the courts and tribunals of France. Communication to citizens of the electoral lists. Division of the electoral circumscriptions into sections. Election of deputies to the corps legislatif; general examination and counting of the votes at the hotel de ville.

Election of the members of the council general, of the councils of

the arrondissements; election of municipal councillors, of mayors, and *adjoints*, in communes of less than six hundred souls.

Formation of the general jury list of the department; of the annual list of jurymen, and of the supplementary jury list designed for the courts of assizes.

Formation of the list of juries charged with fixing the indemnities in matter of expropriations.

4th Bureau.—Recruiting service, national guard, and military service.

This is in charge of a head clerk, (*chef.*)

Functions.—Recruitment for the army; direction and control of the annual census; drawings by lot; revision; replacements and substitutes; delivery of certificates of exemption or of liberation; notification of orders *de route;* remittance of *mandats de fonds de masse* to the soldiers liberated from the service; reserve; troops *en passage* and in garrison; supervision of conditional dispensations; desertions, and insubordinacy; *visa* and legalization of all documents relative to the military service; *corps de guarde de sureté;* barracking of the gendarmerie, of the guard of Paris, and of the *sapeurs pompiers;* national guard; orphans and pensioners of June, 1848.

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4th Division.

General accounts.

This is in charge of a *chef de division.*

1st Bureau.—Budgets and accounts.

This is in charge of a head clerk, (*chef,*) assisted by a cashier to the prefecture; a comptroller of the municipal *caisse,* and an inspector *des caisses.*

Functions.—Preparation of the budgets of the department and of the city of Paris; annual accounts of the funds and expenses paid by order of the prefect; their presentation to the council-general and to the municipal council; the correspondence relative thereto with the ministers; summary of the revenues; monthly accounts sent to the departments; payment of pensions from the retiring pension funds; accounts of these funds; *contrôle de rentes sur la ville de Paris;* municipal treasury, (*caisse;*) supervision, control, and auditing of the accounts of the interior treasury (*caisse*) of the prefecture. Examination, verification, and presentation to the council of the prefecture of the accounts of the municipal receivers, and the treasurers of the bureaux and establishments of charity in the rural communes; examination, verification, and presentation to the municipal and departmental committee of the accounts of the *octroi* of the *banlieux,* and of the moveable effects (*mobilier*) belonging to the departments; also, of the accounts of the civil hospitals and charitable establishments of the city of Paris; of the

tontines d'epargnes, of the College Rollin, of the superior primary school, of the municipal school-chaptal; of the moveable effects of the communes, of the *octroi*, and the *entrepôts;* of the *droits d'abattage*, of the *caisse de Poissy*, of the waters of Paris, of the public weights, and other municipal dues; inspection and verification of the *caisses*.

Treasury of the city of Paris.

This is in charge of a treasurer, who has under him a *chef de comptabilité*, a cashier, a paymaster, and a *conservateur des oppositions*.

The municipal treasury (*caisse*) receives the product of the general receipts of the municipal *octroi*, and charitable contributions; also, the *centimes*, and all other revenues for communal expenses.

2d Bureau.—General liquidation and orders of payment.

This is in charge of a *chef*.

Functions.—Liquidation and payment of expenses authorized by the prefect for the account of the State, of the department, and of the city of Paris; keeping of the accounts relative to the employment of the public funds granted for the budgets; delivery of orders of payment; transmission to the bureau of verifications of memorials on the subject of regulations; co-operation in the preparation of the annual accounts of the department and of the city of Paris.

Bureau of verification and of regulation.

This bureau is charged with the verification of all the works of architecture executed by adjudication or by contract, and those done *par économie;* also, the bills of all the furniture of the departmental and communal establishments; with the regulation of the prices of said bills.

A committee of revision, making a part of this bureau, revises the work of the verificators.

The bureau consists of two commissary-revisers, six commissary-revisers for the ordinary service, and seven for extraordinary service.

Sub-prefectures of the department of the Seine.—Arrondissement of St. Denis.

Comprising four cantons, thirty-seven communes. Population, not including the garrison, 233,792.

The government consists of a sub-prefect and a council *d'arrondissement* of nine members.

Arrondissement of Sceaux.

Comprising four cantons, forty-three communes. Population, not including the garrison, 135,011.

The government consists of a sub-prefect and a council *d'arrondissement* of nine members

Communal arrondissements and mayoralties of Paris.

At Paris the prefect of the department fulfils the functions of central mayor.

The commune of Paris is divided into twelve municipal cantons (or *arrondissements* and *justices de paix.* They each have a mayor and two *adjoints*, who are charged with the administration and the functions relative to the *état civil.* Each canton or *arrondissement* has also its *secretaire, chef des bureaux*, &c.

(*n.*)

PREFECTURE OF POLICE.

This is in charge of the prefect of police, who has a secretary general and a private secretary.

Functions.—The functions of the prefect of police were fixed by the decrees of 12th Messidor, an. VIII, and 3d Brumaire, an. IX; by the decision of the minister of general police, under date of 25 Fructidor, an. IX; by the law of 22d Germinal, an. XI; by article six of the decree of government of the 1st Messidor following; and maintained by the decree of the 21st Messidor, an. XII.

His authority extends over all the department of the Seine and the communes of St. Cloud, Sevres, Meudon, and Enghien, of the department of the Seine and Oise; he has also the police of the market of Poissy, in the same department. He exercises his functions under the immediate authority of the ministers, and corresponds directly with them on all subjects connected with their respective departments. He is member of the general council of administration of the *mont de piété*, (pawnbroking establishments,) and of that of public assistance. He is charged, under the authority of the minister of the interior, with all affairs relative to the administrative and economical regime of the prisons, (*maisons de depôt, d'arrêt, de justice, de force, de correction, de détention*, and *de repression*,) situated in the department of the Seine, as also of the police of these establishments, of which also he appoints the *employés.*

Cabinet.

This is in charge of a *chef du cabinet.*

Functions.—Opening of correspondence; separation and following up of affairs urgent and secret; registration and forwarding of dispatches to the divisions; measures of general security, mobs, and tumultuous assemblages menacing public tranquillity; political affairs and correspondence; confidential affairs connected with the general police; subsidies to political refugees.

Municipal and departmental committee.—(See council of the prefecture.)

Sub-prefectures.—Council of public hygiene and of salubrity.

The council of salubrity, created in 1802 in connexion with the prefecture of police, was entirely reorganized by an *ordonnance* of the prefect

of police, under date of December 24, 1832, approved by the minister, and by the *ordonnances* of December 15, 1851, and January 19, 1852. Its functions embrace particularly the public hygiene, the sanitary examination of the *halles* and markets, and of cemeteries, slaughter-houses, streets, insalubrious establishments generally, dissecting rooms, night soil, &c.; public baths; visits to prisons; succour to persons who attempt to drown or suffocate themselves; epidemics; medical statistics and tables of mortality; researches for purifying public places, and improving the processes in use in various professions having a tendency to compromise the public health.

The council is composed of the prefect of police, who presides over it; an annual vice-president, and annual secretary, fifteen titular members, five members *adjoints*, and ten members who are appointed on account of their peculiar professions.

Counsellors of the Prefecture.

Consisting of five professional members.

Public and ministerial officers attached to the Prefecture.

These consist of a notary, two advocates, one appraiser, and one *Huissier*.

Municipal Police.

This is under the direction of a *chef* and a *sous-chef*, who have charge of the printing of the service of the municipal police, and the relations with the reserved police and the political bureaux.

Commissaries of Police.

These consist of from three to five commissaries for each *arrondissement*, (there being one to each of the police sections into which the arrondissements are divided;) one for the imperial residences; one for the staff (*état major*) of Paris; five for the prefecture of police; one for the exchange; three for the tribunal of municipal police; one for each of the rural communes within the jurisdiction of the prefecture of police, except Belleville, which has two; and six for the city of Paris, who are charged to assist in their daily affairs the comptrollers for the guarantee of articles of gold and silver.

Bureaux of the Prefecture of Police.—Secretaryship General.

1st. Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Work relative to the *personnel* of the administration, and of the exterior services therewith connected; appointments, suspensions, dismissals, admission to the retired list, increase of salary, indem-

nities, gratuities, advancements, *congés;* order and discipline; relations with the ministers for the appointment and replacement of those of the functionaries attached to the prefecture of police who are not appointed directly by the prefect; legalization of signatures; administration of the oath to the functionaries of the administration.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Theatres, balls, concerts, *café-concerts;* public exhibitions of works of curiosity; theatral directions; *salles de spectacle;* fencing matches; balloon ascents; public billiard rooms, societies, clubs, (*cercles,*) and public meetings; mutual aid societies; *concours* for the execution of the laws and regulations concerning public instruction; examination of candidates applying for teachers' diplomas; execution of laws and regulations relative to printing and book-selling; placards and bill-stickers; sale of journals; *colporteurs;* distributors of printed works; contraventions in regard to stamps; *travesties;* mountebanks, strolling musicians and singers; various games; execution of the laws respecting public worship; measures of order to be taken on the occasion of fêtes, public ceremonies, reviews, races, carnival divertissements, &c.; guard of Paris, (service in the public establishments and ports;) firemen or *sapeurs-pompiers,* (expense of *matériel,* accounts, and service in public establishments;) statistics of military posts, military police, recruiting service; delivery of certificates of moral aptitude for voluntary enrolments or for replacements; deserters, insubordinates, marines, soldiers in *congé;* search after, seizure, and restoration to the arsenals of arms of war; operations of internal commerce, and importation of arms *de luxe;* prohibited merchandise; frauds; indirect taxes; depot of marts of fabrication, and of French origin, of spun cotton, tissues, and woven goods, similar to those the importation of which is prohibited.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Care and preservation of the library and the archives; classification of *dossiers* of affairs finished; classification and preservation of ordonnances, decrees, and circulars of the prefect of police; classification of ministerial circulars and decisions of the council of the prefecture; research after, and distribution of, ordonnances; reprinting of collections, tabular works, catalogues, and repertories; delivery of old passports and *permis de séjour;* depot and preservation of objects seized and found; delivery of *pièces à conviction;* destruction and sales for the profit of the municipal treasury of papers independent of the service; central library for the prisons; mixed affairs not belonging to any fixed department; translation of documents written in foreign languages; examination of the statutes of chartered corporations, (*sociétiès anonymes,*) insurance companies, and tontines; examination relative to applications for honorific recompenses; delivery of medals of honor; researches made and information obtained in the interest of families;

information applied for by the civil and military administrations; convocation of the administrative committee; convocation of the assembly of electors of butchers and bakers; administration of the oath to *pharmaciéurs;* stamping (*poinçonnage*) of arms of war intended as samples; notifications relative to the police of *roulage* for the departments, (except that of the Seine;) recovery of fines and costs in matters of simple police; researches as to the solvency of persons condemned to fines or to reimbursements of costs.

4th Bureau.

This is in charge of a head clerk, (*chef.*).

Functions.—Adjudications and markets for the communal and departmental services; making out of leases; formalities of registration; appointment of appraisers; maintenance of the hotel buildings and furniture; lights and fuel; interior service; clothing and equipping of *sergents de ville;* establishments for gas apparatus for the city; purchase and distribution of articles of usual consumption, of furniture and utensils of all kinds for the following services, viz: cleaning and watering the streets; sewarage; the *Morgue;* the pounds; navigation; commissaryships of police; public weighing and measuring; weights and measures; *halles* and markets; abattoirs; sheep-folds; the dispensaries; the service of *voitures de place;* the service of public assistance; the hotels of the staff of the guard of Paris, and the firemen, (*sapeurs pompiers;*) inventories of the *matériel* of these various services, and the accounts thereof.

Accounts.

These are in charge of a head clerk (*chef*) and a cashier.

Functions.—Preparation of the two special budgets of the administration concerning the expenses it is authorized to incur, whether on account of the city of Paris or of the Department of the Seine; establishment of the annual accounts to be published according to law; matters in dispute, and liquidation of expenses; dispatch and delivery of orders of payment drawn on the municipal treasury, (*caisse,*) or the public treasury; particular accounts relative to industrial works, and to the *masses de reserve* of persons confined in the prisons of the department; control and *visa* of all the propositions for expenditure made by the administrative bureaux; accounts of various dues and revenues received on account of the city and the department, by the collecting officers of the administration; *visa* and preservation of oppositions made to the appointments of *employés* in the *depôts de gurantie* of the bakers, &c.; liquidation of pensions and orders for payment for arrearages in the treasury (*caisse*) of *depôts et consignations;* communal accounts; departmental accounts.

Caisse.

Payment of the salaries of the functionaries and *employés* of the prefecture of police; collection of certain dues to the profit of the city of Paris; payment of subsidies to refugees; payment of all *urgent* ex-

penses; receipt of dues, for the benefit of the poor, from the dancing halls, (at the *guinguettes*,) within and without the walls; receipt of the special revenues of the prisons of the Seine; payment of these revenues into the public treasury on account of the receiver general of the department; payment of the expenses of directors of the prisons of the Seine, and of the depôt of mendicity; also, of the salaries of the *employés* attached to these establishments, and to the other departmental services connected with the prefecture; payment of the *masses de reserve* to liberated prisoners.

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1st Division.

Police of order and of public security.

This is in charge of a *chef de division.*

1st *Bureau.*

This is in charge of a head clerk, *(chef.)*

Functions.—Pursuit of criminals and delinquents signalized or unknown, and against whom no writs have yet been issued; transmission of minutes (*procés verbaux*) and information to the judiciary authorities; valuables found or left elsewhere than in public carriages; search after individuals who have disappeared from their domicils; suicides and accidental deaths; accidents; transport to the hospitals of sick persons not inscribed in the charitable bureaux; pile-drivers; rollers; *découpoirs;* presses; balances; contraventions against the laws respecting matters of gold and silver; inscriptions of sales and purchases on the legal registers; exposition for sale of keys separate from their locks, and opening of private houses after the hours fixed by the regulations; the *mont de piété*, in its relations with public security; auctions and sale rooms; carrying of forbidden arms; nocturnal disturbances; strikes; lotteries; gaming houses; games of chance on the highways; regulations and ordonnances as to the hours of closing public places; suppression of contraventions in that respect; notices to be given in regard to public security on licenses of wine-shops, *cafés*, &c., and withdrawal of said licenses for public security; questions relative to intelligence offices; organization and regulation of these establishments, and examination of application for licenses; execution for summonses, writs, judgments, &c.; execution of ordonnances of extradition; propositions for the expulsion of foreigners not confined; examination and proof of electoral incapacity; correspondence with the judiciary and administrative authorities of the departments relative to individuals prosecuted or sought after; supervision of liberated prisoners, convicts, *réclusionnaires*, and others; propositions relative to their applications for residence in the Department of the Seine, and measures to be taken for transportation to penitentiary colonies; examination of applications for rehabilitation; preparation of judicial summaries and bulletins; collection and methodical classification of all sentences of condemnation pronounced by civil and military courts and tribunals of France; de-

livery of extracts of documents calculated to enlighten examining magistrates on the judiciary antecedents of accused persons.

2d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Reception of documents, and minutes relative to persons under arrest; sending these persons before the imperial *procureur*, and transmission to the court (*parquet*) of the minutes establishing the circumstances of their arrest; transmission of evidence against them to the tribunal of first instance. Personal examination of individuals arrested in virtue of writs issued by the judiciary authorities of the departments. Questions of individuality; examination of discharged convicts subjected to police supervision on account of *rupture de ban*, measures to be taken respecting discharged mendicants; examination of individuals to be sent, as a matter of kindness, either to the depot of mendicancy at Villers Cotterets, or to the *maison de repression* at St. Denis. Measures to be taken in regard to arrested foreigners.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Interior police of the prisons in the department of the Seine; houses of arrest, of justice, of correction, and of repression, and depôt of mendicancy; the classification of prisoners in these various establishments; delivery of permissions to communicate with them; transfers; departure of prisoners for the *bagnes* (convict prisons) or for the *maisons centrales;* cellular carriages; young prisoners, boys (at central house of correctional education) girls, (at *Sainte Lazare.*) Paternal correction; societies of patronage for young prisoners; provisional liberations; preparation of projects of budgets of expenses for the departmental prisons of the Seine; the depot of mendicancy at Villers Cotterets and the central house of correctional education. Memorials to the minister of the interior, and to the committee of the department of the Seine in support of these budgets. *Nouriture* and support of prisoners; purchase of furniture, fuel, lights, beds, and maintenance of the buildings; fixing of the charges relative thereto. Religious services; industrial labor of prisoners; contracts with various manufacturers; fixing of wages; general supervision of the working rooms; verification of the inventories of the furniture of prisons; accounts of the materials. Registration of expenses, and verification of bills and accounts; clothing of the *employés* in the prisons.

Service of prisons.

1st section. This is in charge of an inspector general.

This section comprises seven prisons, viz: cellular prison of detention, called the *Maison Mazas*, having a director, three almoners, a physician, and two assistant physicians; depot of prisoners under sentence, having a director, an almoner, a physician and two assistants; prison

of Sainte Pélagie, with a director, an almoner, a physician and two assistant physicians, one of whom is also a surgeon; "house of justice," called the *Conciergerie*, with a director, an almoner, a physician and an assistant physician; the depot of the prefecture, with a director, a medical surgeon, and an assistant physician; house of repression (at St. Denis,) with a director, an almoner, a pastor of the reformed church, and a physician; and the depot of security, (at St. Denis,) in charge of a *concierge*.

2d section. This in charge of an inspector general.

This section comprises the central prison of correctional education, with a director, an almoner, two priests to say mass on Sundays and religious holidays; a *greffier-instituteur;* a physician and two assistant physicians; *Sainte Lazare*, with a director, a first and second almoner, a physician for the first section and two physicians for the second, and two assistant physicians; the prison of repentant females, (*Madelonnettes*,) with a director, an almoner, a physician, and two assistant physicians; a debtors' prison, with a director, an almoner, a physician, and an assistant physician; and a depot of mendicancy, with a director, an almoner, and a physician.

The "service of prisons" has also an architect.

4th Bureau.

This in charge of a head clerk, (*chef.*)

Functions.—Delivery of passports for the interior, and for foreign countries; reception, *visa*, and delivery of permits and military *congés*. Passports with assistance on the *route;* delivery of permits to remain in France; sporting regulations; delivery of permits to shoot game, &c. Delivery of certificates to workmen and domestics; delivery of numbered medals and licenses to *commissionaires* stationed in the public streets; of bulletins of inscription to *brocanteurs*, and of numbered medals or tickets to rag-pickers. Registrations of declarations made by persons who have the intention to let hotels, houses, chambers, or furnished apartments. Contraventions against the law as to the register of the names of travellers on the books of the hotels, &c., &c.

5th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Register of public prostitutes;* measures to which they are subjected in the interest of order and public health; supervision of

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*The following is a copy of the regulations concerning public prostitutes in Paris:

"Every woman who abandons herself openly to public prostitution, is reputed as a woman of the town, and enregistered as such, either on her own demand or officially.

"The registration consists in inscribing on a special register, kept for that purpose, the name and surname of every woman, her age, country, and residence; her previous employment, and the motives which induced her to have recourse to prostitution. Before being enregistered they are made acquainted with the rules and regulations concerning public prostitutes.

licensed houses of prostitution, (called houses of *tolerance.*) Correspondence with families as to girls who are minors. Suppression of outrages against public morality, such as debauchery, corruption, obscene publications, sale of obscene images, &c., &c. Withdrawal of licenses to wine-shops, *cafés*, &c., in the interest of public morals.

6th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Inquests on persons signalized as affected with mental alienation, and transporting them to the hospitals of Bicêtre or of the Salpêtrière, to the imperial hospital at Charenton, or to private hospitals.

"The registry is almost always voluntary, and is only exercised *d'office* with regard to a very limited number of women, who are openly addicted to debauchery, and who have already been arrested for prostitution, or who are attacked with contagious diseases, and refuse to submit to the measures to which it is the duty of the authorities to subject them, in the interest of order and of the public health.

"The prostitutes once duly enregistered, are divided into two clases: The *isolés;* that is, those who have a private residence, either with their own furniture or in furnished apartments; and the *filles de maison*, a term applied to those who reside in the brothels or *maisons de tolérance.*

"On being enregistered, they name the particular class to which they intend to belong; but can remove from one class to another on making a previous declaration to that effect.

"The women who keeps the *maisons de tolérance* or brothels, are called *maitresses de maison*, and can only exercise their calling with the authority of the administration, which they cannot obtain without producing the consent, in writing, of the proprietor of the house in which they propose to establish themselves.

"For public reasons these houses must be established as far as possible from the temples and churches, the national palaces, monuments, government offices, public establishments, and schools.

"In the interest of the neighbors, the windows of all brothels are required to be furnished with double curtains in the interior, and with shutters or blinds outside, fastened with padlocks, and the glass to be unpolished or stained.

"The *maitresses de maison* are responsible for any disorders which take place, either in their houses or outside, caused by the women who reside there, and are liable to be deprived of their licenses for non-conformity to the obligations imposed upon them.

"The number of women allowed in each *maison de tolérance* depends upon its size.

"The most important obligation which the registration imposes on the women, is their being obliged to submit to periodical sanitary examinations; for, whilst on one hand the authorities have been guided in their proceedings towards these unfortunate women by the desire of suppressing the scandal which their presence occasions, on the other hand they have had in view the prevention of the dreadful contagion which prostitution tends to propagate; and, consequently, all their efforts are directed towards increasing the guaranties required by the all-powerful interest of the public health.

"Twelve physicians, one of whom with the title of physician-in-chief, and director of this service, are charged with making the inspection.

"The *isolées*, or women who reside at their own lodgings, are required to be visited once every fortnight at the medical bureau, where three physicians are constantly on service.

"The *filles de maison*, or those living in the brothels, are visited once a week at their houses, a precautionary measure the more necessary on account of their more frequent intercourse with men than the women of the other class, the indolence and carelessness natural to them, and their habits of dissipation being far greater than those who reside in lodgings.

"The first receive a ticket or *carte* renewable yearly, on being enregistered; and which, after each visit, is stamped with the stamp of the prefecture, to justify that the same has been duly made, as they are at all times and places liable to be required to produce their *carte* to the police.

"The visits to the women in the brothels are certified by the visa of the physician on the register kept by the mistress of the house, and from which they are required to inscribe the names of the women who lodge with them in the registers of the administration.

"They are also required to give notice at the same office, within twenty-four hours at the utmost, of the arrival or departure of an inmate, in order that they may not retain a woman not enregistered or diseased, and to enable the police to take measures for discovering those who quit, and do not immediately enter another house or establish themselves in lodgings.

"Independently of the regular visits, these women must be examined at the medical bureau, whenever they quit one class for another, or change houses; whenever they require passports; when they are arrested; or when they leave the prisons or hospitals.

Verification of the mental state of boarders under treatment in the insane asylums of the department of the Seine; supervision of these asylums and of private asylums (*maisons de santé;*) transfer of insane persons in the departments, and sending to their own country those who come from abroad; supervision of midwives authorized to receive boarding patients or pupils. Placing of abandoned or exposed infants and of orphans at the foundling hospitals; the researches to ascertain their age, and to discover their families. Correspondence in respect to them with the administration general of public assistance; restoration to their relatives of children lost in the public streets; inscription list for nurses who come to seek employ in Paris, and within the jurisdiction of the prefect of police. Correspondence with the authorities relative to nurses, and to the children who are confided to them; supervision of agents for wet-nurses, and persons who lodge or hire nurses. Authori-

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"Whenever a woman in the brothels is discovered to be diseased, she is immediately sent to the medical bureau, to be visited by the physicians, who draw up a report of the nature and character of the malady, with which certificate they are sent to the hospital.

"Although amongst the women living in lodgings there are many who submit voluntarily to the obligations required, the far greater number endeavor to evade them; and, consequently, the medical bureau furnishes every facility to the administration for discovering those who fail in being visited; a certain number of agents being specially employed for this purpose. Their duties consist in engaging the women living in private apartments to be exact in undergoing the visits required; in obliging those behindhand to do so; and in arresting those who, having received orders to go to the hospital, have not done so, or who have quitted surreptitiously; and in obliging those who have not been inscribed to fulfil this formality.

"The women who quit their mode of life, are, after a certain time, erased from the registers."

The following are the rules and regulations to which they are required to submit, and which are printed upon their *carte:*

"Prostitutes having their *carte* are required to present themselves once every fortnight at the *dispensaire de salubrité*, to be examined."

"They are required to produce their cards at every requisition of the officers and police agents."

"They are forbidden to carry on their calling during the day; and cannot appear in the public streets until half an hour before the gas lamps are lighted, or before seven o'clock in the evening, at any season, nor to remain after eleven o'clock at night."

"They must be decently and simply dressed, and not attract attention, either by the glaring colors or richness of their attire, or by extravagant fashions; and are forbidden to appear without caps or bonnets."

"They are strictly forbidden to address men accompanied by females or children; and at any time to address them verbally, or by entreaties, or in a loud tone of voice."

"They are not allowed, at any hour, or under any pretext whatever, to appear at the windows, which are required to be kept constantly shut, and provided with curtains, and shutters or blinds."

"They are forbidden to appear within twenty yards at least of the churches and temples, or in the covered arcades and passages, or in the gardens and environs of the palace of the Tuilleries, of the Luxembourg, and in the garden of plants."

"They are likewise forbidden to appear in the Champs Elysées, on the esplanade des Invalides, and the outer boulvards, on the quays and bridges; and, in general, in all isolated streets and deserted spots."

"They are likewise prohibited from frequenting the public establishments and private houses where prostitution is clandestinely carried on; and also where there are *tables d'hote*."

"They are likewise forbidden to share their residence with their keepers or protectors, or with another woman of the town, or to let out furnished apartments, without authority."

"They are also required, within their dwellings, to abstain from whatever may annoy the neighbors, or give offence to passers by."

"Whoever trespasses upon the above regulations, or who resists the agents of authority, or who gives a false address, is liable to incur a penalty in proportion to the gravity of the offence."

(This penalty is imposed by the chief of the bureau who has the power, "in the interest of the public health," to inscribe a woman as a public prostitute, and to send her to prison for a term not exceeding one year; and this, judging in secret, and without appeal.)

zation and supervision of infant asylums or *créches*, and of weaning-houses.

Connected with this bureau there are a physician charged to examine insane persons on their arrival at the prefecture of police; two physicians charged with visiting insane persons; and one principal inspector, and an inspector having supervision of private asylums, (*maisons de santé*,) weaning-houses, and establishments of nurses.

2D DIVISION.

Administrative Police; Provisioning; Commerce; Navigation; Thoroughfares, (voirie;) Salubrity.

This is in charge of a *chef de division.*

1st *Bureau.*

This is in charge of a head clerk (*chef.*)

Functions.—Subsistence and supplies of articles of food; police of *halles* and markets; supervision of the collection of municipal dues in these places; public weighing at the markets; supervision of the markets of Sceaux, Poissy, &c.; slaughter-houses, and melting-houses connected with them; butchers' establishments and *charcuterie. Depôt de garantie* of the bakers; baking and pastry-cook establishments; hay-lofts, &c.; periodical price of bread for Paris; keeping of prices-current of grain-markets. Tripe shops; seizure and destruction of stale and unwholesome food. The exchange; stock and merchandize brokers; *facteurs* and workmen of the halles and markets. Execution of laws concerning the uniformity, verification, and supervision of weights and measures. Public weighing and measuring in ports and wood-yards, and supervision of the bureaux established for the collection of charges therewith connected. Navigation of the Seine, the Marne, and the canals, within the jurisdiction of the prefect of police. Ports and towing-paths; establishments on the rivers; steamboats, &c. Measures of urgency to ensure supplies of fuel and provisions. Wood yards and timber yards; workmen connected with the ports and places of sale for coals; establishments for the sale of wine; destruction of diluted, corrupted, or injurious drinks.

Active service.

This comprises an "inspection general of halles and markets," consisting of an inspector general and an assistant inspector general; a "*syndicat* of butchers," consisting of a sydic and six assistant syndics; a "*syndicat* of bakers," consisting of four syndics, (chosen by forty-eight electors, and presided over by the prefect of police,) and a *garde magazin*, having charge of the *depôt de garantie;* a "police of the Paris exchange," in charge of a commissary of police; an "*inspection principale* of navigation and of ports," in charge of an inspector principal; an "inspection of public weighing and measuring, and of *combus-*

tibles," in charge of an inspector principal; a "verification and inspection of the weights and measures," consisting of a verificator in chief, a verificator, a *chargé* of verification at private *domiciles*, an assistant verificator, a verificator and assistant verificator for each two of the arrondissements of Paris, and for the arrondissement of St. Denis, and a verificator for the arrondissement of Sceaux; a "service for tasting wines, spirits, &c.," in charge of a taster in chief; and a "committee for the supervision of steamboats," consisting of six members.

NOTE.—The number of bakers in Paris is fixed at 600. There is also one bake-house exclusively authorized to make use of a power kneading machine. The bakers are divided into four classes, and are obliged to have in all a reserved stock of 81,280 sacks, or 127,609 metrical quintals, (about 14,013,000 pounds,) of which 84,114 quintals (about 9,274,000 pounds) are deposited in the *granaries of abundance*.

2d Bureau.

This is in charge of a *chef*.

Functions.—Dangerous buildings; supervision of demolitions, of constructions, and of reparations; and delivery of permission for that kind of work. Supervision of public monuments and edifices; enclosure of ground not built upon; boxes, flower-pots, and other objects exposed on the window-sills and on the roofs of houses; deposit of materials on the public streets; unloading of wood and coal in the streets; games played in the streets interfering with the free circulation; measures to be taken for clearing the public streets during fêtes and ceremonies; places for the assemblage of laborers and mechanics in the public streets; paving; leveling of the soil of the public streets; streams of water; excavations for the construction of sewers, and for laying gas-pipes and water-pipes; barring up of the streets; keeping sidewalks in order. Registration of permits for working quarries; supervision of quarries, in respect to the lives of the workmen and their general security, Constructing, repairing, emptying and suppressing the sewers of water-closets; contractors for night-soil and their workmen; moveable sewers; experiments for improving the night-soil service; public and private water-closets. Police of railroads. Supervision of the news paper-sellers, and keepers of refreshment-rooms at railroad stations; examination of propositions for the organization of railroad service, and propositions for tariffs for fares and charges; correspondence on this subject with the companies, and with the minister of public works. Publication of tariffs of fares and charges approved by the superior administration. Delivery of permits relative to the *petite voirie*. Execution of regulations as to uneven pavements, gutters, stalls, pent houses, moveable and stationary fences, abutments, &c., &c. Supervision of the names of streets, and the numbers of houses, and correspondence on this subject with the prefecture of the Seine. Uneven pavements in the public arcades; machines for burning coffee. Execution of the regulations concerning strolling pedlars; delivery of permits to pedlars. Regulation of the minutes of offences to be prosecuted before the simple police, and bringing of the offenders before that tribunal.

Active Service.—Buildings and petite voirie.

In charge of an architect, commissary of the *petite voirie*, who has under his direction four architects of the first class, and six of the second class.

Quarries.

In charge of an inspector general of quarries, who is an engineer-in-chief of mines; and two private inspectors, who are engineers of mines.

Railroads.

Under the direction of a "*chargé* of the direction of the supervision of railroads from Paris to the Belgian frontier, from Amiens to Boulogne, and from Paris to Strasburg;" a "*chargé*, &c., &c., of the railroads from Paris to Rouen and to Havre, from Rouen to Dieppe, from Paris to St. Germains, from Paris to Versailles, (both sides of the river,) the Western railroad, and that from Paris to Sceaux;" a "*chargé*, &c., &c., of the railroad from Paris to Orleans, and of the central railroad;" a "*chargé*, &c., &c., of the railroad from Paris to Lyons;" and four other persons.

3d Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—Hackney coaches, (*voitures de place, de remise* and *sous remises,*) omnibuses, special carriages in connexion with the railroads, railroad cars, *diligences* and *grosses messageries*, private carriages; baggage wagons; water carriers, coach drivers, postillions, and drivers and conductors of every description; preparation and execution of police ordonnances for the regulation of all kinds of carriages used along the *route* of the various railroads; execution of the laws and regulations on the police of transport, (*roulage;*) pounds at the prefecture of police; arrangements to be made for lighting the public streets; regulation of the monthly accounts presented by the various gas-companies, and by the contractors for lighting with oil; execution of the ordonnance concerning the sale of gas to private persons; execution of the regulations concerning the salubrity and the cleaning of the public streets; street sweeping at the expense of the city; removal of dirt from streets; care of the common sewers; watering the streets; list of expenses to be incurred for these various services, whether by adjudication or otherwise, and liquidation of the expenses they occasion; regulations as to private sewers, wells, &c., &c.; fires, and expenses incident thereto; examination and reparation of badly constructed chimneys; public fountains; police of the river Bièvre, and the other streams of unnavigable water in the department of the Siene; *curage* of the Bièvre, and preparation of the *rôles* for the recovery of the expenses occasioned by the supervision and *curage* thereof.

Active service.

This consists of an inspector general, having in charge the lighting, cleaning, and watering of the streets, and the care of the common sewers, and a *contrôleur* inspector of the pound, (*fourrière.*)

4th Bureau.

This is in charge of a head clerk, (*chef.*)

Functions.—All matters relating to the public health; labors and *personnel* of the council of public *hygiène* and of salubrity; execution of the laws in respect to pharmacy and the practice of medicine; physicians, health-officers, midwives, apothecaries, *herboristes*, druggists; secret remedies; dissecting rooms; inspection of mineral waters, natural and artificial; epidemics, *epizooties*; vaccination, cemeteries, disinterments, and reinterments; autopsy; embalments of corpses; table of deaths which have occurred in the arrondissements, and in the hospitals and infirmaries of Paris; annual statistics of deaths, giving the ages and nature of maladies; execution of the ordonnance of November, 1838, on the insalubrity of dwellings; execution of the decree of September 9, 1848, as to hours of work; execution of the law relative to the labor of children in manufactories; execution of the ordinances of 14th and 28th December, 1850, on the disinfection of water-closet deposits, and tolerated depôts of excrements; public baths and wash-houses, free or at reduced prices, (in execution of the laws of 28th November, 7th September, 1850, and 3d February, 1851;) electric lighting; supervision of the laying and the service of private gas-pipes; portative gas, compressed and non-compressed; gas metres; examination of all new apparatus, and, in fact, everything relative to lighting by gas or electricity, with the exception of the public lighting; forges and other workshops not classified; dangerous, unwholesome, and annoying establishments; wood-yards; coal depôts; establishments for carbonization; breweries; establishments for the sale of combustibles; steam apparatus; railroad locomotives; search and destruction of glandered horses and other animals, either dangerous or having contagious maladies; *ecarrisseurs*, (knackers;) communal slaughter-houses for horses; veterinary surgeons; shooting galleries for the practice or trial of arms; fireworks; places for the sale of powder; supervision of the transport of powder; public succor; police of the *Morgue.*

Active service.

This comprises the "council of public hygiene, and of salubrity,' already given; the supervision of steam engines, consisting of an engineer-in-chief, and an engineer of mines; an inspector of mineral waters, consisting of three medical inspectors, two veterinary surgeons attached to the prefecture; one inspector of dangerous insalubrious and disagreeable establishments; a supervision of apparatus for lighting by gas, consisting of two inspectors; and an inspection of the work of children in manufactories, consisting of nineteen members for Paris, four for the arrondissement of St. Denis, and four for the arrondissement of Sceaux.

Tribunal of simple police, at the Palais de Justice.

This tribunal takes cognizance, according to articles 137 and 138 of the *Code d'Instruction Criminelle*, of all contraventions in the matter of

simple police, which are subject, either to a fine, not exceeding fifteen francs, or to confinement, not exceeding five days, irrespective of the confiscation or value of articles which may be seized. The tribunal, in deciding on these contraventions, gives its decision, at the same time, on the question of restitution and damages.

It is presided over, successively, by the justices of peace; the functions of the *ministère public* are fulfilled by a commissary of police, delegated *ad hoc*, and two supplementary commissaries of police.

The prefecture of police has also its printer.

(*h.*)

ORGANIC ARTICLES OF THE LAW RELATING TO THE ORGANIZATION OF WORSHIP, PROMULGATED THE 18TH GERMINAL, IN THE YEAR X. OF THE REPUBLIC.

TITLE I.

Administration of the Catholic church in its general relations with the rights and policy of the State.

ARTICLE 1. No "bull," brief, rescript, decree, mandate, presentation, signature serving as a presentation, or other expedition of the court of Rome, even concerning private individuals only, can be received, published, printed, or otherwise put in execution, without the authority of the government.

2. No individual bearing the title of nuncio, legate, vicar, or apostolic commissioner, or under any other denomination, can, without the same authority, fulfil any office appertaining to the Gallican church, either on the French soil, or elsewhere.

3. The decrees of foreign synods, even those emanating from the councils general, cannot be published in France, until they have been submitted to the examination of the government with regard to their form, and in conformity with the laws, rights, and immunities of the republic, as well as all writings, which, by their publication, are liable to attack or subvert the public tranquillity.

4. No national or archiepiscopal council, or diocesan synod, nor any deliberative assembly, can take place without the express permission of the government.

5. All ecclesiastical functions shall be gratuitous, except the offerings authorized and fixed by the regulations.

6. All cases of abuse on the part of the superiors, and other ecclesiastical officers, must be referred to the council of state.

The cases of abuse are: usurpation, or excess of power; contraventions against the laws and regulations of the republic; the infraction of the regulations consecrated by the canons received in France; attempts against the liberties, immunities, and customs of the Gallican church, and all other attempts or proceeding, which, in the exercise of worship, may compromise the honor of the citizens, trouble arbitrarily their consciences, or degenerate against them into oppression or injury, cause public scandal.

7. The council of state is also to be referred to, in all attempts against the public exercise of worship, and that liberty which the laws and regulations guarantee to its ministers.

8. This recourse may be exercised by all persons interested. In the absence of a particular complaint it may be exercised by the prefects. The public functionary, clergyman, or person who is desirous of exercising this recourse, must draw up a petition, signed by himself, to be laid before the councillor of state, to whom all matters relative to worship are confided, and whose duty it is to make every inquiry within the shortest delay possible; and upon his report the matter is followed up and definitively arranged within the administrative forms, or referred, according to the exigency of the case, to the competent authorities.

TITLE II.—*Ministers of religion.*

Section 1st. General regulations.

9. The Catholic worship shall be exercised under the direction of the archbishops and bishops within their respective dioceses, and under the direction of the curates in their several parishes.

10. Every privilege exempting from, or attributing to, the episcopal jurisdiction is abolished.

11. The archbishops and bishops may, with the authority of the government, establish cathedral chapters and seminaries within their dioceses. All other ecclesiastical establishments are suppressed.

19. The archbishops and bishops are free to add to their names the title of citizen (*citoyen*) or that of Mr., (*Monsieur.*) All other titles or qualifications are prohibited.

Section 2d. Archbishops or primates.

13. The archbishops are to consecrate and instal their suffragans. In case of hindrance or refusal on their part they are represented by the oldest bishop of the metropolitan *arrondissement.*

14. Their duty is to watch over and duly maintain the Catholic faith and discipline within the dioceses under their jurisdiction.

15. They must hear all claims and complaints against the conduct and decisions of the suffragan bishops.

Section 3d. Bishops, vicars-general, and seminaries.

16. No one can be appointed a bishop under thirty years of age, and unless a Frenchman by birth.

17. Previous to the decree of nomination the person or persons proposed are required to produce a certificate of morality and good conduct from the bishop of the diocese in which he or they have exercised their clerical duties; they are also examined regarding their doctrines by a bishop and two priests appointed by the first consul, and who are charged to forward the result of their examination to the councillor of state charged with all matters relative to worship.

18. The priest so named by the first consul must use all diligence to obtain the sanction of the Pope. He cannot exercise any office until the "bull" containing his nomination has received the consent of the

government, nor until he has in person taken the oath prescribed by the convention between the French government and the holy see.

The oath is taken before the first consul, and a *procès verbal* thereof drawn up by the secretary of state.

19. The bishops name and appoint the curates. Nevertheless, they cannot publish the nomination or ordain them until the nomination has been approved by the first consul.

20. They are obliged to reside within their respective dioceses, which they cannot leave without the permission of the first consul.

21. Each bishop can appoint two vicars-general, and every archbishop can name three, chosen from among the clergy possessing the necessary qualifications to become bishops.

22. They visit annually, in person, a part of their diocese; and in the space of every five years are required to visit the whole diocese. In case of a legitimate cause or impediment the visit is made by a vicar-general.

23. The bishops are charged with the organization of their respective seminaries; and the rules and regulations of this organization must be submitted for the approbation of the first consul.

24. All persons chosen to instruct in the seminaries must subscribe to the declaration made by the clergy of France in 1682, and published by an edict of the same year; they must engage to teach the doctrine contained therein, and the bishops must forward a declaration of this engagement, in due form, to the councillor of state charged with all matters relative to worship.

25. Every year the bishops must send in a list to this councillor of state, containing the names of the individuals studying in the seminaries, and who are destined for the ecclesiastical profession.

26. No ecclesiastic can be ordained unless he can produce proofs of possessing property to the amount of at least three hundred francs per annum; have attained the age of twenty-five years; and unless he possess the qualifications required by the canons adopted in France.

The bishops can hold no ordination until the list of individuals to be ordained has been presented to the government and approved by it.

Section 4th. The curates.

27. The curates cannot enter on their functions until they have taken the oath prescribed by the convention between the government and the holy see, before the prefect. A *proces-verbal* of this ceremony is to be drawn up by the secretary general of the prefecture, a correct copy of which will be delivered to them.

28. They will be put in possession of their office by the curate, or the priest appointed by the bishop.

29. They are under the obligation to reside in their respective parishes.

30. The curates are under the immediate control of the bishops, in the exercise of their functions.

31. The vicars and officiating ministers exercise their functions under the superintendence and direction of the curates. They are subject to the approval of the bishop and can be revoked by him.

32. No foreigner can be employed in ecclesiastical functions without permission of government.

33. All functions are forbidden to every priest, although being a Frenchman, who belongs to no particular diocese.

34. No priest can quit his diocese to perform duties in another, without the consent of his bishop.

Section 5th. Cathedral chapters and government of the dioceses during the vacancy of the see.

35. The archbishops and bishops desirous of availing themselves of the faculty of establishing chapters, must previously obtain the authority of government, not only for the establishment itself, but the number and choice of the clergy destined to form part of the same.

36. During the vacancy of the see, the government of the diocese belongs to the metropolitan bishop, or to the senior of the suffragan bishops in his place.

The vicars-general of these dioceses continue their functions, even after the death of the bishop, until a successor is appointed.

37. The metropolitan bishop, and the cathedral chapters, are bound to give notice to the government, without delay, of the vacancy of the see, and of the different measures which have been adopted for the government of the vacant diocese.

38. The vicars-general who govern during the vacancy, as well as the metropolitan bishops, or representatives, are not allowed to introduce any innovation in the usages and customs of the diocese.

Title III.—*Worship.*

39. There shall be but one liturgy and one catechism for all the Catholic churches of France.

40. No curate can ordain extraordinary public prayers in his parish, without the special leave of the bishop.

41. No holiday, except Sundays, can be fixed without the permission of government.

42. In all religious ceremonies the clergy must make use of the dress and ornaments belonging to their respective offices; in no case, nor under any pretext, can they assume the color and distinctive marks reserved for the bishops.

43. All priests shall be dressed *à la Française* and in black. The bishops can, in addition, assume the pastoral cross and wear purple stockings.

44 No private chapels or oratories can be established without the express permission of the government, and that granted at the request of the archbishop.

45. No religious ceremony can take place outside the edifices consecrated to the Catholic worship, in towns where there exist temples destined to different kinds of worship.

46. The same temple can only serve for one kind of worship.

47. A separate portion of the cathedrals and parish churches must be set apart for the use of the Catholics fulfiling civil and military functions.

48. The bishop must arrange with the prefect to regulate the mode of calling the faithful to divine service, by the ringing of the bells, which cannot be rung for any other purpose without the permission of the local police.

49. Whenever the government orders public prayers to be offered up, the bishops must arrange with the prefect, and the military commandant of the place, as to the day and hour and mode of putting these ordonnances into execution.

50. The solemn preaching called *sermons*, and those known by the name of *stations* during advent and lent, can only be done by priests who have obtained the special authorization of the bishop.

51. The curates, during the mass in the parish churches must offer up prayers themselves, as well as the congregation, for the prosperity of the French republic, and for the consuls.

52. In their *instructions*, they must not allow any accusation, direct or indirect, either against individuals, or against the other modes of worship sanctioned by the State.

53. During the service, they are forbidden to make any publication foreign to the exercise of worship, except those ordered by government.

54. They must not solemnize the marriage act to any parties who have not proofs, in due form, of having contracted marriage before the civil officer.

55. The registers kept by the ministers of worship, being destined only to enregister the administration of the sacraments, they can in no case be made use of to certify the marriage of Frenchmen, in place of the registers ordered by the law for that purpose.

56. In all ecclesiastical and religious acts the equinoxial calendar, established by the laws of the republic must be used; the days must be called by the same names as in the almanac of the solstices.

57. The Sunday is fixed as a day of rest for the public officers.

TITLE IV.—*Circumscription of the archbishoprics, bishoprics, and parishes, edifices destined to worship, and salaries of the clergy.*

Section 1st. Circumscription of the archbishoprics and bishoprics.

58. There shall exist in France ten archbishoprics or metropolitan cathedrals, and fifty bishoprics.

59. Their circumscription shall be made according to the annexed table.*

Section 2d. Of the circumscription of the parishes.

60. There shall exist at least one parish to each district of a justice of the peace. Independently of which there shall be established as many *succursales* (or chapels) as may be required.

61. Each bishop shall, in concert with the prefect, regulate the number and extent of these *succursales*. The plans agreed upon must be submitted to the government. and cannot be put into execution without its authority.

* The table is omitted.

62. No portion of the French territory can be erected into a curacy or *succursale*, without the express permission of the government.

63. The priests who perform the service in these chapels can be named by the bishops.

Section 3d. Salaries of the clergy.

64. The salary of the archbishops shall be 15,000 francs.

65. The salary of the bishops shall be 10,000 francs.

66. The curates are divided into two classes. The salary of the curates of the first class shall be 1,500 francs: that of the second class 1,000 francs.

67. The pensions to which they are entitled, in execution of the laws of the constituent assembly, shall be deducted from their salaries.

The councils general of the larger communes may, if circumstances require it, allow them an increase of salary, from the produce of the landed property and the *octroi* duties.

68. The vicars and curates shall be chosen from amongst the clergy receiving pensions, agreeably with the laws of the constituent assembly. The amount of these pensions and the produce of the offerings shall constitute their salaries.

69. The bishops shall draw up the regulations relative to the offerings which the ministers of worship are authorized to receive for the administering of the sacraments. These regulations, however, cannot be put in execution until they have received the sanction of the government.

70. Every ecclesiastic pensioned by the State, shall be deprived of such pension, if he refuse, without lawful cause, the functions confided to him.

71. The councils general of the departments are authorised to procure a suitable residence for the archbishops and bishops.

72. The presbyteries and gardens attached to them—not disposed of—shall be restored to the curates and ministers of worship. Where they no longer exist, the councils general of the communes are authorized to procure them a suitable residence with a garden.

73. The endowments made for the support of the ministers and the exercise of worship can only consist of *rentes* on the State; they can, moreover, only be accepted by the bishops of the diocese, and made with the authorization of the government.

74. No landed property, other than the residences of the clergy and gardens adjoining, can be held by the clergy, or possessed by them on account of their functions.

Section 4th. Edifices destined to worship.

75. The edifices formerly destined to the Catholic worship, at present belonging to the nation, in the proportion of one edifice for each curacy and *succursale*, shall, by a decree of the prefect of the department, be placed at the disposal of the bishops. A copy of these decrees shall be forwarded to the chancellor of state charged with the superintendence of all matters relating to worship.

76. Commissions on *fabrics* shall be appointed to superintend the outlay of church funds, in the repairs and preservation of the temples, and the distribution of alms.

77. In the parishes where there exists no edifice for public worship, the bishops shall arrange with the prefect, to fix on a suitable locality.

[A table of the circumscription of the new archbishoprics and bishoprics of France here follows—but which it is unnecessary to give.]

Organic Articles Relating to Protestant Worship.

Title I.—*General Regulations for all the Protestant Communions.*

Article 1. No one can exercise clerical functions unless he be a Frenchman.

2. Neither the Protestant churches nor ministers can keep up relations with any foreign power or authorities.

3. The pastors and ministers of the various Protestant communions shall pray, and have prayers offered up in reading their service, for the prosperity of the French republic, and for the consuls.

4. No doctrinal decision or dogma, nor any form of prayer under the title of *confession*, or under any other denomination, can be published or form part of the system of education, until the government has authorized its publication and promulgation.

5. No change in discipline can take place without the same authority.

6. The council of State shall be informed of all the enterprises of the ministers of worship, as well as of all discussions which may arise between them.

7. Measures shall be taken in regard to the salaries of the pastors of the consistorial churches, it being well understood that they shall be derived from the property or revenues belonging to the churches, and the produce of the offerings established by custom or according to the regulations.

8. The rules and regulations contained in the organic articles on Catholic worship, on the liberty of making endowments, and of the species of property which may be the object of them, shall be equally applicable in regard to the Protestant churches.

9. There shall be two academies or seminaries in the east of France, for the instruction of the ministers of the Augsburg confession.

10. There shall be a seminary at Geneva for the instruction of the ministers of the reformed churches.

11. The professors of all the academies and seminaries shall be named by the first consul.

12. No individual can be appointed minister or pastor of a church of the confession of Augsburg unless he has studied, during a certain time, in one of the French seminaries destined for the education of the ministers of this confession; and unless he is bearer of a certificate, in due form, stating the time he has studied, his capacity, and good conduct.

13. No individual can be appointed minister or pastor of a reformed church unless he has studied at the seminary at Geneva, and is bearer of a certificate similar to that required in the preceding article.

14. The regulations regarding the administration and internal policy

of the seminaries, on the number and quality of the professors, the mode of teaching, and the objects of instruction, as well as for the form of the certificates, or attestations of study, good conduct and capacity, must be approved of by the government.

TITLE II.—*Reformed churches.*

Section 1st. General organization of these churches.

15. The reformed churches of France shall be officiated by pastors, consistories and synods.

16. There shall be one consistorial church for every six thousand members of the same communion.

17. Five consistorial churches shall comprise the arrondissement of a synod.

Section 2d. Of the pastors and local consistories.

18. The consistory of each church shall be composed of the pastor or pastors officiating in the said church, and the elders and notable laymen chosen from among the citizens paying the highest share of taxes; their number cannot be under ten, nor exceed twelve members.

19. The number of ministers or pastors in any one consistorial church cannot be augmented without the authority of government.

20. The consistories shall superintend the maintenance of discipline, the administration of the property of the church, and the sums received from charity.

21. The meetings of the consistories shall be presided over by the pastor, or by the eldest of the pastors, or dean. The functions of secretary shall be performed by one of the elders or notabilities.

22. The ordinary meetings of the consistories shall continue to be held on the days fixed by usage. The extraordinary meetings cannot take place without the permission of the sub-prefect, or, in his absence, of the mayor of the locality.

23. Every two years half the number of elders of the consistory shall be renewed; at this epoch, the elders in office shall associate with them an equal number of Protestant citizens, heads of families, chosen from among the highest rate payers of the commune, in which the consistorial church is situated, in order to elect their successors. The elders quitting office can be re-elected.

24. In the churches where there is no consistory, one shall be formed. All the members shall be chosen by a commission composed of twenty-five heads of families, paying the highest taxes; but this meeting can only take place with the permission, and in the presence of the prefect or sub-prefect.

25. The pastors cannot be dismissed, unless the motives of the dismissal have been presented to, and approved or rejected, by the government.

26. In case of death, or voluntary resignation, or the confirmed dismissal of a pastor, the consistory, as prescribed by article 18, shall proceed, by a majority of votes, to the choice of a successor.

The name of the person appointed shall be presented to the first

consul for his approbation, by the councillor of State charged with the direction of ecclesiastical affairs. But, notwithstanding the approval of the first consul, he cannot enter on his duties until he has taken the oath required of the members of the Catholic faith, in the presence of the prefect.

27. All the pastors at present in office are confirmed provisionally in their functions.

28. No church can extend from one department to another.

Section 3d. Synods.

29. Each synod shall consist of the pastor or one of the pastors, and of one of the elders or notables of each church.

30. The duty of the synods is to superintend all that relates to the celebration of worship, the teaching of the doctrine, and the conducting of ecclesiastical matters. All decisions emanating from them, of whatever nature they may be, must, however, be submitted for the approbation of the government.

31. The synods cannot assemble until they have obtained the permission of government. All matters concerning religion which are to be discussed by them must previously be submitted to the councillor of state at the head of religious affairs. The assembly shall be held in the presence of the prefect or sub-prefect, and a report of the deliberations forwarded to the above-named councillor, who, in the shortest delay possible, must give in his report thereon to the government.

32. The meeting of a synod cannot last longer than six days.

TITLE III.—*Organization of the churches of the Augsburg confession.*

Section 1st. General regulations.

33. The churches of the Augsburg confession shall consist of pastors, local consistories, inspectors, and consistories general.

Section 2d. Ministers or pastors and local consistories of each church.

34. With regard to the pastors, the circumscription and regime of the consistorial churches, the same regulations must be followed as those laid down in section II of the preceding title or chapter with regard to the pastors and reformed churches.

Section 3d. Inspections.

35. The churches of the Augsburg confession shall be subject to inspections.

36. The arrondissement of an inspection shall comprise five consistorial churches.

37. Each inspection shall consist of the minister and of an elder or notable of each church of the arrondissement. It cannot assemble without the permission of government; the first convocation must be made at the request of the ministers attached to the churches of the arrondissement. Each inspection shall include two laymen and a clergyman, who will take the title of inspector, and whose duty it will be to watch over the ministers and the maintenance of good order in the

private churches. The choice of the inspector and of the two laymen must be confirmed by the first consul.

38. The inspection cannot assemble without the authority of government, and then in the presence of the prefect or sub-prefect, having previously given notice to the councillor of state charged with religious matters of the different questions to be discussed.

39. The inspector can visit the churches of his arrondissement, accompanied by the two laymen appointed with him, whenever circumstances may require it; he also is charged with the convocation of the general assembly of inspection. No decision emanating from the assembly general of inspection can be put in force without having previously obtained the approbation of the government.

Section 4. Consistories general.

40. There shall be three consistories general: one at Strasburg, for the Protestants of the Augsburg confession, in the departments of the upper and lower Rhine; another at Mayence, for those of the departments of the Sarre and of Mont Tonnerre; and the third at Cologne, for those of the departments of the Rhine and Moselle, and of the department of the Roer.

41. Each consistory shall consist of a Protestant layman, as president, of two clergymen as inspectors, and a deputy for each inspection.

The president and the two ecclesiastics to be appointed by the first consul.

The president shall be required to take the oath made by the ministers of the first consul, or of a public functionary delegated by him to that effect.

The two ecclesiastical inspectors and the lay members are required to take the same oath in the presence of the president.

42. The consistory general can only assemble with the authorization of the government, and that under the presidence of the prefect or sub-prefect, previous notice having been given to the councillors at the head of the affairs relative to worship of the matters to be discussed. The meeting cannot be prolonged beyond six days.

43. In the interim between one meeting and another, a directory, consisting of the president and the elder of the two ecclesiastical inspectors, of three laymen, one of whom to be appointed by the first consul, shall be established; the two other laymen to be chosen by the consistory general.

44. The attributions of the consistory general and of the directory shall continue to be conducted according to the regulations and customs of the churches of the Augsburg confession in every point not formally opposed by the laws of the republic and the present articles.

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